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INSTALLMENT PURCHASE AGREEMENT

Dated as of May 1, 2025

by and between

CITY OF FORT BRAGG JOINT POWERS ~~PUBLIC~~ FINANCING AUTHORITY

and

CITY OF FORT BRAGG

Relating To

CITY OF FORT BRAGG  
\$ ~~\_\_\_\_\_~~ 7,879,810.41  
2025 INSTALLMENT FINANCING  
(~~BROADBAND SYSTEM~~)

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## TABLE OF CONTENTS

### Page

#### ARTICLE 1 DEFINITIONS AND EXHIBITS

Section 1.1.	Definitions.....	1
Section 1.2.	Liability of City Limited to Pledged Revenues.....	6
Section 1.3.	Benefits of Installment Purchase Agreement Limited to Parties.....	6
Section 1.4.	Successor Is Deemed Included in all References to Predecessor.....	7
Section 1.5.	Waiver of Personal Liability.....	7
Section 1.6.	Article and Section Headings, Gender and References.....	7
Section 1.7.	Partial Invalidity.....	7
Section 1.8.	Exhibits.....	7

#### ARTICLE 2 REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1.	Representations, Covenants and Warranties of the City.....	7
Section 2.2.	Representations, Covenants and Warranties of the Authority.....	10

#### ARTICLE 3 TERMS OF AGREEMENT

Section 3.1.	Purchase of Project and City.....	10
Section 3.2.	Repayment of the Project by the City.....	11
Section 3.3.	Substitution of the Project.....	11
Section 3.4.	Term.....	11
Section 3.5.	Payments Generally.....	11
Section 3.6.	Taxes.....	12
Section 3.7.	Conditions Precedent.....	12
Section 3.8.	Nature of City's Obligations.....	13
Section 3.9.	Revenue Fund; Pledge of Pledged Revenues.....	14
Section 3.10.	Project Fund.....	14

#### ARTICLE 4 COVENANTS OF THE CITY

Section 4.1.	Reports and Notices.....	15
Section 4.2.	Existence.....	16
Section 4.3.	Change in Business.....	16
Section 4.4.	Liens against the System.....	16
Section 4.5.	Insurance.....	17
Section 4.6.	System Maintenance.....	17
Section 4.7.	Against Sale or Other Disposition of the System.....	17
Section 4.8.	Eminent Domain Proceeds.....	17
Section 4.9.	Amounts of Rates, Fees and Charges; Financial Covenants.....	18
Section 4.10.	Enforcement of and Performance Under Parity Obligations.....	19
Section 4.11.	Collection of Charges, Fees and Rates.....	19
Section 4.12.	Against Encumbrances.....	19

## TABLE OF CONTENTS

(continued)

	<b>Page</b>
Section 4.13. Execution of Parity Obligations.....	19
Section 4.14. Conditions for Entering into Parity Obligations.....	19
Section 4.15. Tax Covenants.....	20
Section 4.16. Reconstruction of System; Application of Insurance Proceeds.....	21
Section 4.17. Records and Accounts.....	21
Section 4.18. Collection of Charges.....	21
Section 4.19. Against Competing System.....	21
Section 4.20. Compliance with this Installment Purchase Agreement.....	21
Section 4.21. Observance of Laws and Regulations.....	22
Section 4.22. Budget.....	22
Section 4.23. Inspection.....	22
Section 4.24. Further Assurances and Other Information.....	22
Section 4.25. Delivery of Original Documents.....	22
Section 4.26. No Public Registration.....	22
Section 4.27. Indemnity for Taxes.....	23
Section 4.28. ERISA.....	23

### ARTICLE 5

#### EVENTS OF DEFAULT AND REMEDIES

Section 5.1. Events of Default and Acceleration of Installment Purchase Agreement.....	23
Section 5.2. Other Remedies of the Authority.....	25
Section 5.3. No Remedy Exclusive.....	26
Section 5.4. Agreement to Pay Attorneys' Fees and Expenses.....	26
Section 5.5. No Additional Waiver Implied by One Waiver.....	26

### ARTICLE 6

#### PREPAYMENT OF AGREEMENT

Section 6.1. Defeasance.....	26
Section 6.2. Optional Prepayment.....	27
Section 6.3. Prepayment Premium.....	27
Section 6.4. Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain.....	27
Section 6.5. Effect of Prepayment.....	27

