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**WASTEWATER INSTALLMENT SALE AGREEMENT**

**Dated as of December 1, 2015**

**by and between the**

**SAN JUAN BAUTISTA PUBLIC FINANCING AUTHORITY,  
as Seller**

**and the**

**CITY OF SAN JUAN BAUTISTA,  
as Purchaser**

**Relating to**

**SAN JUAN BAUTISTA WASTEWATER PROJECT**

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## WASTEWATER INSTALLMENT SALE AGREEMENT

THIS WASTEWATER INSTALLMENT SALE AGREEMENT, dated as of December 1, 2015, is by and between the SAN JUAN BAUTISTA PUBLIC FINANCING AUTHORITY, a joint powers authority duly organized and existing under the laws of the State of California (the "Authority"), and the CITY OF SAN JUAN BAUTISTA, a municipal corporation and general law city, duly organized and existing under and by virtue of the Constitution and the laws of the State of California (the "City");

### WITNESSETH:

WHEREAS, the Authority is a joint exercise of powers authority duly organized and existing under and pursuant to that certain Joint Exercise of Powers Agreement, dated as of March 17, 2015, by and among the City and the California Municipal Finance Authority (the "CMFA"), and under the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the California Government Code (the "Act"), and is authorized pursuant to Article 4 (commencing with Section 6584) of the Act (the "Bond Law") to borrow money for the purpose, among other things, of acquiring and constructing wastewater facilities of the City, and to finance the acquisition of such facilities through the execution of installment sale agreements; and

WHEREAS, the City and the Public Property Financing Corporation of California (the "Corporation") entered into an Installment Sale Agreement, dated as of October 1, 2008 (the "2008 Installment Sale Agreement"), pursuant to which the Corporation sold to the City the improvements designated in the 2008 Installment Sale Agreement (the "2008 Project"); and

WHEREAS, in order to provide funds for the acquisition, construction, and installment of the 2008 Project, the City caused the issuance of \$11,145,000 in principal amount of 2008 Water and Wastewater Revenue Certificates of Participation (the "2008 Obligations") pursuant to a Trust Agreement, dated as of October 1, 2008 (the "2008 Trust Agreement"), by and among the Corporation, the City, and Wells Fargo Bank, National Association, as trustee (the "2008 Trustee"); and

WHEREAS, the 2008 Obligations were secured by installment payments made by the City pursuant to the 2008 Installment Sale Agreement; and

WHEREAS, the City has determined that there will be an interest rate savings to the City if the 2008 Obligations are refunded; and

WHEREAS, the City also desires that the Authority issue its "San Juan Bautista Public Financing Authority, Series 2015 Enterprise Revenue Bonds (Water and Wastewater Financing Projects)," in the aggregate principal amount of \$11,640,000 (the "Bonds"), to (i) refinance the acquisition and construction of the 2008 Project which constitute part of the City's municipal wastewater enterprise (the "Wastewater Enterprise") and, in particular, to provide for the refunding of the 2008 Obligations, and (ii) finance the acquisition and construction of certain new improvements and facilities which will constitute part of the Wastewater Enterprise (the "2015 Project," and together with the 2008 Project, the "Project"); and

WHEREAS, in order to provide for the repayment of the Bonds, the City will sell the Project to the Authority and the Authority will sell the Project to the City pursuant to this Wastewater Installment Sale Agreement (the "Installment Sale Agreement"), under which the City will agree to make installment

payments (the “Installment Payments”) to the Authority payable from the Net Revenues (as hereinafter defined) of the Wastewater Enterprise which will be calculated to be sufficient, in time and amount, to enable the Authority to pay the principal of and interest and premium (if any) on an allocable portion of the Bonds when due and payable; and

WHEREAS, the Authority and the City have duly authorized the execution and delivery of this Installment Sale Agreement; 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 entering into of this Installment Sale 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 Sale Agreement;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.1. Definitions.** Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Installment Sale Agreement shall have the respective meanings specified in the Indenture. In addition, the following terms defined in this Section 1.1 shall, for all purposes of this Installment Sale Agreement, have the respective meanings herein specified.

“Acquisition,” “Acquire” or “Acquisition and Construction” means, with respect to any portion of the Wastewater Project, the acquisition, construction, improvement, equipping, renovation, remodeling or reconstruction thereof.

“Act” means the Joint Exercise of Powers Act, being Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the California Government Code, as in existence on the Closing Date or as thereafter amended from time to time.

“Additional Payments” means the amounts payable by the City pursuant to Section 4.10.

“Additional Revenues” means, with respect to the issuance of any Parity Obligations, any or all of the following amounts:

(a) An allowance for Net Revenues from any additions or improvements to or extensions of the Wastewater Enterprise to be made with the proceeds of such Parity Obligations and also for Net Revenues from any such additions, improvements or extensions which have been made from moneys from any source but in any case which, during all or any part of the latest Fiscal Year or for any more recent consecutive twelve (12) month period selected by the City, were not in service, all in an amount equal to ninety percent (90%) of the estimated additional average annual Net Revenues to be derived from such additions, improvements and extensions for the first thirty-six

(36) month period in which each addition, improvement or extension is respectively to be in operation, all as shown by the certificate or opinion of a qualified Independent Engineer.

(b) An allowance for Net Revenues arising from any increase in the charges made for service from the Wastewater Enterprise which has become effective (or adopted but not yet effective) prior to the incurring of such Parity Obligations but which, during all or any part of the latest Fiscal Year or for any more recent consecutive twelve (12) month period selected by the City, was not in effect, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year or twelve (12) month period, all as shown by the certificate or opinion of an Accountant or Fiscal Consultant employed by the City.

“Adjusted Annual Gross Revenues” means, for any Fiscal Year or twelve (12) calendar month period, the Gross Revenues during such Fiscal Year or twelve (12) calendar month period plus the deposits in the Utility Fund and/or the Bond Fund from the Rate Stabilization Fund during or allocable to such Fiscal Year or twelve (12) calendar month period minus the deposits in the Rate Stabilization Fund from the Utility Fund and/or the Bond Fund during or allocable to such Fiscal Year or twelve (12) calendar month period.

“Adjusted Annual Net Revenues” means, for any Fiscal Year or twelve (12) calendar month period, the Adjusted Annual Gross Revenues during such Fiscal Year or twelve (12) calendar month period minus the Operation and Maintenance Costs during such Fiscal Year or twelve (12) calendar month period.

“Annual Debt Service” means, with respect to this Installment Sale Agreement, for any Fiscal Year or twelve (12) calendar month period, the Installment Payments and the Parity Payments required to be made under all Supplemental Installment Sale Agreements in such Fiscal Year or twelve (12) calendar month period.

“Authority” means the San Juan Bautista Public Financing Authority, a joint exercise of powers authority duly organized and existing under the laws of the State, including the Act.

“Balloon Contract” means any Supplemental Installment Sale Agreement described as such in such Supplemental Installment Sale Agreement.

“Bond Fund” means the fund by that name established pursuant to Section 5.01 of the Indenture.

“Bonds” means the San Juan Bautista Public Financing Authority, Series 2015 Enterprise Revenue Bonds (Water and Wastewater Financing Projects), issued pursuant to the Indenture on December 23, 2015, in the aggregate principal amount of \$11,640,000.

“Bond Year” means each twelve-month period extending from October 2 in one calendar year to October 1 of the succeeding calendar year, both dates inclusive, except that the first Bond Year shall commence on the Closing Date, and end on October 1, 2016.

“Business Day” means any day other than Saturday, Sunday or holiday or a day on which the Trustee or its affiliates or banks in San Francisco, California, are not required or authorized to remain closed.

“Certificate of the City” means an instrument in writing signed by the Mayor, Vice-Mayor, or City Manager of the City, or by any other officer of the City duly authorized by the City for that purpose.

“City” means the City of San Juan Bautista, a municipal corporation and general law city, duly organized and existing under and by virtue of the laws and Constitution of the State of California; however, any reference to City in this Installment Sale agreement shall specifically mean the Wastewater Enterprise of the City, unless the context clearly indicates otherwise.

“City Council” means the City Council of the City.

“Closing Date” means the date upon which there is a physical delivery of the Bonds in exchange for the amount representing the payment of the purchase price of the Bonds by the Original Purchaser.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder.

“Completion Date” means, with respect to any component of the Wastewater Project, the date on which the City or Authority files a Certificate with the Trustee stating that the Acquisition and Construction of such component of the Wastewater Project has been completed pursuant to Article III of the Indenture.

“Contracts” means all installment sale contracts, capital leases or similar obligations of the City authorized and executed by the City under and pursuant to applicable law, the interest and principal and prepayment premium, if any, payments under and pursuant to which are payable from Net Revenues on a parity with the payment of the Parity Payments.

“Coverage Requirement” means, for any Fiscal Year or twelve (12) calendar month period: (1) an amount of Adjusted Annual Net Revenues equal in each case to at least (i) one hundred twenty-five percent (125%) of the Annual Debt Service for such Fiscal Year or twelve (12) calendar month period, (ii) one hundred five percent (105%) of the sum of the Annual Debt Service plus the Subordinate Annual Debt Service for such Fiscal Year or twelve (12) calendar month period, and (iii) one hundred percent (100%) of all obligations of the City which are charges, liens or encumbrances upon or payable from the Utility Fund and/or the Bond Fund in such Fiscal Year or twelve (12) calendar month period; and (2) an amount of Net Revenues equal to at least one hundred percent (100%) of all obligations of the City which are charges, liens or encumbrances upon or payable from the Utility Fund and/or the Bond Fund in such Fiscal Year or twelve (12) calendar month period (including all amounts owed to any issuer of a Financial Guaranty then in effect in a reserve fund or a reserve account under the terms of such Financial Guaranty); provided, that for purposes of determining compliance with the Coverage Requirement, the following provisions shall apply:

(A) Generally. Except as otherwise provided by subparagraph (B) of this proviso with respect to Variable Interest Rate Contracts and by subparagraph (C) of this proviso with respect to Obligations with respect to which a Payment Agreement is in force, interest on any Obligation shall be calculated based on the actual amount of interest that is payable under such Obligation;

(B) Interest on Variable Interest Rate Contracts. Interest deemed to be payable on any Variable Interest Rate Contract for periods when the actual interest rate can be determined shall be the actual Variable Interest Rates and for periods when the actual interest rate cannot yet be determined shall be calculated on the assumption that the interest rate on such Variable Interest Rate Contract would

be equal to the rate (the “assumed SIFMA Index rate”) that is ninety percent (90%) of the average SIFMA Index during the twelve (12) calendar month period immediately preceding the date in which such calculation is made;

(C) Interest on Obligations with respect to which a Payment Agreement is in force. Interest deemed to be payable on any Obligation with respect to which a Payment Agreement is in force shall be based on the net economic effect on the City expected to be produced by the terms of such Obligation and such Payment Agreement, including but not limited to the effects that (i) such Obligation would, but for such Payment Agreement, be treated as an obligation bearing interest at a Variable Interest Rate instead shall be treated as an obligation bearing interest at a fixed interest rate, and (ii) such Obligation would, but for such Payment Agreement, be treated as an obligation bearing interest at a fixed interest rate instead shall be treated as an obligation bearing interest at a Variable Interest Rate; and accordingly, the amount of interest deemed to be payable on any Obligation with respect to which a Payment Agreement is in force shall be an amount equal to the amount of interest that would be payable at the rate or rates stated in such Obligation plus the Payment Agreement Payments minus the Payment Agreement Receipts, and for the purpose of calculating as nearly as practicable the Payment Agreement Receipts and the Payment Agreement Payments under such Obligation, the following assumptions shall be made:

(1) City Obligated to Pay Net Variable Payments. If a Payment Agreement has been entered into by the City with respect to an Obligation resulting in the payment of a net variable interest rate with respect to such Obligation and Payment Agreement by the City, the interest rate on such Obligation for future periods when the actual interest rate cannot yet be determined shall be assumed (but only during the period the Payment Agreement is in effect) to be equal to the sum of (i) the fixed rate or rates stated in such Obligation, minus (ii) the fixed rate paid by the Qualified Counterparty to the City, plus (iii) the lesser of (A) the interest rate cap, if any, provided by a Qualified Counterparty with respect to such Payment Agreement (but only during the period that such interest rate cap is in effect) and (B) the assumed SIFMA Index rate; and

(2) City Obligated to Pay Net Fixed Payments. If a Payment Agreement has been entered into by the City with respect to an Obligation resulting in the payment of a net fixed interest rate with respect to such Obligation and Payment Agreement by the City, the interest on such Obligation shall be included in the calculation of the Coverage Requirement (but only during the period the Payment Agreement is in effect) by including for each Fiscal Year or twelve (12) calendar month period an amount equal to the amount of interest payable at the fixed interest rate pursuant to such Payment Agreement; and

(D) For purposes of calculating the Annual Debt Service or the Subordinate Annual Debt Service on any Balloon Contract, it shall be assumed that the principal of such Balloon Contract, together with interest thereon at a rate equal to the assumed SIFMA Index rate, will be amortized in equal annual installments of principal and interest over a term of thirty (30) years from the date thereof.

“Date of Operation” means, with respect to any uncompleted portion of the Project, the estimated date by which such portion of the Project will have been completed and, in the opinion of an Independent Engineer, will be ready for commercial operation by or on behalf of the City.

“Defeasance Obligations” means and includes any of the following securities, if and to the extent



the same are non-allocable and not subject to redemption at the option of the issuer, at the time legal for investment of the City's funds, as determined by the City: direct obligations of, or obligations the full and timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America, including obligations issued or held in book entry from on the books of the Department of the Treasury of the United States of America and including a receipt, certificate or any other evidence of a direct ownership interest in future payments of an obligations of, or unconditionally guaranteed by, the United States of America, or in specified portions thereof held by a custodian in safekeeping for the holders of such receipt, certificate or any other evidence of ownership (which may consist of specified portions of interest thereon), but excluding any share of interest in any unitary investment trust or mutual fund unless such unitary investment trust or mutual fund is rated or assessed in the highest rating category of each of the Rating Agencies.

"Engineer's Report" means a report signed by an Independent Engineer.

"Event of Default" means any of the events described in Section 8.1.

"Financial Guaranty" means a policy of municipal bond insurance or surety bonds issued by a municipal bond insurer or a letter of credit issued by a bank or other institution if the obligations insured by such insurer or issued by such bank or other institution, as the case may be, have ratings at the time of issuance of such policy or surety bond or letter of credit in at least one of the three highest rating categories by S&P and Moody's and, if rated by A.M. Best & Company, also in at least one of the three highest rating categories by A.M. Best & Company.

"Fiscal Consultant" means any consultant or firm of such consultants appointed by the Authority and the City and who, or each of whom: (a) is judged by the Authority and the City to have experience in matters relating to the financing of wastewater system enterprises; (b) is in fact independent and not under domination of the Authority or the City; (c) does not have any substantial interest, direct or indirect, with the Authority or the City other than as purchaser of the Bonds or any Parity Obligations; and (d) is not connected with the Authority or the City as an officer or employee of the Authority or the City, but who may be regularly retained to make reports to the Authority or the City.

"Fiscal Year" means the twelve calendar month period terminating on June 30 of each year, or any other annual accounting period hereafter selected and designated by the Authority as its Fiscal Year in accordance with applicable law.

"Fitch" means Fitch Ratings, Ltd., its successors and assigns.

"Gross Revenues" means for any Fiscal Year or other period, all gross income and revenue received by the City from the ownership and operation of the Wastewater Enterprise, including, without limiting the generality of the foregoing, (a) all rates, fees and charges received for, and all other income and receipts derived by the City from the operation of the Wastewater Enterprise or arising from the Wastewater Enterprise determined in accordance with generally accepted accounting principles, including all rates, fees and charges received by the City for the Wastewater Enterprise service and the other services of the Wastewater Enterprise, (b) all proceeds of insurance (if any) covering business interruptions loss relating to the Wastewater Enterprise, (c) all Payment Agreement Receipts (d) the earnings on and income derived from the investment of such income, rents, rates, fees, charges or other monies to the extent that the use of such earnings and income is limited by or pursuant to law to the Wastewater Enterprise, including all income from the investment of amounts on deposit in the Utility Fund, the Parity Obligation Payment Fund,

and the Rate Stabilization Fund, (e) the proceeds derived by the City directly or indirectly from the sale, lease or other disposition of a part of the Wastewater Enterprise, and (f) all other monies howsoever derived by the City from the operation of the Wastewater Enterprise or arising from the Wastewater Enterprise, including major facility charges; provided, that the term “Gross Revenues” shall not include contributions in aid of construction or refundable customers’ deposits or any other deposits subject to refund until such deposits have become the property of the City.

“Indenture” means the Indenture of Trust, dated as of December 1, 2015, by and between Wells Fargo Bank, National Association, as Trustee, and the Authority relating to the Bonds.

“Independent Engineer” 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, appointed and paid by the City, and who or each of whom –

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

“Installment Payment Date” means each April 1 and October 1 during the Term of this Installment Sale Agreement, commencing April 1, 2016.

“Installment Payments” means the amounts payable by the City pursuant to Section 4.4, including any prepayments thereof pursuant to Article IX.

“Insurance Policy” means the insurance policy issued by the Insurer guaranteeing the scheduled payment of principal of and interest on the Bonds when due.

“Insurer” or “Bond Insurer” means Assured Guaranty Municipal Corp., a New York stock insurance company, or any successor thereto or assignee thereof.

“Moody’s” means Moody’s Investors Service, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors or assigns.

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

“Net Revenues” means, for any Fiscal Year or twelve (12) calendar month period, the Gross Revenues during such Fiscal Year or twelve (12) calendar month period less the Operation and Maintenance Costs during such Fiscal Year or twelve (12) calendar month period.

“Obligations” means all Parity Obligations and all Subordinate Obligations.

“Operation and Maintenance Costs” means the reasonable and necessary costs and expenses paid or incurred by the City for maintaining and operating the Wastewater Enterprise, determined in accordance with Generally Accepted Accounting Principles, including but not limited to (a) costs of acquisition of water, including all associated treatment and disposal costs, to be used by the Wastewater Enterprise, (b) costs of electricity and other forms of energy supplied to the Wastewater Enterprise, (c) the reasonable expenses of management and repair and other costs and expenses necessary to maintain and preserve the Wastewater Enterprise in good repair and working order, (d) the reasonable administrative costs of the City attributable to the operation and maintenance of the Wastewater Enterprise, such as salaries and wages of employees, overhead, taxes (if any) and insurance premiums, and (e) all other reasonable and necessary costs of the City or charges required to be paid by it to comply with the terms hereof or of any resolution authorizing the issuance of any Parity Obligations or of such Parity Obligations, such as compensation, reimbursement and indemnification of the trustee for any such Parity Obligations and fees and expenses of Independent Certified Public Accountants and independent engineers, but in all cases excluding (i) debt service payable on obligations incurred by the City with respect to the Wastewater Enterprise, including but not limited to the Installment Payments and any Obligations, (ii) depreciation, replacement and obsolescence charges or reserves therefor, and (iii) amortization of intangibles or other bookkeeping entries of a similar nature.

“Opinion of Counsel” means a written opinion of The Weist Law Firm or such other counsel of recognized national standing in the field of law relating to municipal bonds retained by the City.

“Original Purchaser” means Southwest Securities Inc., as the first purchaser of the Bonds upon their delivery by the Trustee on the Closing Date.

“Owner” “Holder” “Bond Owner” or “Bond Holder,” whenever used herein with respect to a Bond, means the person in whose name the ownership of such Bond is registered on the Registration Books.

“Parity Obligations” means all Bonds, Contracts and Payment Agreements payable from Net Revenues on a parity with the Installment Payments.

“Parity Payments” means all installment payments scheduled to be paid by the City under all Parity Obligations.

“Payment Agreement” means a written agreement for the purpose of managing or reducing the City’s exposure to fluctuations in interest rates or for any other interest rate, investment, asset or liability managing purposes, entered into either on a current or forward basis by the City and a Qualified Counterparty as authorized under any applicable laws of the State in connection with, or incidental to (but not necessarily concurrent with), the entering into of any Supplemental Installment Sale Agreement, that provides for an exchange of payments based on interest rates, ceilings or floors on such payments, options on such payments or any combination thereof, or any similar device.

“Payment Agreement Payments” means the amounts periodically required to be paid by the City to all Qualified Counterparties under all Payment Agreements.

“Payment Agreement Receipts” means the amounts periodically required to be paid by all Qualified Counterparties to the City under all Payment Agreements.

“2015 Project” means the Wastewater Enterprise’s forty-five percent (45%) allocable share of the acquisition and construction of a pelletized water softening plant, as more particularly described in Exhibit B attached hereto and by this reference incorporated herein.

“Project” or “Wastewater Project” means any additions, betterments, extensions or improvements to the Wastewater Enterprise designated by the City Council of the City as a designated Wastewater Project, the design, acquisition or construction of which (together with the incidental costs and expenses related thereto) is to be financed by the proceeds of any Bonds, Contracts, or Supplemental Installment Sale Agreements, all as generally described in Exhibit B attached hereto and by this reference incorporated herein, as such description may be amended by the City from time to time pursuant to and in accordance with the terms hereof.

“Project Fund” or “Wastewater Project Fund” means the fund by that name established pursuant to Section 3.05 of the Indenture.

“Purchase Price” means the purchase price of the Project, in the aggregate principal amount of Five Million Two Hundred Thirty Eight Thousand Dollars (\$5,238,000), together with interest on the unpaid principal balance, payable in Installment Payments coming due and payable in the respective amounts and on the respective dates specified in Exhibit A.

“Qualified Counterparty” means a party (other than the City or a party related to the City) who is the other party to a Payment Agreement and (1) (a) who is rated in least one of the two highest rating categories assigned by at least two of the Rating Agencies (without regard to any gradations within a rating category), (b) whose senior debt obligations are rated at least one of the two highest rating categories assigned by at least two of the Rating Agencies to the obligations secured by Parity Payments (without regard to any gradations within a rating category), or guaranteed by an entity so rated, (c) whose obligations under the Payment Agreement are guaranteed for the entire term of the Payment Agreement by a bond insurer or other institution which has been assigned a credit rating at least one of the two highest rating categories assigned by at least two of the Rating Agencies to the obligations secured by Parity Payments, or (d) whose obligations under the Payment Agreement are collateralized in such a manner as to obtain a rating at least one of the two highest rating categories assigned by at least two of the Rating Agencies to the obligations secured by Parity Payments, and (2) who is otherwise qualified to act as the other party to a Payment Agreement under all applicable laws of the State.