### ARTICLE 7

#### MISCELLANEOUS

Section 7.1. Notices.....	28
Section 7.2. Assignment by the Authority.....	28
Section 7.3. Assignment by the City.....	28
Section 7.4. Amendment of this Installment Purchase Agreement.....	29
Section 7.5. Binding Effect.....	29
Section 7.6. Severability.....	29
Section 7.7. Net-Net-Net Parity Obligation.....	29
Section 7.8. Further Assurances and Corrective Instruments.....	29
Section 7.9. Execution in Counterparts.....	29

## TABLE OF CONTENTS

(continued)

	<b>Page</b>
Section 7.10. Applicable Law and Venue.....	29
Section 7.11. Captions.....	29
Section 7.12. USA Patriot Act Notice.....	29
Section 7.13. Costs and Expenses.....	30
Section 7.14. Indemnification.....	30
Section 7.15. Waiver of Jury Trial.....	30
EXHIBIT A – Description of Project.....	A-1
EXHIBIT B – Schedule of Installment Payments.....	B-1
EXHIBIT C – Form of Assignee Letter.....	C-1
EXHIBIT D – Form of Compliance Certificate.....	D-1

## INSTALLMENT PURCHASE AGREEMENT

This INSTALLMENT PURCHASE AGREEMENT (this “Installment Purchase Agreement”), dated for convenience as of May 1, 2025, is by and between the CITY OF FORT BRAGG JOINT POWERS AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California (the “Authority”), and the CITY OF FORT BRAGG, a ~~local agency~~ general law city duly organized and existing under the laws of the State of California (the “City”).

### WITNESSETH:

WHEREAS, pursuant to the provisions Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, the City constitutes a local agency, as defined therein, and is authorized to provide broadband internet access service to the public (the “System”); and

WHEREAS, the City has ~~or will~~ applied for or is entitled to receive a grant(s) (as described further herein) (the “Government Grant”) to fund a portion of the costs to acquire, design, construct and improve the System, as ~~identified~~ more specifically described in Exhibit A attached hereto and incorporated herein by reference (the “Project”); and

WHEREAS, the City desires to fund the ~~remaining~~ portion of the costs necessary to complete the Project following receipt of the Government Grant by entering into this Installment Purchase Agreement, pursuant to which the Authority will sell the Project to the City as provided herein for \$ 7,879,810.41 and the City will acquire the Project from the Authority and obligate itself to make installment payments in the amounts and on the dates set forth in Exhibit B attached hereto (collectively, the “Installment Payments”); and

WHEREAS, each of the Authority and the City ~~have~~ has duly authorized the execution of this Installment Purchase 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 delivery of this Installment Purchase Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Installment Purchase Agreement;

NOW, THEREFORE, in consideration of the above premises and of the mutual agreements and covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

## ARTICLE 1

### DEFINITIONS AND EXHIBITS

**SECTION 1.1. Definitions.** All capitalized terms used in this ~~Section 1.1~~ Installment Purchase Agreement shall for all purposes ~~of this Installment Purchase Agreement~~ hereof have the meanings ~~herein specified~~ set forth in this Section 1.1 or as hereinafter defined.

“Acquisition Amount” means \$ ~~\_\_\_\_\_~~ 7,879,810.41.

“Annual Debt Service” means, for any Fiscal Year, the sum of (1) the interest ~~accruing on~~ component of the Installment Payments and any other Parity Obligations during such Fiscal Year, assuming that all principal payments required to be made hereunder and under such other Parity Obligations are made as scheduled, plus (2) the principal component of the Installment Payments and principal amount due under any other Parity Obligations in such Fiscal Year, calculated as if such principal amounts were deemed to accrue daily during such Fiscal Year in equal amounts from, in each case, each date principal is to be paid under this Installment Purchase Agreement and under such other Parity Obligations to the next succeeding date that a principal payment is due hereunder and under such other Parity Obligations; provided, that the amount on deposit in a debt service reserve fund for any Parity Obligations on any date of calculation of Annual Debt Service shall be deducted from the amount of principal due at the final maturity of such Parity Obligations and in each preceding year until such amount is exhausted.

“Assignee” means EverBank, N.A., a national banking association, and its successors and assigns.

“Assignment Agreement” means the Assignment Agreement dated as of May 1, 2025, by and between the Authority and the Assignee.