“Qualified Reserve Fund Credit Instrument” means an irrevocable standby or direct-pay letter of credit, surety bond or insurance policy issued by a commercial bank or insurance company and deposited with the Trustee, provided that all of the following requirements are met at the time of acceptance thereof by the Trustee: (a) at least two Rating Agencies have assigned their long-term credit rating to such bank or claims paying ability of such insurance company as AA- or better from S&P or Fitch and A2 or better from Moody’s and, if rated by A.M. Best & Company, is rated in one of the two highest rating categories by A.M. Best & Company; (b) such letter of credit or surety bond has a term of at least 12 months; (c) such letter of credit or surety bond has a stated amount at least equal to the portion of the Reserve Requirement to be satisfied by such Qualified Reserve Fund Credit Instrument; and (d) the Trustee is authorized pursuant to the terms of such letter of credit or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Interest Account, the Principal Account or the Sinking Account for the purpose of making payments required pursuant to the Indenture.

“Rate Stabilization Fund” means the fund by that name established pursuant to Section 4.7(c) hereof.

“Rating Agencies” means, as of any date, each of the following entities: Fitch, S&P and Moody’s, and their respective corporate successors and any other nationally recognized statistical rating organization (as that term is used in the rules and regulations of the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended).

“Reserve Fund” means the account by that name in the Bond Fund established pursuant to Section 5.02 of the Indenture.

“Reserve Policy” means the municipal bond debt service reserve insurance policy issued by the Insurer for deposit in the Reserve Fund for the benefit of the Bonds. The Reserve Policy shall constitute a Financial Guaranty for all purposes of this Installment Sale Agreement.

“SIFMA” means the Securities Industry and Financial Markets Association, its successors and assigns.

“SIFMA Index” means, with respect to any date, the “SIFMA Municipal Swap Index” (such index previously known as the “BMA Municipal Swap Index”) announced by Municipal Market Data on such date and based upon the weekly interest rate resets of Tax-Exempt variable rate issues included in a database maintained by Municipal Market Data which meets specified criteria established by SIFMA. If for any reason the SIFMA Index for any date is not announced or is otherwise unavailable on the applicable date, the SIFMA Index for such date shall be the SIFMA Index for the next preceding date within the preceding 180 days on which the SIFMA Index was available. If for any reason the SIFMA Index for any date is not announced or is otherwise unavailable on any date in the immediately preceding 180 days, the SIFMA Index for such date shall be an index selected by the City or Authority which is a composite of bid-side yields of obligations (a) which (i) provide for a weekly adjustment of the interest rate, and (ii) which (A) must be purchased on demand of the owner thereof at any time upon notice of up to seven (7) days or (B) are payable in full not later than seven (7) days after the date of evaluation and (b) the interest on which is Tax-Exempt and is not subject to any personal “alternative minimum tax” or similar tax under the Code unless all Tax-Exempt securities are subject to such tax. If no such index is so selected by the City or Authority, the SIFMA Index for the applicable date shall be an index computed by the City or Authority which shall be equal to 95% of the yield applicable to 91-day United States Treasury bills, such yield to be computed on the basis of the coupon equivalent of the average per annum discount rate at which such Treasury bills shall have been sold at the most recent Treasury auction conducted prior to the applicable date.

“State” means the State of California.

“Subordinate Annual Debt Service” means, for any Fiscal Year or twelve (12) calendar month period, the Subordinate Payments required to be made under all Supplemental Installment Sale Agreements in such Fiscal Year or twelve (12) calendar month period.

“Subordinate Obligations” means all Supplemental Installment Sale Agreements or Payment Agreements the Subordinate Payments under which (other than Termination Payments related to Subordinate Payment Agreements) are secured by the subordinate lien on Net Revenues created hereby and are payable on a parity therefrom.

“Subordinate Payment Agreements” means a Payment Agreement which is a Subordinate Obligation.

“Subordinate Payments” means all installment payments scheduled to be paid by the City under all Subordinate Obligations.

“Supplemental Installment Sale Agreements” means all installment sale agreements supplemental to this Installment Sale Agreement executed and entered into by the City and the Authority under and pursuant to this Installment Sale Agreement and applicable law, as originally executed and entered into and as they may from time to time be amended or supplemented in accordance herewith and therewith.

“Termination Payments” means any payments due and payable to a Qualified Counterparty in connection with the termination of a Payment Agreement. Termination Payments shall constitute Subordinate Payments.

“Term of this Installment Sale Agreement” means the time during which this Installment Sale Agreement is in effect, as provided in Section 4.2 hereof.

“Utility Fund” means the City’s existing Wastewater Utility Fund established and held by the City with respect to the Wastewater Enterprise.

“Trustee” means Wells Fargo Bank, National Association, serving as Trustee under the Indenture, or any other trust company or banking corporation which may at any time be substituted in its place as provided in the Indenture.

“Variable Interest Rate” means any variable interest rate or rates to be paid under any Supplemental Installment Sale Agreements, the method of computing which variable interest rate shall be as specified in the applicable Supplemental Installment Sale Agreement, which Supplemental Installment Sale Agreement shall also specify either (i) the payment period or periods or time or manner of determining such period or periods or time for which each value of such variable interest rate shall remain in effect, and (ii) the time or times based upon which any change in such variable interest rate shall become effective, and which variable interest rate may, without limitation, be based on the interest rate on certain bonds or may be based on interest rate, currency, commodity or other indices.

“Variable Interest Rate Contracts” means, for any period of time, any Supplemental Installment Sale Agreements that bear a Variable Interest Rate during such period, except that no Supplemental Installment Sale Agreement shall be treated as a Variable Interest Rate Contract if the net economic effect of interest rates on any particular Payments or such Supplemental Installment Sale Agreement and interest rates on any other Payments of the same Supplemental Installment Sale Agreement, as set forth in such Supplemental Installment Sale Agreement, or the net economic effect of a Payment Agreement with respect to any particular Payments, in either case is to produce obligations that bear interest at a fixed interest rate, and any Supplemental Installment Sale Agreement with respect to which a Payment Agreement is in force shall be treated as a Variable Interest Rate Contract if the net economic effect of the Payment Agreement is to produce obligations that bear interest at a Variable Interest Rate.

“Wastewater Enterprise” means, collectively, the entire wastewater collection, treatment and disposal system owned or operated by the City, including, but not limited to, any and all properties and

assets, real and personal, tangible and intangible, of the City, now or hereafter existing, used or pertaining to the collection, disposal or reuse of wastewater, including sewage treatment plants, outfall, force mains, pumping stations, ejector stations, pipes, valves, machinery and all other appurtenances necessary, useful or convenient for the collection, treatment, purification or disposal of sewage, and any necessary lands, rights of way and other real or personal property useful in connection therewith, and all additions, extensions, expansions, improvements and betterments thereto and equipments thereof.

“Wastewater Installment Sale Agreement” or “Installment Sale Agreement” means this Wastewater Installment Sale Agreement, dated as of December 1, 2015, by and between the City and the Authority relating to the Wastewater Project, as originally executed and as it may from time to time be amended or supplemented in accordance herewith.

## ARTICLE II

### COVENANTS AND REPRESENTATIONS

**Section 2.1. Covenants and Representations of the City.** The City makes the following covenants and representations to the Authority and the Insurer that as of the Closing Date:

(a) The City is a municipal corporation and general law city, duly organized and validly existing under the laws of the State, has full legal right, power and authority to enter into this Installment Sale Agreement and to carry out and consummate all transactions contemplated hereby, and by proper action has duly authorized the execution and delivery of this Installment Sale Agreement.

(b) The representatives of the City executing this Installment Sale Agreement are fully authorized to execute the same.

(c) This Installment Sale Agreement has been duly authorized, executed and delivered by the City, and constitutes the legal, valid and binding agreement of the City, enforceable against the City in accordance with its terms.

(d) The execution and delivery of this Installment Sale Agreement, the consummation of the transactions herein contemplated and the fulfillment of or compliance with the terms and conditions hereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the City is a party or by which it or the Project are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Installment Sale Agreement, or the financial condition, assets, Project or operations of the Wastewater Enterprise.

(e) No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Installment Sale Agreement or the consummation of any transaction herein and therein contemplated, except as have been obtained or made and as are in full force and effect.

(f) There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or threatened against or affecting the City or the Wastewater Enterprise which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Installment Sale Agreement or upon the financial condition or operation of the Wastewater Enterprise, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Installment Sale Agreement, or the financial conditions or operations of the Wastewater Enterprise.

(g) The City has heretofore established the Utility Fund into which the City deposits and will continue to deposit all Gross Revenues, and which the City will maintain throughout the Term of this Installment Sale Agreement.

(h) There are no outstanding bonds, notes, loans, leases, installment sale agreements or other obligations which have any security interest in or claim upon the Net Revenues, which security interest or claim is superior to or on a parity with the Installment Payments.

(i) The City hereby agrees to pay or reimburse the Insurer, as Additional Payments, any and all charges, fees, costs and expenses that the Insurer may reasonably pay or incur in connection with (i) the administration, enforcement, defense or preservation of any rights or security in any herewith or under the Indenture or any other financing document relating to the Bonds (the "Related Documents"); (ii) the pursuit of any remedies under the Indenture, this Installment Sale Agreement or otherwise afforded by law or equity, (iii) any amendment, waiver or other action with respect to, or related to, the Indenture, this Installment Sale Agreement or any other related document whether or not executed or completed, or (iv) any litigation or other dispute in connection with the Indenture, this Installment Sale Agreement or any other related document or the transactions contemplated thereby, other than costs resulting from the failure of the Insurer to honor its obligations under the Insurance Policy. The Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of the Indenture, this Installment Sale Agreement or any other related document.

**Section 2.2. Covenants and Representations of the Authority.** The Authority makes the following covenants and representations as the basis for its undertakings herein contained:

(a) The Authority is a joint powers authority, duly organized and existing under the laws of the State. The Authority has the power to enter into the transactions contemplated by this Installment Sale Agreement and to carry out its obligations hereunder. By proper action of its governing body, the Authority has been duly authorized to execute, deliver and duly perform this Installment Sale Agreement and the Indenture.



(b) To finance the Project, the Reserve Fund deposit and the Costs of Issuance, the Authority will issue its Bonds, which will mature, bear interest and be subject to redemption as set forth in the Indenture.

(c) The Bonds will be issued under and secured by the Indenture, and pursuant thereto, certain of the Authority's interests in this Installment Sale Agreement have been assigned to the Trustee as security for payment of the principal of, premium, if any, and interest on the Bonds.

(d) The Authority is not in default under any of the provisions of the laws of the State, which default would affect its existence or its powers referred to in subsection (a) of this Section 2.2.

### ARTICLE III

#### ISSUANCE OF BONDS; ACQUISITION AND CONSTRUCTION OF THE 2015 PROJECT

**Section 3.1. The Bonds.** The Bonds authorized to be issued by the Authority under and subject to the Bond Law and the terms of the Indenture shall be dated the Bond Date and be designated the "San Juan Bautista Public Financing Authority, Series 2015 Enterprise Revenue Bonds (Water and Wastewater Financing Projects)," and shall be issued in the initial aggregate principal amount of Eleven Million Six Hundred Forty Thousand Dollars (\$11,640,000).