“Authorized Investments” means any of the following, but only to the extent that the same are acquired at fair market value, which at the time of investment are legal investments under the laws of the State ~~of California~~ for the moneys proposed to be invested therein:

(a) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America;

(b) obligations of any of the following federal agencies which obligations represent full faith and credit of the United States of America, including: (i) Export-Import Authority; (ii) Farm Credit System Financial Assistance Authority, (iii) Farmers Home Administration; (iv) General Services Administration; (v) U.S. Maritime Administration; (vi) Small Business Administration; (vii) Government National Mortgage Association (GNMA); (viii) U.S. Department of Housing & Urban Development (PHA's); (ix) Federal Housing Administration and (x) Federal Financing Authority;

(c) senior debt obligations rated “Aaa” by Moody’s and “AAA” by S&P issued by the Federal National Mortgage Association or the Federal Home Financing

Mortgage Authority, senior debt obligations of other government-sponsored agencies, obligations of the Resolution Funding Authority (REFCORP) and senior debt obligations of other government sponsored agencies;

(d) U.S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks (including the Assignee and its affiliates) which have a rating on their short term certificates of deposit on the date of purchase of "P-1" by Moody's and "A-1" or "A-1+" by S&P and maturing no more than 360 days after the date of purchase, provided that ratings on holding companies are not considered as the rating of the bank; provided however, that, for the avoidance of doubt, deposit accounts, federal funds and banker's acceptances of the Assignee or its affiliates shall also satisfy this provision;

(e) commercial paper which is rated at the time of purchase in the single highest classification, "P-1" by Moody's and "A-1+" by S&P, and which matures not more than 270 days after the date of purchase;

(f) pre-refunded municipal obligations defined as follows: Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (i) which are rated, based upon an irrevocable escrow account or fund (the "escrow"), in the highest rating category of Moody's and S&P or any successors thereto; or (ii)(A) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (a) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (B) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

(g) the Local Agency Investment Fund maintained by the State ~~of California~~;

(h) the California Asset Management Program; and

(i) any other investments permitted by the ~~California~~-Government Code of the State.

"Broadband" means communications network facilities that enable high-speed Internet access.

"Business Day" means any day other than a Saturday or Sunday or a day on which (i) banks located in Jacksonville, Florida, or San Francisco, California, are not required or

authorized to remain closed, and (ii) the New York Stock Exchange is not closed; and (iii) neither the Authority ~~and nor the~~ Federal Reserve ~~Banks are not~~ Bank is closed.

“Capitalized Interest Fund” means the fund or account established and held by the Assignee for the benefit of the City into which certain proceeds of this Installment Purchase Agreement shall be deposited and administered pursuant to the Capitalized Interest Fund Agreement as described further in Section 3.10(b) hereof.

“Capitalized Interest Fund Agreement” means the Capitalized Interest Fund Administration Agreement dated as of May ~~—~~14, 2025, among the City, EverBank, N.A. and the Assignee, relating to the administration of the Capitalized Interest Fund.

“City” means the City of Fort Bragg, a local agency duly organized and existing under the laws of the State of California.

“Closing Date” means May ~~—~~14, 2025.

“Contract(s)” means any instrument pursuant to which a Parity Obligation is issued.

“Contract Payment Date” means any date on which Contract Payments are scheduled to be paid by the City under and pursuant to the Parity Obligations.

“Contract Payments” means the payments scheduled to be paid by the City under a Contract and pursuant to the Parity Obligations, which payments are secured by a pledge of Pledged Revenues.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the City and related to the authorization, execution, sale and delivery of this Installment Purchase Agreement any Parity Obligations, including but not limited to any costs, fees and charges for preparation and execution of this Installment Purchase Agreement or any Parity Obligations and any other cost, charge or fee incurred in connection with the delivery of this Installment Purchase Agreement or such Parity Obligations.

“Date of Taxability” means the date from and for the interest component of the Installment Payments is subject to federal or State income taxation as a result of a Determination of Taxability.

“Debt Service Reserve Fund” means the fund or account established and held by the Assignee for the benefit of the City into which ~~[the proceeds of this Installment Purchase Agreement]~~ funds transferred by the City~~]~~ shall be deposited and administered pursuant to the DSRF Agreement as described further in Section 3.10 hereof. ~~[TO BE DETERMINED]~~

“Debt Service Reserve Requirement” means, initially, an amount equal to the least of (a) Maximum Annual Debt Service; (b) 10% of the Acquisition Amount; and (c) 125% of the average annual ~~principal and interest requirements of the~~ Installment Payments hereunder.



“Default” means any event or circumstance which, following the applicable cure period or notice or both, results in an Event of Default.

“Default Rate” means a rate of interest equal to the Interest Rate set forth herein, plus 3.0%.

“Determination of Taxability” means and shall be deemed to have occurred on the first to occur of the following:

- (i) on the date when the City files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability shall have occurred;
- (ii) on the date when the Assignee notifies the City that it has received a written opinion from Special Counsel to the effect that an Event of Taxability has occurred, which notice shall be accompanied by a copy of such opinion of Special Counsel, unless, within 180 days after receipt by the City of such notification and copy of such opinion from the Assignee, the City shall deliver to the Assignee a ruling or determination letter issued to or on behalf of the City by the Commissioner or any ~~City~~Assistant Director of the Internal Revenue Service (or any other governmental official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred;
- (iii) on the date when the City shall be advised in writing by the Commissioner or any ~~City~~ Director of the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that, based upon any review or audit or upon any other ground whatsoever, an Event of Taxability has occurred; or
- (iv) on that date when the City shall receive notice from the Assignee that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed the interest component of the Installment Payments as includable in the gross income of the Assignee due to the occurrence of an Event of Taxability;

*provided*, however, that no Determination of Taxability shall occur under ~~subparagraph~~paragraph (iii) or ~~subparagraph~~paragraph (iv) above unless the City has been afforded the opportunity, at its expense, to contest any such assessment, and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined; *provided further, however*, that upon demand from the Assignee, the City shall reimburse the Assignee for any payments, including any taxes, interest, penalties or other charges, such Assignee shall be obligated to make as a result of the Determination of Taxability.

~~{~~“DSRF Agreement” means the Debt Service Reserve Fund Administration Agreement dated as of May ~~—~~14, 2025, by and among the City, EverBank, N.A. and the Assignee, relating to the administration of the Debt Service Reserve Fund.~~{TBD}~~

“End User” means any individual or entity in ~~California~~the State that uses a broadband ~~Internet~~internet access service that is provided by the City.

“Event of Default” means any of the events of default as defined in Section 5.1.

“Event of Taxability” means a change in law or fact or the interpretation thereof, or the occurrence or existence of any fact, event or circumstance (including, without limitation, the taking of any action by the City, or the failure to take any action by the City, or the making by the City of any misrepresentation in this Installment Purchase Agreement or the certificate regarding federal arbitrage which has been executed and delivered by the City in connection with this Installment Purchase Agreement) which has the effect of causing the interest component of the Installment Payments to be includable, in whole or in part, in the gross income of the Assignee for federal income tax purposes.

“Environmental Laws” means any federal, state, or local law, rule or regulation now or hereafter in effect and in each case as amended, and any judicial or administrative interpretation thereof, relating to health, safety, or the environment.

“Federal Securities” means any direct general non-callable obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), or obligations the timely payment of principal of and interest on which are directly guaranteed by the United States of America.

“Finance Director” means the City’s finance director.

“Financial Consultant” means a person having the experience and qualifications necessary to review and make recommendations regarding the operation, management, marketing, improvement, condition or use of the System.

“Financing Documents” means this Installment Purchase Agreement and any and all other documents from time to time evidencing, securing, or delivered to the Authority in connection with, this Installment Purchase Agreement, including, but not limited to, the Project Fund Administration Agreement, the Capitalized Interest Fund Agreement~~{~~ and the DSRF Agreement~~}~~.

“Fiscal Year” means each twelve-month period during the Term of this Installment Purchase Agreement, commencing on July 1 ~~in~~of any calendar year and ending on June 30 ~~in~~of the next succeeding calendar year, or any other twelve-month period selected by the City as its fiscal year period.

“Generally Accepted Accounting Principles” means ~~United States~~ generally accepted accounting principles in the United States, or those required of the regulatory agency having jurisdiction over the City.

“Governmental Authority” means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

“Government Grant” means the Last Mile Federal Funding Account funding as more particularly described in that certain letter from the California Public Utilities Commission dated October 11, 2024.

“Gross Revenues” means all revenues, fees, income, rents, sale proceeds, and receipts received or earned by the City from or attributable to the ownership or operation of the System, including moneys received from the imposition of fees and charges to providers and end users, together with all interest earned by and profits derived from the sale of investments in the related funds thereof, minus non-cash patronage, non-cash income from subsidiaries and/or joint ventures, and grant income.

“Independent Certified Public Accountant” means an independent certified public accountant or any firm of certified public accountants ~~appointed~~selected by the City.

“Installment Payment Date” means each date upon which an Installment ~~Payments-~~Payment is due and payable as set forth on Exhibit B hereto.

“Installment Payments” means all payments required to be paid by the City on any date under this Installment Purchase Agreement and pursuant to Section 3.2 and 3.5, including any prepayment thereof pursuant to Section 6.1 or 6.2.

“Installment Purchase Agreement” means this Installment Purchase Agreement, dated as of May 1, 2025, between the Authority and the City, as amended and supplemented.