The Authority agrees that the proceeds of sale of the Bonds shall be paid to the Trustee on the Closing Date for deposit pursuant to the terms and conditions of the Indenture. The City hereby approves the Indenture, the assignment to the Trustee of the rights of the Authority assigned under and pursuant to the Indenture, and the issuance of the Bonds by the Authority under and pursuant to the Indenture.

**Section 3.2. Plans and Specifications for the 2015 Project.** Before any payment is made for the 2015 Project or any component thereof from amounts on deposit in the Project Fund, the City shall have filed with the Authority schematic Plans and Specifications relating thereto. The City may from time to time file amendments to such Plans and Specifications with the Authority, and may thereby change or modify the description of the 2015 Project or any component thereof.

**Section 3.3. Acquisition and Construction of the 2015 Project.** The Authority hereby agrees with due diligence to supervise and provide for, or cause to be supervised and provided, for the Acquisition and Construction of the 2015 Project in accordance with Plans and Specifications, purchase orders, construction contracts and other documents relating thereto and approved by the City pursuant to all applicable requirements of law. Direct payment of the Project Costs shall be made from amounts on deposit in the Project Fund, pursuant to Section 3.05 of the Indenture. All contracts for, and all work relating to, the Acquisition and Construction of the 2015 Project shall be subject to all applicable provisions of law relating to the acquisition and construction of public works by the City. The Authority expects that the Acquisition and Construction of the 2015 Project will be completed on or before December 1, 2017; provided, however, that the failure to complete any 2015 Project by the estimated Completion Date thereof shall not constitute an Event of Default hereunder or a grounds for termination hereof, nor shall such failure result in the diminution, abatement or extinguishment of the obligations of the City hereunder to pay the Installment Payments allocable to such 2015 Project.

The City shall have the right from time to time in its sole discretion to amend the description of the 2015 Project to be financed and sold by the Authority hereunder. In order to exercise such right, the City shall file with the Authority and the Trustee an amended Exhibit B hereto.

Upon the completion of the Acquisition and Construction of the 2015 Project, the amounts, if any, on deposit in the Project Fund shall be deposited by the Trustee for deposit in the Bond Fund and the Trustee shall close the Project Fund.

**Section 3.4. Grant of Easements.** The City hereby grants to the Authority all necessary easements, rights of way and rights of access in and to all real property or interests therein now or hereafter acquired and owned by the City, as may be necessary or convenient to enable the Authority to acquire, construct and install the Project thereon or thereabouts. The City covenants that it will execute, deliver and record any and all additional documents as may be required to be executed, delivered and recorded to establish such easements, rights of way and rights of access.

**Section 3.5. Appointment of City as Agent of Authority.** The Authority hereby appoints the City as its agent to carry out all phases of the Acquisition and Construction of the Project pursuant to and in accordance with the provisions hereof. The City hereby accepts such appointment and assumes all rights, liabilities, duties and responsibilities of the Authority regarding the Acquisition and Construction of the Project. The Authority, or the City as agent of the Authority hereunder, shall enter into, administer and enforce all purchase orders or other contracts relating to the Acquisition and Construction of the Project. All contracts for, and all work relating to, the Acquisition and Construction of the Project shall be subject to all applicable provisions of law relating to the acquisition, construction, improvement, and equipping of like projects and property by joint powers authorities and by municipal corporations.

## ARTICLE IV

### SALE OF PROJECT; INSTALLMENT PAYMENTS

**Section 4.1. Acquisition and Sale of Project.** The Authority hereby sells the Project to the City and the City hereby purchases the Project from the Authority, upon the terms and conditions set forth in this Installment Sale Agreement.

**Section 4.2. Term.** The Term of this Installment Sale Agreement shall commence on the Closing Date, and shall end on the date on which the City shall have paid all of the Installment Payments, Additional Payments and all other amounts due and payable hereunder. The provisions of this Section 4.2 are subject in all respects to any other provisions of this Installment Sale Agreement relating to the termination hereof with respect to the Project or any portion thereof.

**Section 4.3. Title.** Upon the Completion Date of each component of the Project, title to such component shall be deemed conveyed to and vested in the City. The Authority and the City shall execute, deliver and cause to be recorded any and all documents necessary to convey such title to the City.

#### **Section 4.4. Installment Payments.**

(a) Obligation to Pay. The City agrees to pay to the Authority, its successors and assigns, but solely from the Net Revenues and other funds pledged hereunder, as the purchase price of the Project, the

aggregate principal amount of Five Million Two Hundred Thirty Eight Thousand Dollars (\$5,238,000), together with interest on the unpaid principal balance, payable in Installment Payments coming due and payable in the respective amounts and on the respective dates specified in Exhibit A. The Installment Payments shall be paid by the City to the Trustee, as assignee of the Authority pursuant to the Indenture, in the amounts and at the times as set forth in Section 4.5(b) hereof. The City shall specifically identify the Installment Payments as “Wastewater Installment Sale Agreement Payments.”

(b) Effect of Prepayment. In the event that the City prepays all remaining Installment Payments in full pursuant to Article IX, the City’s obligations under this Installment Sale Agreement shall thereupon cease and terminate, including but not limited to the City’s obligation to pay Installment Payments therefor under this Section 4.4; *provided, however,* that the City’s obligations to compensate and indemnify the Trustee pursuant to Sections 4.10 and 6.3, and to pay any amounts due and owing the Insurer pursuant to Section 2.1(i), shall survive such prepayment. In the event that the City prepays the Installment Payments in part but not in whole pursuant to Section 9.2 or Section 9.3, the principal component of each succeeding Installment Payment shall be reduced as provided in such Sections, and the interest component of each remaining Installment Payment shall be reduced by the aggregate corresponding amount of interest which would otherwise be payable on the Bonds thereby redeemed pursuant to the applicable provisions of Section 4.01 of the Indenture.

(c) Rate on Overdue Payments. In the event the City should fail to make any of the payments required in this Section 4.4 and Section 4.10 hereof, the payment in default shall continue as an obligation of the City until the amount in default shall have been fully paid, and the City agrees to pay the same with interest thereon, from the date of default to the date of payment, at the rate of ten percent (10%) per annum, or at such other rate as may be provided in this Installment Sale Agreement and the Indenture.

(d) Assignment. The City understands and agrees that all Installment Payments have been assigned by the Authority to the Trustee in trust, pursuant to the Indenture, for the benefit of the Owners of the Bonds, and the City hereby assents to such assignment. The Authority hereby directs the City, and the City hereby agrees, to pay to the Trustee at its Office, all amounts payable by the City pursuant to this Section 4.4 and all amounts payable by the City pursuant to Article IX hereof.

#### **Section 4.5. Pledge and Application of Net Revenues.**

(a) Pledge of Net Revenues. All of the Net Revenues are hereby irrevocably pledged, charged and assigned to the punctual payment of the Installment Payments on a parity with any Parity Obligations, and except as otherwise provided herein, the Net Revenues shall not be used for any other purpose so long as any of the Installment Payments remain unpaid. Such pledge, charge and assignment shall constitute a first lien on the Net Revenues for the payment of the Installment Payments in accordance with the terms hereof.

All Net Revenues, whether held by the City as trustee or deposited with the Trustee, shall nevertheless be disbursed, allocated and applied solely to the uses and purposes hereinafter in this Article IV set forth, and shall be accounted for separately and apart from all other money, funds, accounts or other resources of the City.

(b) Deposits into Utility Fund; Transfers to Make Installment Payments. All of the Gross Revenues shall be deposited by the City immediately upon receipt in the Utility Fund, which fund is hereby continued in the treasury of the City and which fund shall be maintained by the City, and all money in the

Utility Fund shall be set aside by the City and applied to the payment of Operation and Maintenance Costs, as and when required to be paid.

The City hereby covenants and agrees that all Net Revenues will be held by the City in the Utility Fund in trust for the benefit of the Trustee (as assignee of the rights of the Authority hereunder), the Insurer, the issuer of the Reserve Policy and the Bond Owners, and for the benefit of the owners of any Parity Obligations. On or before each Installment Payment Date, the City shall withdraw from the Utility Fund and transfer to the Trustee, for deposit in the Bond Fund, an amount of Net Revenues which, together with the balance (but only to the extent that such balance is credited to the Wastewater Enterprise) then on deposit in the Bond Fund, including all sub accounts, but excluding the Reserve Fund (other than amounts resulting from the prepayment of the Installment Payments pursuant to Article IX and other than amounts required for payment of principal of or interest on any Bonds which have matured or been called for redemption but which have not been presented for payment), is equal to the aggregate amount of the Installment Payment coming due and payable on the next succeeding Installment Payment Date.

(c) Establishment and Maintenance of Accounts. All Gross Revenues in the Utility Fund shall be set aside by the City to pay Operation and Maintenance Costs and for transfer by the City to the Trustee for deposit in the Bond Fund, or transfer to a trustee or fiscal agent with respect to Parity Obligations, as the case may be, and shall be applied as follows and in the following order of priority:

(1) Operation and Maintenance Costs. In order to carry out and effectuate the pledge and lien contained herein, the City agrees and covenants to pay all Operation and Maintenance Costs (including amounts reasonably required to be set aside in contingency reserves for Operation and Maintenance Costs, the payment of which is not then immediately required) from the Utility Fund as they become due and payable. Pursuant to Section 5.1 hereof, the City shall annually prepare a budget for Operation and Maintenance Costs.

(2) Debt Service Accounts. To pay all Installment Payments, and all other Parity Obligations and payment of amounts owed hereunder or pursuant to the Indenture or a Supplemental Indenture or Supplemental Installment sale Agreement, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(3) Reserve Funds. All amounts, if any, required to restore the balance in the Reserve Fund to the full amount of the Reserve Requirement (including any draws on the Reserve Policy, but only to the extent that a negative balance therein is properly traced and charged to the Wastewater Enterprise), or with respect to Parity Obligations, to replenish reserve accounts therefore, such payments shall be made in accordance with the terms of this Installment Sale Agreement, the Indenture and of such Parity Obligations, as the case may be, without preference or priority, and in the event of any insufficiency of such moneys, ratably without any discrimination or preference.

(4) Subordinate Obligation Payments. After the payments contemplated by subparagraphs (1), (2) and (3) above have been made, any amounts thereafter remaining in the Utility Fund may from time to time be used for the payment of the interest and principal payments becoming due and payable under all Supplemental Installment Sale Agreements that are Subordinate Obligations and the net payments becoming due and payable on all Subordinate Payment Agreements (except any Termination Payments) and any other amounts becoming due

and payable with respect to Subordinate Obligations (including any letter of credit and remarketing fees and any other amounts becoming due and payable to make up any deficiency in the reserve funds and the reserve accounts for Subordinate Obligations, including all costs of any Qualified Reserve Fund Credit Instrument for such Subordinate Obligations) and any Termination Payments on all Parity Payment Agreements; so long as the following conditions are met:

(i) all Operations and Maintenance Costs are being and have been paid and are then current; and

(ii) all deposits and payments contemplated by subparagraphs (1), (2) and (3) above shall have been made in full and no deficiency in any reserve fund or reserve account for Parity Obligations shall exist and no costs in connection with a Qualified Reserve Fund Credit Instrument for the Parity Obligations shall be due and payable, and there shall have been paid, or segregated within the Utility Fund and Bond Fund, the amounts currently payable pursuant to subparagraphs (1), (2) and (3) above.