“Interest Rate” means 4.85%, so long as no Event of Default or Event of Taxability has occurred and is continuing.

“Maintenance and Operation Costs” means the reasonable and necessary costs paid or incurred by the City for maintaining and operating the System, determined in accordance with Generally Accepted Accounting Principles, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the System in good repair and working order, and including all administrative costs of the City that are charged directly or apportioned to the operation of the System, such as salaries and wages of employees, overhead, taxes (if any) and insurance premiums (including payments required to be paid into any self-insurance funds), and including all other reasonable and necessary costs of the City or charges required to be paid by it to comply with the terms of this Installment Purchase Agreement or of any resolution authorizing the execution of any Parity Obligation or of such Parity Obligation, and fees and expenses of Independent Certified Public Accountants; but excluding in all cases (1) the principal ~~of~~ and interest ~~on~~components of Installment Payments and Contract Payments, and payment of Subordinate Obligations, (ii) costs of capital additions, replacements, betterments, extensions or improvements which under Generally Accepted

Accounting Principles are chargeable to a capital account, and (iii) depreciation, replacement and obsolescence charges or reserves therefor and amortization of intangibles related to the System.

“Material Adverse Change” means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business, facilities or operations of the City or the System, (b) the ability of the City to carry out its business in the manner conducted as of the date of this Installment Purchase Agreement or Parity Obligations or to meet or perform its obligations under this Installment Purchase Agreement or Parity Obligations on a timely basis, (c) the validity or enforceability of this Installment Purchase Agreement or Parity Obligations, or (d) the exclusion of the interest component of the Installment Payments or Parity Obligations, as applicable, from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes.

“Maximum Annual Debt Service” means, as of any date of calculation, the largest Annual Debt Service during the period from the date of such calculation through the final Installment Payment Date of this Installment Purchase Agreement and ~~all~~the final Parity Obligations.

“Maximum Rate” means the maximum non-usurious interest rate that may, under applicable federal law and applicable ~~state~~State law, be contracted for, charged or received under such laws.

“Net Revenue Conversion Date” means the date on which the City files with the Assignee a Certificate of the City pursuant to Section 3.10(d) stating that the Coverage Test has been met.

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

“Parity Obligations” means all other bonds, notes, ~~Financings~~financings, installment sale agreements, leases, or other obligations of the City payable from and secured by a pledge of and lien upon any of the Pledged Revenues incurred on a parity with the Installment Payments, issued in accordance with Section 4.14 hereof.

“Pledged Revenues” means (a) prior to the Net Revenue Conversion Date, the Gross Revenues of the System, and (b) from and after the Net Revenue Conversion Date, the Net Revenues of the System.

“Project” means the acquisition, design and construction of certain improvements to the System, as more particularly described on Exhibit A attached hereto.

“Project Costs” means, with respect to the Project, all costs of the acquisition and construction thereof which are paid from moneys on deposit in the Project Fund, including but not limited to:

(a) all costs required to be paid to any person under the terms of any agreement for or relating to the acquisition and construction of the Project;

(b) obligations incurred for labor and materials in connection with the acquisition and construction of the Project;

(c) the cost of performance or other bonds and any and all types of insurance that may be necessary or appropriate to have in effect in connection with the acquisition and construction of the Project;

(d) all costs of engineering, architectural services and other preliminary investigation expenses, including the actual out-of-pocket costs for site investigations, surveys, hazardous materials investigations, test borings, surveys, estimates, plans and specifications and preliminary investigations therefor, development fees, sales commissions, and for supervising construction, as well as for the performance of all other duties required by or consequent to the proper acquisition and construction of the Project;

(e) any sums required to reimburse the Authority or the City for advances made for any of the above items or for any other costs incurred and for work done, including but not limited to administrative costs of the Authority or the City, which are properly chargeable to the acquisition and construction of the Project; and

(f) all financing costs incurred in connection with the acquisition and construction of the Project, including but not limited to delivery costs and other costs incurred in connection with this Installment Purchase Agreement and the financing of the Project.

“Project Fund” means the fund or account established and held by the Assignee for the benefit of the City into which the net proceeds of this Installment Purchase Agreement shall be deposited and administered pursuant to the Project Fund Agreement.

“Project Fund Agreement” means the Project Fund Administration Agreement, dated as of May ~~—14~~, 2025, amongby and between the City, ~~EverBank, N.A.~~ and the Assignee, relating to the administration of the Project Fund.

“Resolution of Issuance” means Resolution No. \_\_ adopted on April ~~[28]~~, 2025.

“Revenue Fund” means the fund established under Section 3.9 and held by the City for the receipt and deposit of Revenues.