(5) General Expenditure; Rate Stabilization Fund. All Gross Revenues remaining after paying all of the sums required to be paid hereunder by the City by the provisions of Sections 4.5(c)(1), (2), (3) and (4) hereof, may be withdrawn from the Utility Fund for expenditure for any lawful purpose of the City, including (i) the payment of Additional Payments, (ii) the payment of Termination Payments (iii) the payment of any unsecured obligations, (iv) the acquisition and construction of extensions and betterments to the Wastewater Enterprise, (v) the prepayment of any obligations of the City relating to the Wastewater Enterprise, or (vi) any other lawful purposes of the City, including, but not limited to, deposits to the Rate Stabilization Fund in accordance with Section 4.7(c).

(d) Certain Necessary Transfers. The parties hereto acknowledge that although all Parity Obligations are secured equally and ratably by Net Revenues, debt service and other funds with respect to obligations other than the Bonds may be held by the Trustee or by trustees other than the Trustee under documents and agreements other than the Indenture and this Installment Sale Agreement, and the Installment Sale Agreement and the Indenture impose no obligations upon the Trustee with respect to such other obligations. The City is hereby authorized to make such transfers from the Utility Fund necessary to effectuate such Parity Obligations' parity claim on the Net Revenues contemplated hereby.

(e) Budget and Appropriation of Installment Payments. During the Term of this Installment Sale Agreement, the City shall adopt and make all necessary budgets and appropriations of the Installment Payments from the Net Revenues, and shall, upon written request of the Trustee, furnish to the Trustee a Written Certificate stating that the Installment Payments have been included in the final budget of the City for the current Fiscal Year. In the event any Installment Payment requires the adoption by the City of any supplemental budget or appropriation, the City shall promptly adopt the same. The covenants on the part of the City contained in this subsection (e) shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this subsection (e).

**Section 4.6. Special Obligation of the City; Obligations Absolute.** The City's obligation to pay the Installment Payments, the Additional Payments and any other amounts coming due and payable

hereunder shall be a special obligation of the City limited solely to the Net Revenues. Under no circumstances shall the City be required, obligated or liable to advance moneys derived from any source of income other than the Net Revenues and other sources specifically identified herein for the payment of the Installment Payments and the Additional Payments, nor shall any other funds or property of the City be liable for the payment of the Installment Payments and the Additional Payments and any other amounts coming due and payable hereunder.

Subject to the preceding paragraph, the obligations of the City to make the Installment Payments and the Additional Payments from the Net Revenues and to perform and observe the other agreements contained herein shall be absolute and unconditional and shall not be subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach of the City, the Authority or the Trustee of any obligation to the City or otherwise with respect to the Wastewater Enterprise, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the City by the Authority. Until such time as all of the Installment Payments, all of the Additional Payments and all other amounts coming due and payable hereunder shall have been fully paid or prepaid, the City (a) will not suspend or discontinue payment of any Installment Payments, Additional Payments or such other amounts, (b) will perform and observe all other agreements contained in this Installment Sale Agreement, and (c) will not terminate the Term of this Installment Sale Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Wastewater Enterprise, sale of the Wastewater Enterprise, the taking by eminent domain of title to or temporary use of any component of the Wastewater Enterprise, commercial frustration of purpose, any change in the tax or law other laws of the United States of America or the State or any political subdivision of either thereof or any failure of the Authority or the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Indenture or this Installment Sale Agreement.

Nothing contained in this Section 4.6 shall be construed to release the Authority or the Trustee from the performance of any of the agreements on its part contained herein or in the Indenture, and in the event the Authority or the Trustee shall fail to perform any such agreements, the City may institute such action against the Authority or the Trustee as the City may deem necessary to compel performance so long as such action does not abrogate the obligations of the City contained in the preceding paragraph. The City may, however, at the City's own cost and expense and in the City's own name or in the name of the Authority prosecute or defend any action or proceeding or take any other action involving third persons which the City deems reasonably necessary in order to secure or protect the City's rights hereunder, and in such event the Authority hereby agrees to cooperate fully with the City and to take such action necessary to effect the substitution of the City for the Authority in such action or proceedings if the City shall so request.

#### **Section 4.7. Rates and Charges.**

(a) Covenant Regarding Gross Revenues. The City shall, to the extent permitted by law, fix, prescribe, revise and collect rates, fees and charges for the services and commodities furnished by the Wastewater Enterprise during each Fiscal Year (together with other funds accumulated from Gross Revenues and which are lawfully available to the City for payment of any of the following amounts during such Fiscal Year), which are at least sufficient, after making allowances for contingencies and error in the estimates, to yield Gross Revenues which are sufficient to pay the following amounts in the following order of priority:

(i) All Operation and Maintenance Costs estimated by the City to become due and payable in such Fiscal Year;

(ii) The Installment Payments and the principal of and interest on (a) any Parity Obligations as they become due and payable during such Fiscal Year, without preference or priority, except to the extent such Installment Payments or such principal and interest on any Parity Obligations are payable from the proceeds of the Bonds or Parity Obligations, or from any other source of legally available funds of the City which have been deposited with the Trustee for such purpose prior to the commencement of such Fiscal Year;

(iii) All amounts, if any, required to restore the balance in the Reserve Fund to the full amount of the Reserve Requirement, but only to the extent that the diminution of the Reserve Fund resulted from Installment Payments being in an amount less than the corresponding amount called for in Exhibit A; and

(iv) All Additional Payments and other payments required to meet any other obligations of the City which are charges, liens, encumbrances upon, or which are otherwise payable, from Gross Revenues during such Fiscal Year, including payments with respect to Subordinate Obligations.

(b) Covenant Regarding Net Revenues. In addition, the City shall, to the extent permitted by law, fix, prescribe, revise and collect rates, fees and charges for the services and commodities furnished by the Wastewater Enterprise during each Fiscal Year which are reasonably fair and nondiscriminatory and which are sufficient to yield Adjusted Annual Net Revenues for such Fiscal Year equal to at least the Coverage Requirement for such Fiscal Year. The City may make adjustments from time to time in such fees and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates, fees and charges then in effect unless the Adjusted Annual Net Revenues from such reduced rates, fees and charges are estimated to be sufficient to meet the requirements of this section.

(c) Rate Stabilization Fund. There is hereby created a separate fund to be known as the "Rate Stabilization Fund," to be held, replenished and maintained by the City. The City may at any time withdraw from the Rate Stabilization Fund any money therein for deposit in the Utility Fund or Bond Fund; provided, that any such deposits or withdrawals may be made up to and including the date that is one hundred twenty (120) days after the end of the Fiscal Year or twelve (12) calendar month period for which such deposit or withdrawal will be taken into account in determining Adjusted Annual Revenues; and provided further, that no deposit of Net Revenues shall be made into the Rate Stabilization Fund to the extent that such deposit would prevent the City from meeting the Coverage Requirement in any Fiscal Year or twelve (12) calendar month period.

**Section 4.8. Superior and Subordinate Obligations.** The City shall not issue or incur any additional bonds or other obligations during the Term of this Installment Sale Agreement having any priority in payment of principal or interest out of the Gross Revenues or the Net Revenues over the Installment Payments. The City may at any time execute any Subordinate Obligations payable as provided in Section 4.9; provided that (i) no Event of Default has occurred and is continuing, (ii) the provisions of Section 4.9 relating to the conditions for the execution of Parity Obligations are satisfied for the execution of such Subordinate Obligation, and (iii) for purposes of Subordinate Obligations only, the first paragraph of the definition of Coverage Requirement shall be defined as (i) one hundred five percent (105%) of the sum of the Annual Debt Service plus the Subordinate Annual Debt Service for such Fiscal Year or twelve

(12) calendar month period and (ii) one hundred percent (100%) of all obligations of the City payable in such Fiscal Year or twelve (12) calendar month period.

Nothing contained herein shall limit the ability of the City to execute obligations payable from a lien on Net Revenues that is subordinate to the lien of Net Revenues for both Parity Obligations and Subordinate Obligations contained herein.

**Section 4.9. Issuance of Parity Obligations.** The City shall have the right from time to time to issue or incur additional Parity Obligations, upon such terms and conditions as the City shall deem advisable, but only upon compliance with the following conditions which are hereby made conditions precedent to the issuance of Parity Obligations:

(a) There shall be on file with the City either:

(1) A Certificate of the Fiscal Consultant demonstrating that, during the last audited Fiscal Year or any twelve (12) calendar month period during the immediately preceding eighteen (18) calendar month period, the Adjusted Annual Net Revenues were at least equal to the Coverage Requirement for all outstanding Parity Obligations plus the Parity Obligation proposed to be executed; provided, that for the purpose of providing this Certificate, the City may adjust the foregoing Adjusted Annual Net Revenues to reflect Additional Revenues; or

(2) An Engineer's Report that the estimated Adjusted Annual Net Revenues for each of the five (5) Fiscal Years next following the earlier of (i) the end of the period during which interest on the Parity Obligation proposed to be executed is to be capitalized or, if no interest is capitalized, the Fiscal Year in which the Parity Obligation proposed to be executed is executed, or (ii) the date on which substantially all Projects financed with the Parity Obligation proposed to be executed plus all Projects financed with all existing Parity Obligations are expected to commence operations, will be at least equal to the Coverage Requirement for such period; provided, that for the purpose of providing this Engineer's Report, the Independent Engineer may adjust the foregoing estimated Adjusted Annual Net Revenues to reflect Additional Revenues;

(b) A Certificate of the City that the Project to be acquired and constructed with the proceeds of such Parity Obligation is technically feasible and the estimated cost of the acquisition and construction thereof is reasonable, and (after giving effect to the completion of all uncompleted Projects) the rates, fees and charges estimated to be fixed and prescribed for the wastewater service for each Fiscal Year from the Fiscal Year in which such Parity Obligation is executed to and including the first complete Fiscal Year after the latest Date of Operation of any uncompleted Project are economically feasible and reasonably considered necessary based on projected operations for such period;

(c) At the time of such execution of Parity Obligations, no Event of Default shall have occurred and be continuing; and

(d) Upon the issuance of such Parity Obligations a reserve account may, but is not required to, be established for such Parity Obligations in an amount at least equal to the Reserve Requirement of such Parity Obligations.



**Section 4.10. Additional Payments.** In addition to the Installment Payments, the City shall pay when due all costs and expenses incurred by the Authority and the Trustee to comply with the provisions of the Indenture, including without limitation all Costs of Issuance (to the extent not paid from amounts on deposit in the Costs of Issuance Fund) and amounts payable to the federal government pursuant to Section 6.08 of the Indenture, and shall pay to the Trustee upon request therefor all compensation for fees due to the Trustee and all of its costs and expenses payable as a result of the performance of and compliance with its duties hereunder or under the Indenture or any related documents, together with all amounts required to indemnify the Trustee pursuant to Section 6.3 hereof or Section 8.06 of the Indenture, and all costs and expenses of the Authority's and Trustee's attorneys, auditors, engineers and accountants, all amounts due and owing the Insurer on Insurer's Advances, as defined in the Indenture and all amounts due to the issuer of the Reserve Policy as set forth in Section 12.02 of the Indenture. The rights of the Trustee and the Insurer and the obligations of the City under this Section 4.10 shall survive the termination of this Installment Sale Agreement and any resignation or removal of the Trustee.

**Section 4.11. Payment of Rebatable Amounts.** The City agrees to furnish all information to, and cooperate fully with, the Authority, the Trustee and their respective officers, employees, agents and attorneys, in order to assure compliance with the provisions of Section 6.08 of the Indenture. In the event that the Authority or the Trustee shall determine, pursuant to Section 6.08 of the Indenture, that any amounts are due and payable to the United States of America thereunder and that neither the Authority nor the Trustee has on deposit an amount of available moneys (excluding moneys on deposit in the funds and accounts established for the payment of the principal of or interest or redemption premium, if any, on the Bonds) to make such payment, the Authority or the Trustee shall promptly notify the City of such fact. Upon receipt of any such notice, the City shall promptly pay to the United States of America from any source of legally available funds of the Wastewater Enterprise, the amounts determined by the Authority or the Trustee to be due and payable to the United States of America under such Section 6.08.

## ARTICLE V

### MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS

**Section 5.1. Maintenance, Utilities, Budget, Taxes and Assessments.** Throughout the Term of this Installment Sale Agreement, all improvement, repair and maintenance of the Wastewater Enterprise shall be the responsibility of the City, and the City shall pay for or otherwise arrange for the payment of all Operation and Maintenance Costs and other services supplied to the Wastewater Enterprise, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, and all other utility services, and shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Wastewater Enterprise resulting from ordinary wear and tear. On or before the first day of each Fiscal Year, the City will file with the Trustee a budget setting forth the estimated Operation and Maintenance Costs of the Wastewater Enterprise for such Fiscal Year. The Trustee shall not be required to review, and shall not be deemed to have knowledge of, the contents of such budget, it being understood that the Trustee shall receive and hold such budget as repository for examination and copying by any Owner at such Owner's expense.

The City shall also pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Authority, the Trustee or the City, affecting the Wastewater Enterprise or the respective interests or estates therein; *provided, however*, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City shall be

obligated to pay only such installments as are required to be paid during the Term of this Installment Sale Agreement as and when the same become due.

The City may, at the City's expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Authority shall notify the City that, in its opinion, by nonpayment of any such items, the interest of the Authority hereunder or under the Indenture will be materially adversely affected, in which event the City shall promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority.

**Section 5.2. Operation of Wastewater Enterprise.** The City covenants and agrees to operate the Wastewater Enterprise in an efficient and economical manner and to operate, maintain and preserve the Wastewater Enterprise in good repair and working order. The City covenants that, in order to fully preserve and protect the priority and security of the Bonds, the City shall pay from the Gross Revenues and discharge all lawful claims for labor, materials and supplies furnished for or in connection with the Wastewater Enterprise which, if unpaid, may become a lien or charge upon the Gross Revenues or the Net Revenues prior or superior to the lien granted hereunder, or which may otherwise impair the ability of the City to pay the Installment Payments in accordance herewith.

**Section 5.3. Public Liability and Property Damage Insurance.** The City shall maintain or cause to be maintained, throughout the Term of this Installment Sale Agreement, but only if and to the extent available at reasonable cost from reputable insurers, a standard comprehensive general insurance policy or policies in protection of the Authority, the City, the Trustee, and their respective members, officers, agents and employees. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Wastewater Enterprise. Said policy or policies shall provide coverage in such liability limits and shall be subject to such deductibles as shall be customary with respect to works and property of a like character. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried by the City, and may be maintained in whole or in part in the form of self-insurance by the City, subject to the provisions of Section 5.5, or in the form of the participation by the City in a joint powers agency or other program providing pooled insurance. The proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which such proceeds shall have been paid.

**Section 5.4. Casualty Insurance.** The City shall procure and maintain, or cause to be procured and maintained, throughout the Term of this Installment Sale Agreement, but only in the event and to the extent available from reputable insurers at reasonable cost, casualty insurance against loss or damage to any improvements constituting any part of the Wastewater Enterprise, covering such hazards as are customarily covered with respect to works and property of like character. Such insurance may be subject to deductible clauses which are customary for works and property of a like character. Such insurance may be maintained as part of or in conjunction with any other casualty insurance carried by the City and may be maintained in whole or in part in the form of self-insurance by the City, subject to the provisions of Section 5.5, or in the form of the participation by the City in a joint powers agency or other program providing pooled insurance. All amounts collected from insurance against accident to or destruction of any portion of the Wastewater Enterprise shall be Gross Revenues and shall be used to repair, rebuild or replace such damaged or destroyed portion of the Wastewater Enterprise or otherwise as permitted by the Installment Sale Agreement.

**Section 5.5. Insurance Premiums; Self-Insurance.** The City shall pay or cause to be paid when due the premiums for all insurance policies required by this Installment Sale Agreement. The Trustee shall not be responsible for the sufficiency of any insurance herein required and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss. In the event that any insurance required pursuant to Sections 5.3 or 5.4 shall be provided in the form of self-insurance, the City shall file with the Trustee annually, within ninety (90) days following the close of each Fiscal Year, a statement of an independent actuarial consultant identifying the extent of such self-insurance and stating the determination that the City maintains sufficient reserves with respect thereto. In the event that any such insurance shall be provided in the form of self-insurance by the City, the City shall not be obligated to make any payment with respect to any insured event except from Net Revenues or from such reserves.

**Section 5.6. Eminent Domain.** Any amounts received as awards as a result of the taking of all or any part of the Wastewater Enterprise by the lawful exercise of eminent domain shall be set aside and shall be used for the acquisition or construction of improvements and extension of the Wastewater Enterprise or otherwise as permitted by this Installment Sale Agreement, and with respect to which the Trustee shall have a security interest.

**Section 5.7. Records and Accounts.** The City shall keep proper books of record and accounts of the Wastewater Enterprise, separate from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the Wastewater Enterprise. Said books shall, upon prior request, be subject to the reasonable inspection by the Owners of not less than ten percent (10%) in aggregate principal amount of the Outstanding Bonds, or their representatives authorized in writing. The City shall cause the books and accounts of the Wastewater Enterprise to be audited annually by an Independent Certified Public Accountant, not more than two hundred seventy (270) days after the close of each Fiscal Year, and shall make a copy of such report available for inspection by the Bond Owners at the office of the City.

**Section 5.8. Private Activity Bond Limitation.** The City and the Authority shall assure that the proceeds of the Bonds are not so used as to cause the Bonds to satisfy the private business tests of section 141(b) of the Code, or the private loan financing test of section 141(c) of the Code.

**Section 5.9. Maintenance of Tax-Exemption.** The City and the Authority shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the Owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of the Bonds.

**Section 5.10. Federal Guarantee Prohibition.** The City and the Authority shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be “federally guaranteed” within the meaning of section 149(b) of the Code.

**Section 5.11. Continuing Disclosure.** The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Installment Sale Agreement, failure of the City to comply with the Continuing Disclosure Agreement shall not be an Event of Default hereunder; however, any Participating Underwriter or any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate,

including seeking specific performance by court order, to cause the City to comply with its obligations under this Section 5.11.

**Section 5.12. Report to California Debt Advisory Commission.** In accordance with Section 6599.1(c) of the Government Code, the City shall notify the California Debt and Investment Advisory Commission by mail, postage prepaid, within ten (10) days if either (i) the Authority fails to pay principal and interest payable on the Bonds pursuant to the Indenture on any scheduled payment date or (ii) funds representing all or a portion of the Reserve Requirement are withdrawn from the Reserve Fund to pay principal and interest payable pursuant to the Indenture.

**Section 5.13. Indenture Covenants.** The City hereby expressly acknowledges and agrees to undertake its covenants under the Indenture, including but not limited to, those requirements of Article XII of the Indenture, as if such covenants were made herein.

## ARTICLE VI

### DISCLAIMER OF WARRANTIES; ACCESS

**Section 6.1. Disclaimer of Warranties.** The Authority and the Trustee make no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the City of the Project, or any other representation or warranty with respect to the Project. In no event shall the Authority or the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising out of this Installment Sale Agreement or the Indenture for the existence, furnishing, functioning or City's use of the Project.

**Section 6.2. Access to the Wastewater Enterprise.** The City agrees that the Authority and the Trustee, and any duly authorized representative thereof, shall have the right (but not a duty or obligation) at all reasonable times to enter upon and to examine and inspect the Wastewater Enterprise. The City further agrees that the Authority and the Trustee, and any duly authorized representative thereof, shall have such rights of access to the Wastewater Enterprise as may be reasonably necessary to cause the proper maintenance of the Wastewater Enterprise in the event of failure by the City to perform its obligations hereunder.

**Section 6.3. Release and Indemnification Covenants.** The City shall and hereby agrees to indemnify and save the Authority and the Trustee and their respective members, officers, agents, employees, successors and assigns harmless from and against all claims, losses, liabilities, costs, expenses and damages, including legal fees and expenses, to the extent arising out of (a) the use, maintenance, condition or management of, or from any work or thing done on the Wastewater Enterprise by the City, (b) any breach or default on the part of the City in the performance of any of its obligations under this Installment Sale Agreement, (c) any negligence or willful misconduct of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Wastewater Enterprise, (d) any act or negligence of any sublessee of the City with respect to the Wastewater Enterprise, (e) the Acquisition of the Project, (f) the presence on, under or about, or release from, the Wastewater 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, (g) the offer, sale and issuance of the Bonds, or (h) the acceptance or administration of

the Indenture or this Installment Sale Agreement. No indemnification is made under this Section 6.3 or elsewhere in this Installment Sale Agreement for finally adjudicated willful misconduct or active or passive gross negligence by the Authority or the Trustee, or their respective members, officers, agents, employees, successors or assigns. The rights of the Trustee and the obligations of the City under this Section 6.3 shall survive the termination of this Installment Sale Agreement and any resignation or removal of the Trustee.

**Section 6.4. Non-Liability of Authority for Wastewater Enterprise Obligations.** The Authority and its successor and assigns shall have no obligation and shall incur no liabilities or debts whatsoever for the obligations, liabilities and debts of the City incurred in connection with the Wastewater Enterprise.

## ARTICLE VII

### ASSIGNMENT, SALE AND AMENDMENT

**Section 7.1. Assignment by the Authority.** The Authority's rights (but none of its duties or obligations) under this Installment Sale Agreement, including the right to receive and enforce payment of the Installment Payments to be made by the City under this Installment Sale Agreement have been pledged and assigned to the Trustee pursuant to the Indenture, to which pledge and assignment the City hereby consents.

**Section 7.2. Assignment by the City.** Except as provided in Section 7.1, this Installment Sale Agreement may not be assigned by the City.