“Revenues” means all income, rents, rates, fees, charges and other moneys derived from the ownership or operation of the System, including, without limiting the generality of the foregoing, (1) all income, rents, rates, fees, charges, business interruption insurance proceeds or other moneys derived by City from the sale, furnishing and supplying of Broadband or other services, facilities, and commodities sold, furnished or supplied through the facilities of or in the conduct or operation of the business of the System, plus (2) the earnings on and income derived from the investment of such income, rents, rates, fees, charges, or other moneys, plus (3) the proceeds of any charges collected by City, but excluding in all cases customer deposits,

connection fees, development impact fees or any other deposits or advances subject to refund until such deposits or advances have become the property of City.

“Special Counsel” means (a) Nixon Peabody LLP, or (b) any other attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to obligations the interest on which is excludable from gross income for purposes of federal income taxation under Section 103 of the Tax Code.

“State” means the State of California.

“Subordinate Obligations” means all obligations of the City that are subordinate in priority and payment to the Installment Payments and payments required under Parity Obligations.

“System” means the facilities and property owned or to be owned or operated by the City in connection with the Broadband services of the City, together with all extensions thereof and improvements thereto hereafter acquired, constructed or installed by the City.

“Taxable Date” means the date as of which the interest components of the Installment Payments are first includable in gross income of the recipient thereof as a result of the occurrence of an Event of Taxability, as such date is established pursuant to either (a) a Determination of Taxability, or (b) an opinion of Special Counsel.

“Taxable Period” means the period for which the interest components of the Installment Payments become includable in the gross income of the recipient thereof, commencing on the Taxable Date.

“Taxable Rate” means 6.65%.

“Tax Code” means the Internal Revenue Code of 1986, as amended. Any reference herein to a provision of the Tax Code shall include all applicable temporary and permanent regulations promulgated under the Tax Code.

“Term of this Installment Purchase Agreement” or “Term” means the time during which this Installment Purchase Agreement is in effect, as provided in Section 3.4.

“Written Certificate” of the Authority or the City means, respectively, a written certificate, request or requisition signed in the name of the Authority or the City by its Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

**SECTION 1.2. Benefits of Installment Purchase Agreement Limited to Parties.** Nothing contained herein, expressed or implied, is intended to give to any person other than the City and the Authority any right, remedy or claim under or pursuant hereto. Any agreement or

covenant required herein to be performed by or on behalf of the City shall be for the sole and exclusive benefit of the Authority.

**SECTION 1.3. Successor Is Deemed Included in all References to Predecessor.**

Whenever the City is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the City, and all agreements and covenants required hereby to be performed by or on behalf of the City shall be assumed fully by and will bind and inure to the benefit of the successors thereof whether so expressed or not.

**SECTION 1.4. Waiver of Personal Liability.** No member of the City Council of the City and no officer, agent, or employee of the City, or of any department or agency thereof, shall be individually or personally liable for the payment of the principal of or interest on this Installment Purchase Agreement, but nothing contained herein shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or hereby.

**SECTION 1.5. Article and Section Headings, Gender and References.** The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. Words of any gender shall be deemed and construed to include all genders. All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words “hereby,” “herein,” “hereof,” “hereto,” “herewith” and other words of similar import refer to this Installment Purchase Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

**SECTION 1.6. Partial Invalidity.** If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the City shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof; but the Authority shall retain all the rights and benefits accorded to it under any applicable provisions of law.

**SECTION 1.7. Exhibits.** The following Exhibits are attached to, and by reference made a part of, this Installment Purchase Agreement:

Exhibit A: Description of the Project.

Exhibit B: Schedule of Installment Payments.

Exhibit C: Form of Assignee Letter.

Exhibit D: Form of Compliance Certificate of the City.



## ARTICLE 2

### REPRESENTATIONS, COVENANTS AND WARRANTIES

**SECTION 2.1. Representations, Covenants and Warranties of the City.** The City represents, covenants and warrants to the Authority as follows:

(a) Installment Purchase Agreement. Each representation and warranty and all information set forth in this Installment Purchase Agreement and/or any other document submitted in connection with, or to induce the Authority to enter into this Installment Purchase Agreement, and the other Financing Documents is correct in all material respects as of the Closing Date.

(b) Due Organization and Existence. The City is a general law city and local agency-~~and political subdivision of the State of California~~, duly organized and existing under the laws of the State ~~of California~~, with full power and authority to enter into this Installment Purchase Agreement and the other Financing Documents and to conduct its business.