**Section 7.3. Sale of Wastewater Enterprise.** The City will only sell, transfer or otherwise dispose of any of the facilities of the Wastewater Enterprise or any real or personal property comprising a part of the Wastewater Enterprise consistent with one or more of the following limitations:

(1) The City in its discretion may carry out such a sale, transfer or other disposition (each, as used in this section, a "transfer") if the facilities or property of the Wastewater Enterprise transferred are not material to the operation of the Wastewater Enterprise, or shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the Wastewater Enterprise, or are no longer necessary, material or useful to the operation of the Wastewater Enterprise; or

(2) The City in its discretion may carry out such a transfer if the aggregate depreciated cost value of the facilities or property of the Wastewater Enterprise transferred in any one Fiscal Year comprises no more than ten per cent (10%) of the total assets of the Wastewater Enterprise; or

(3) The City in its discretion may carry out such a transfer if the City receives from the transferee an amount equal to the fair market value of the facilities or property of the Wastewater Enterprise transferred (as used in this subparagraph, "fair market value" means the most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, with a willing buyer and a willing seller each acting prudently and knowledgeably and assuming that the price is not affected by coercion or undue stimulus) and if the proceeds of such transfer are used (i) to promptly prepay, or irrevocably set aside for the prepayment of, first the Parity Payments and, thereafter, the Subordinate Payments, and/or (ii) to provide for the cost of additions, betterments or improvements to the Wastewater Enterprise; provided, that before any such transfer is made under this subparagraph, (A) the City shall obtain an Engineer's Report that upon such transfer and the use of the proceeds thereof as proposed by the

City, the remaining facilities or property of the Wastewater Enterprise will retain their operational integrity and the estimated Adjusted Annual Net Revenues during each of the five (5) Fiscal Years next following the Fiscal Year in which the transfer is to occur will be at least equal to the estimated Coverage Requirement in each of such Fiscal Years, taking into account (w) the estimated reduction in Net Revenues resulting from such transfer, (x) the use of the proceeds of such transfer for the prepayment of first, the Parity Payments and thereafter, the Subordinate Payments, (y) the estimated additional Gross Revenues from customers anticipated to be served by any additions, betterments or improvements to the Wastewater Enterprise financed by the portion of the proceeds received from such transfer, and (z) any other adjustment permitted in the preparation of an Engineer's Report under Section 4.9, or (B) the City shall obtain confirmation from the Rating Agencies to the effect that the ratings then in effect will not be reduced or withdrawn upon such transfer.

**Section 7.4. Amendment of Installment Sale Agreement.** The City and the Authority shall have the right to modify or amend this Installment Sale Agreement without the consent of any of the Bond Owners or any of the owners of Parity Obligations, but only if such amendment or modification does not cause interest represented by the Bonds to be includable in gross income for federal income tax purposes in the opinion of Bond Counsel, and only if such amendment or modification does not materially adversely affect the interests of the Owners of the Bonds or the owners of any Parity Obligations in the opinion of Bond Counsel, and only if such amendment or modification is for any one or more of the following purposes:

- (a) to provide for the issuance of Parity Obligations pursuant to Section 4.9;
- (b) to add to the covenants and agreements of the City contained in this Installment Sale Agreement, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power herein reserved to or conferred upon the City;
- (c) to cure any ambiguity, or to cure, correct or supplement any defective provision contained herein, or in any other respect whatsoever as the Authority, the Trustee and the City may deem necessary or desirable; or
- (d) to amend any provision thereof for the purpose of complying with the applicable requirements of the Code.

## **ARTICLE VIII**

### **EVENTS OF DEFAULT**

**Section 8.1. Events of Default Defined.** The following events shall be Events of Default hereunder:

- (a) Failure by the City to pay any Installment Payment when and as the same become due and payable hereunder.
- (b) Failure by the City to pay any Additional Payment when due and payable hereunder, and the continuation of such failure for a period of ten (10) days.

(c) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in the preceding clauses (a) or (b), for a period of sixty (60) days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Authority, the Insurer or the Trustee; *provided, however,* that if the City shall notify the Authority and the Trustee that in its reasonable opinion the failure stated in the notice can be corrected, but not within such 60-day period, such failure shall not constitute an event of default hereunder if the City shall commence to cure such failure within such sixty (60) day period and thereafter diligently and in good faith cure such failure in a reasonable period of time.

(d) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

(e) The occurrence and continuation of any event of default under and as defined in the instruments authorizing the issuance of any Parity Obligations or any event that allows the acceleration of Parity Obligations.

**Section 8.2. Remedies on Default.** Whenever any Event of Default shall have happened and be continuing, the Trustee as assignee of the Authority shall have the right, subject to all of the rights of the Insurer set forth in Article XII of the Indenture, at its option and without any further demand or notice, but subject in all respects to the provisions of Article VIII of the Indenture, to:

(a) declare all principal components of the unpaid Installment Payments, together with accrued interest thereon at the net effective rate of interest per annum then borne by the Outstanding Bonds from the immediately preceding Interest Payment Date on which payment was made, to be immediately due and payable, whereupon the same shall immediately become due and payable;

(b) take whatever action at law or in equity may appear necessary or desirable to collect the Installment Payments then due or thereafter to become due during the Term of this Installment Sale Agreement, or enforce performance and observance of any obligation, agreement or covenant of the City under this Installment Sale Agreement; and

(c) as a matter of right, in connection with the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and the Bond Owners hereunder, cause the appointment of a receiver or receivers of the Gross Revenues and other amounts pledged hereunder, with such powers as the court making such appointment shall confer.

The provisions of the preceding clause (a), however, are subject to the condition that if, at any time after the principal components of the unpaid Installment Payments shall have been so declared due and payable pursuant to the preceding clause (a), and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the City shall deposit with the Trustee a sum sufficient to pay all principal components of the Installment Payments coming due prior to such declaration and all

matured interest components (if any) of the Installment Payments, with interest on such overdue principal and interest components calculated at the rate of ten percent (10%) per annum and the reasonable fees and expenses of the Trustee (including any reasonable fees and expenses of its attorneys), and any and all other defaults known to the Trustee (other than in the payment of the principal and interest components of the Installment Payments due and payable solely by reason of such declaration) shall have been made good, then, and in every such case, with the written consent of the Trustee, shall rescind and annul such declaration and its consequences. However, 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. As provided in Section 8.6, the Trustee shall be required to exercise the remedies provided herein in accordance with the Indenture.

**Section 8.3. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Authority is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Installment Sale Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article VIII it shall not be necessary to give any notice, other than such notice as may be required in this Article VIII or by law.

**Section 8.4. Agreement to Pay Attorneys' Fees and Expenses.** In the event either party to this Installment Sale Agreement should default under any of the provisions hereof and the nondefaulting party, the Trustee or the Owner of any Bonds should employ attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party, the Trustee or such Owner, as the case may be, the reasonable fees of such attorneys and such other expenses so incurred.

**Section 8.5. No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this Installment Sale Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**Section 8.6. Trustee and Bond Owners to Exercise Rights.** Such rights and remedies as are given to the Authority under this Article VIII have been assigned by the Authority to the Trustee under the Indenture, to which assignment the City hereby consents. Such rights and remedies shall be exercised by the Trustee, subject to all of the rights of the Insurer set forth in Article XII of the Indenture, and the Owners of the Bonds as provided in the Indenture.

**Section 8.7. Rights of the Owners of Parity Obligations.** Notwithstanding anything in this Article VIII to the contrary, it is hereby acknowledged and agreed that the rights of the Trustee, the Insurer, the provider of the Reserve Policy and the Bond Owners hereunder in and to the Net Revenues and the Wastewater Enterprise shall be exercised on a parity and proportionate basis with the rights of the owners of any Parity Obligations and any fiduciary acting for the benefit of such owners. The provisions of this Article VIII, and the provisions of any instruments authorizing the issuance of any Parity Obligations, shall be construed in accordance with the foregoing sentence.



## ARTICLE IX

### PREPAYMENT OF INSTALLMENT PAYMENTS

**Section 9.1. Security Deposit.** Notwithstanding any other provision of this Installment Sale Agreement, the City may on any date secure the payment of Installment Payments in whole or in part by irrevocably depositing with the Trustee an amount of cash which, together with amounts on deposit in the Bond Fund, the accounts therein and the Reserve Fund, is either (a) sufficient to pay all such Installment Payments, including the principal and interest components thereof, in accordance with the Installment Payment schedule set forth in Exhibit A, or (b) invested in whole or in part in non-callable Defeasance Obligations in such amount as will, in the written opinion of an Independent Certified Public Accountant, addressed to the Authority, the Insurer and the Trustee, together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay all such Installment Payments when due pursuant to Section 4.4(a) or when due on any optional prepayment date pursuant to Section 9.2, as the City shall instruct at the time of said deposit. In the event of a security deposit pursuant to this Section 9.1 with respect to all of the Installment Payments, and provided that other amounts due and payable by the City hereunder have been paid in full, all obligations of the City under this Installment Sale Agreement, and all security provided by this Installment Sale Agreement for said obligations, shall cease and terminate, excepting only the obligation of the City to make, or cause to be made, all of such Installment Payments from such security deposit, and the obligation of the City to compensate and indemnify the Trustee pursuant to Sections 4.10 and 6.3. Said 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 Installment Sale Agreement.

**Section 9.2. Optional Prepayment.** The City may exercise its option to prepay the principal components of the Installment Payments in whole, or in part among Installment Payment Dates on a pro rata basis in integral multiples of \$5,000, on any date on or after October 1, 2026, by paying a prepayment price equal to the aggregate principal components of the Installment Payments to be prepaid, together with the interest component of the Installment Payment required to be paid on or accrued to such date and together with the premium (if any) then required to be paid upon the corresponding redemption of the Bonds pursuant to Section 4.01(b) of the Indenture. Such prepayment price shall be deposited by the Trustee in the Redemption Fund to be applied to the redemption of Bonds pursuant to Section 4.01(b) of the Indenture. The City shall give the Trustee and the Insurer written notice of its intention to exercise its option not less than forty-five (45) days in advance of the date of exercise.

**Section 9.3. Mandatory Prepayment from Net Proceeds.** The City shall be obligated to prepay the Installment Payments in whole or in part on any Installment Payment Date pursuant to Section 4.01(c) of the Indenture from Net Proceeds of any insurance or condemnation award theretofore to the extent required to be used to prepay Bonds and Parity Obligations pursuant to this Installment Sale Agreement or pursuant to the Indenture; and

Except in the case of such prepayment of the Installment Payments in full, such payment shall be in addition to the Installment Payment required to be paid by the City on the next Installment Payment Date. Prepayment of Bonds pursuant to this Section shall be made on a pro rata basis based on the original principal amount of each series of the Bonds and any Parity Obligations, to the extent then outstanding.

**Section 9.4. 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 Indenture with respect to

the Bonds 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 Indenture shall be credited towards the amounts then required to be so prepaid.

## ARTICLE X

### MISCELLANEOUS

**Section 10.1. Further Assurances.** The City agrees that it will execute and deliver any and all such further agreements, instruments, financing statements or other assurances as may be reasonably necessary or requested by the Authority, the Insurer or the Trustee to carry out the intention or to facilitate the performance of this Installment Sale Agreement, including, without limitation, to perfect and continue the security interests herein intended to be created.

**Section 10.2. Amendment of Indenture.** The Authority covenants that it shall take no action to amend or supplement the Indenture in any manner without obtaining the prior written consent of the City to such amendment or supplement.

**Section 10.3. Notices.** Any notice, request, complaint, demand or other communication under this Installment Sale Agreement shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopy, telex or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon confirmed transmission by telecopy, telex or other form of telecommunication, (b) 48 hours after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Authority, the City, the Insurer or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the Authority:                      San Juan Bautista Public Financing Authority  
311 Second Street  
San Juan Bautista, CA 95045  
Attention: Executive Director

If to the City:                              City of San Juan Bautista  
311 Second Street  
San Juan Bautista, CA 95045  
Attention: City Manager

If to the Trustee:                         Wells Fargo Bank, N.A.  
333 Market Street, 18th Floor  
San Francisco, CA 94105  
Attention: Corporate Trust Services

If to the Insurer:                         At the address specified in Section 11.1(f) hereof

**Section 10.4. Third Party Beneficiary.** The Trustee and the Insurer shall be and are each hereby made an express third party beneficiary hereunder with all rights of a third party beneficiary.

**Section 10.5. Governing Law.** This Installment Sale Agreement shall be construed in accordance with and governed by the laws of the State.

**Section 10.6. Binding Effect.** This Installment Sale Agreement shall inure to the benefit of and shall be binding upon the Authority and the City, and their respective successors and assigns, subject, however, to the limitations contained herein.

**Section 10.7. Severability of Invalid Provisions.** If any one or more of the provisions contained in this Installment Sale Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Installment Sale Agreement and such invalidity, illegality or unenforceability shall not affect any other provision of this Installment Sale Agreement, and this Installment Sale Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The Authority and the City each hereby declares that it would have entered into this Installment Sale Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Installment Sale Agreement may be held illegal, invalid or unenforceable.

**Section 10.8. Article and Section Headings and References.** The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Installment Sale Agreement. All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Installment Sale Agreement; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to this Installment Sale Agreement as a whole and not to any particular Article, Section or subdivision hereof; and words of the masculine gender shall mean and include words of the feminine and neuter genders.

**Section 10.9. Execution of Counterparts.** This Installment Sale Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original and all of which shall together constitute but one and the same instrument.

**Section 10.10. Waiver of Personal Liability.** No member of the City Council, officer, agent or employee of the City shall be individually or personally liable for the payment of Installment Payments or Additional Payments or be subject to any personal liability or accountability by reason of this Installment Sale Agreement; but nothing herein contained shall relieve any such member of the City Council, officer, agent or employee of the City from the performance of any official duty provided by law or by this Installment Sale Agreement.

## ARTICLE XI

### PROVISIONS RELATING TO BOND INSURANCE

**Section 11.1. Bond Insurance Provisions.** Notwithstanding anything to the contrary set forth in this Installment Sale Agreement, the following provisions of this Article XI shall govern with respect to this Installment Sale Agreement:

(a) Amounts due to the Insurer, as issuer of the Insurance Policy and the Reserve Policy shall be included as an Installment Payment, an Additional Payment or amounts to be deposited into the Utility Fund.

(b) This Installment Sales Agreement shall not be amended, supplemented or modified and no provision may be waived without the prior written consent of the Insurer.

(c) Subordinate Obligations shall not be accelerated without the prior written consent of the Insurer.

(d) The City will permit the Insurer to discuss the affairs, finances and accounts of the City or any information the Insurer may reasonably request regarding the security for the Bonds with appropriate officers of the Authority and will use commercially reasonable efforts to enable the Insurer to have access to the facilities, books and records of the City on any business day upon reasonable prior notice.

(e) The notice address of the Insurer is: Assured Guaranty Municipal Corp., 31 West 52nd Street, New York, New York 10019, Attention: Managing Director-Surveillance, Re: Policy No. 217323-N, Telephone: (212) 974-0100; Telecopier: (212) 339-3556. In each case in which notice or other communication refers to an Event of Default, then a copy of such notice or other communication shall also be sent to the attention of the Deputy General Counsel-Public Finance and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

(f) So long as any Bonds insured by the Insurer remain outstanding or any amounts are owed to the Insurer by the City, the City shall not issue or incur indebtedness payable from or secured in whole or in part by the Net Revenues of the Wastewater Enterprise that (i) bears interest at other than fixed rates or (ii) permits the holder to tender such indebtedness for purchase prior to the stated maturity thereof, in either case without the prior written consent of the Insurer.

(g) Any Payment Agreement entered into by the City, secured by and payable from Net Revenues of the Wastewater Enterprise, shall meet the following conditions: (i) the Swap Agreement must be entered into to manage interest costs related to, or a hedge against (a) assets then held, or (b) debt then outstanding, or (iii) debt reasonably expected to be issued within the next twelve (12) months, and (ii) the Swap Agreement shall not contain any leverage element or multiplier component greater than 1.0x unless there is a matching hedge arrangement which effectively off-sets the exposure from any such element or component. Unless otherwise consented to in writing by the Insurer, any net settlement, breakage or other termination amount then in effect shall be subordinate to debt service on the Bonds and on any Parity Obligations. The City shall not terminate a Swap Agreement unless it demonstrates to the satisfaction of the Insurer prior to the payment of any such termination amount that such payment will not cause the City to be in default under the Related Documents, including but not limited to, any monetary obligations thereunder.

All counterparties or guarantors to any Swap Agreement must have a rating of at least “A-” and “A3” by Standard & Poor’s (“S&P”) and Moody’s Investors Service (“Moody’s”). If the counterparty or guarantor’s rating falls below “A-” or “A3” by either S&P or Moody’s, the counterparty or guarantor shall execute a credit support annex to the Swap Agreement, which credit support annex shall be acceptable to the Insurer. If the counterparty or the guarantor’s long term unsecured rating falls below “Baa1” or “BBB+” by either Moody’s or S&P, a replacement counterparty or guarantor, acceptable to the Insurer, shall be required.

(h) The Insurer shall be provided with the following information by the City:

(i) Annual audited financial statements within 270 days after the end of the City’s fiscal year (together with a certification of the City that it is not aware of any default or Event of Default under the Installment Sale Agreement), and the City’s annual budget within 30 days after the approval thereof together with such other information, data or reports as the Insurer shall reasonably request from time to time;

(ii) Notice of any default known to the City within five Business Days after knowledge thereof;

(iii) Notice of the commencement of any proceeding by or against the City commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an “Insolvency Proceeding”);

(iv) Notice of the making of any claim in connection with any Insolvency Proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the Bonds;

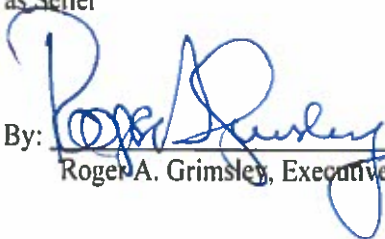
(v) All reports, notices and correspondence to be delivered to Bondholders under the terms of the Installment Sale Agreement; and

(vi) All information furnished pursuant to the Continuing Disclosure Agreement shall also be provided to the Insurer, simultaneously with the furnishing of such information.

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IN WITNESS WHEREOF, the Authority and the City have caused this Wastewater Installment Sale Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

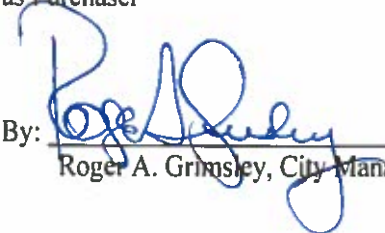
SAN JUAN BAUTISTA  
PUBLIC FINANCING AUTHORITY,  
as Seller

By:   
Roger A. Grimsley, Executive Director

Attest:

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

CITY OF SAN JUAN BAUTISTA,  
as Purchaser

By:   
Roger A. Grimsley, City Manager

Attest:

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

**EXHIBIT A****SCHEDULE OF WASTEWATER INSTALLMENT PAYMENTS\***

<u>Installment Payment Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Total Installment Payments</u>
4/1/2016		\$52,354.97	\$52,354.97
10/1/2016	\$110,250.00	96,162.19	206,412.19
04/1/2017		94,508.44	94,508.44
10/1/2017	112,500.00	94,508.44	207,008.44
04/1/2018		92,820.94	92,820.94
10/1/2018	117,000.00	92,820.94	209,820.94
04/1/2019		91,065.94	91,065.94
10/1/2019	119,250.00	91,065.94	210,315.94
04/1/2020		88,680.94	88,680.94
10/1/2020	123,750.00	88,680.94	212,430.94
04/1/2021		86,205.94	86,205.94
10/1/2021	128,250.00	86,205.94	214,455.94
04/1/2022		83,640.94	83,640.94
10/1/2022	135,000.00	83,640.94	218,640.94
04/1/2023		80,940.94	80,940.94
10/1/2023	139,500.00	80,940.94	220,440.94
04/1/2024		77,453.44	77,453.44
10/1/2024	146,250.00	77,453.44	223,703.44
04/1/2025		73,797.19	73,797.19
10/1/2025	155,250.00	73,797.19	229,047.19
04/1/2026		69,915.94	69,915.94
10/1/2026	164,250.00	69,915.94	234,165.94
04/1/2027		65,809.69	65,809.69
10/1/2027	168,750.00	65,809.69	234,559.69
04/1/2028		63,278.44	63,278.44
10/1/2028	175,500.00	63,278.44	238,778.44
04/1/2029		60,645.94	60,645.94
10/1/2029	180,000.00	60,645.94	240,645.94
04/1/2030		57,945.94	57,945.94
10/1/2030	186,750.00	57,945.94	244,695.94
04/1/2031		55,027.97	55,027.97
10/1/2031	191,250.00	55,027.97	246,277.97
04/1/2032		52,039.69	52,039.69
10/1/2032	195,750.00	52,039.69	247,789.69
04/1/2033		48,981.10	48,981.10
10/1/2033	202,500.00	48,981.10	251,481.10
04/1/2034		45,690.47	45,690.47
10/1/2034	207,000.00	45,690.47	252,690.47
04/1/2035		42,326.72	42,326.72
10/1/2035	218,250.00	42,326.72	260,576.72
04/1/2036		38,643.75	38,643.75
10/1/2036	225,000.00	38,643.75	263,643.75
04/1/2037		34,425.00	34,425.00

10/1/2037	236,250.00	34,425.00	270,675.00
04/1/2038		29,995.31	29,995.31
10/1/2038	245,250.00	29,995.31	275,245.31
04/1/2039		25,396.87	25,396.87
10/1/2039	254,250.00	25,396.87	279,646.87
04/1/2040		20,629.69	20,629.69
10/1/2040	261,000.00	20,629.69	281,629.69
04/1/2041		15,735.94	15,735.94
10/1/2041	270,000.00	15,735.94	285,735.94
04/1/2042		10,673.44	10,673.44
10/1/2042	281,250.00	10,673.44	291,923.44
04/1/2043		5,400.00	5,400.00
10/1/2043	288,000.00	5,400.00	293,400.00
TOTALS	<u>\$5,238,000.00</u>	<u>\$3,171,870.38</u>	<u>\$8,409,870.38</u>

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\*The City shall remit each Installment Payment not less than five (5) Business Days prior to each Installment Payment Date during the Term of this Installment Sale Agreement, commencing not less than five (5) Business Days prior to April 1, 2016.



## **EXHIBIT B**

### **DESCRIPTION OF WASTEWATER PROJECT**

The Wastewater Project consists of all assets comprising the Wastewater Enterprise as of the Closing Date, as well as the Wastewater Enterprise's forty-five percent (45%) allocable share acquisition and construction of the 2015 Project.