(c) Authorization. The laws of the State ~~of California~~ authorize the City to enter into this Installment Purchase Agreement and the other Financing Documents and to enter into the transactions contemplated hereby, and to carry out its obligations under this Installment Purchase Agreement and the other Financing Documents, and the City Council of the City has duly authorized the execution and delivery of this Installment Purchase Agreement and the other Financing Documents. This Installment Purchase Agreement and the other Financing Documents ~~have been, when~~ duly ~~authorized,~~ executed and delivered by the City ~~and~~shall constitute legal, valid and binding agreements of the City enforceable against the City in accordance with their respective terms.

(d) Conflicting Agreements. Neither the execution and delivery of this Installment Purchase Agreement or the other Financing Documents nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon any of the property or assets of the City, other than as set forth herein.

(e) Consents and Approvals. All consents, approvals, authorizations, orders, licenses or permits of any Governmental Authority, legislative body, board, agency or commission having jurisdiction of the matter, that are required for the due authorization by, or that would constitute a condition precedent to or the absence of which would materially adversely affect the making or accepting of this Installment Purchase Agreement and the execution, delivery of and performance of any Financing Document by the City have been duly obtained (except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of this Installment Purchase Agreement, as to which no representation is made).



(f) Budgets; Full Disclosure. All budgets, projections, feasibility studies, and other documentation submitted by the City to the Authority in connection with, or to induce the Authority to enter into, this Installment Purchase Agreement are based upon assumptions that are true and correct, and as of the Closing Date, no fact has come to light, and no event has occurred, that would cause any assumption made therein to be misleading or untrue. Neither this Installment Purchase Agreement nor other certificate, statement, agreement, or document furnished to the Authority in connection with this Installment Purchase Agreement (a) contains any untrue statement of a material fact, or (b) fails to state a material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading. The City is not aware of any Material Adverse Change that has not been disclosed in writing to the Authority.

(g) Accurate Financial Information. Each submission of financial information or documents relating to the City will constitute a representation and warranty by the City that such information and documents (a) are true and accurate in all material respects, and (b) do not fail to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(h) System Condition. The System is anticipated to (i) reasonably meet present demand in all material respects, (ii) be constructed in a good and professional manner, (iii) be in good working order and condition, and (iv) comply in all material respects with all applicable law, including, but not limited to, all Environmental Laws and the Government Grant.

(i) Rate Matters. The City's rates for the provision of Broadband have been approved, if applicable, by any and all necessary governmental regulatory authorities, including, without limitation, each public service commission or public utilities commission that may have jurisdiction over the operations and rates of the City. Further, to the City's actual knowledge there is no pending or threatened proceeding before any Governmental Authority, the objective or result of which is or could be to materially reduce or otherwise materially adversely change any of the City's rates for the provision of Broadband services, or otherwise have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of the System.

(j) Litigation. There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court, government agency, public board or body, is pending for which the City has been served or, to the City's actual current knowledge, threatened against the City: (i) in any way affecting the existence of the City or in any way challenging the respective powers of the several offices or the titles of the officials of the City to such offices; (ii) affecting or seeking to prohibit, restrain or enjoin the making, execution or delivery of this Installment Purchase Agreement ~~efor~~ the other Financing Documents or the application of the proceeds of this Installment Purchase Agreement or the other Financing Documents; (iii) in any way contesting or affecting, as to the City, the validity or enforceability of this Installment Purchase Agreement or the other Financing Documents; (iv) in any way contesting the powers of the City or its authority with respect to the adoption of Resolution of Issuance, or the execution and delivery of this Installment Purchase Agreement or the other Financing Documents; or (v) in any way contesting or challenging the consummation of the transactions contemplated hereby or thereby or that might materially adversely affect the ability of the City to perform and satisfy its

obligations under this Installment Purchase Agreement; nor to the best of the City's knowledge is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the proceedings authorizing this Installment Purchase Agreement or the performance by the City of its obligations thereunder, or the authorization, execution, delivery or performance by the City of this Installment Purchase Agreement or the other Financing Documents.

(k) Valid and Binding Obligation. This Installment Purchase Agreement and each of the Financing Documents is a valid and binding obligation of the City enforceable in accordance with its terms.

(l) Pledge and Other Liens. The pledge in Section 3.10 of this Installment Purchase Agreement constitutes a lien on and a pledge of all Pledged Revenues and there are no other liens on the Pledged Revenues as of the Closing Date.

(m) Due Execution. The City has duly authorized and executed this Installment Purchase Agreement and the other Financing Documents in accordance with the laws of the State.

(n) No Default or Event of Non-Appropriation. The City is not in default and has not failed to appropriate funds required under the terms, conditions or provisions of any agreement or instrument to which the City has issued debt in the past ten years.

(o) Outstanding Parity Obligations. As of the date of this Installment Purchase Agreement, there are no Parity Obligations.

(p) Environmental Laws. The Project and the System are anticipated to be in full compliance with all applicable Environmental Laws.

(q) Sufficient Funds. The City reasonably believes that sufficient funds can be ~~obtained~~generated by the System to make all Installment Payments and all other amounts required to be paid pursuant to this Installment Purchase Agreement.

(r) Financial Statements. The City's audited financial statements for the period ended June 30, ~~20[23/24]~~2024, fairly present the financial condition of the City as of the ~~dates~~date thereof and the results of operation for the period covered thereby. Except as has been otherwise disclosed to the Assignee as of the Closing Date, there has been no material change in the financial condition of the City since the ~~dates~~date of said statements ~~and reports~~, that will in the reasonable opinion of the City materially impair its ability to perform its obligations under this Installment Purchase Agreement.

(s) Information. All information, reports and other papers and data furnished by the City to the Assignee were, at the time the same were so furnished, complete and accurate in all material respects, to the best of the City's knowledge, and were provided with the expectation that Assignee would rely thereon in entering into the within transaction. No fact is known to the City which has had or, so far as the City can now reasonably foresee, may in the future impair the City's ability to perform its obligations under this Installment Purchase Agreement, which has not been set forth in the financial statements previously furnished to the Assignee or in other

such other information, reports, papers and data or otherwise disclosed in writing to the Assignee prior to the Closing Date. Any financial, budget and other projections furnished to the Assignee by the City or its or their agents were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair and reasonable in light of the conditions existing at the time of delivery of such financial, budget or other projections, and represented, and as of the date of this representation, represent the City's best estimate of the City's future financial performance. To the best of the City's knowledge, no document furnished nor any representation, warranty or other written statement made to the Assignee in connection with the negotiation, preparation or execution of this Installment Purchase Agreement contains any untrue or misleading statement of a material fact.

(t) Role of Assignee. The City acknowledges that (i) the Assignee, as the assignee of the Authority under the Assignment Agreement, is acting solely for its own loan account and not as a fiduciary for the City or in the capacity of broker, dealer, placement agent, municipal securities underwriter or municipal advisor, (ii) the Assignee has not provided, and will not provide, financial, legal (including securities law), tax, accounting or other advice to or on behalf of the City or with respect to this Installment Purchase Agreement and the financing related thereto, and (iii) the Assignee has expressed no view regarding the legal sufficiency of its representations for purposes of compliance with any legal requirements applicable to any other party, or the correctness of any legal interpretation made by counsel to any other party with respect to any such matters.

(u) OFAC Status. The City is not listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the U.S. Department of the Treasury's Office of Foreign Assets Control, and any successor thereto, the Secretary of the Treasury, or included in any Executive Orders, that prohibits or limits the Assignee from making any advance or extension of credit to the City or from otherwise conducting business with the City.

**SECTION 2.2. Representations, Covenants and Warranties of the Authority.** The Authority represents, covenants and warrants to the City as follows:

(a) Due Organization and Existence. The Authority is a joint powers authority duly organized and existing under California law.

(b) Authorization. The Authority is authorized to enter into this Installment Purchase Agreement and the transactions contemplated hereby, and the Authority has duly authorized the execution and delivery of this Installment Purchase Agreement.

(c) No Violations. Neither the execution and delivery of this Installment Purchase Agreement nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Authority is now a party or by which the Authority is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Authority.

(d) Litigation. To the best knowledge of the Authority, there is no pending or threatened action or proceeding against the Authority or for which the Authority has received actual notice before any court or administrative agency which will materially adversely affect the ability of the Authority to perform its obligations under this Installment Purchase Agreement.

(e) Assignee Letter. The Authority will cause the Assignee to deliver to the City a certificate or letter substantially in the form set forth in Exhibit C attached hereto, and will abide by all transfer restrictions herein and therein.

### ARTICLE 3

#### TERMS OF AGREEMENT

**SECTION 3.1. Purchase of Project and City.** The Authority agrees to provide funds on the Closing Date solely through proceeds received from the Assignee pursuant to the Assignment Agreement (the initial deposits of which are more particularly described in Section 3.9 hereof) in the Acquisition Amount for the City to acquire property and easements which are necessary for the acquisition, construction and/or installation of the Project and for the acquisition, construction and/or installation of the Project. The Authority hereby appoints the City as its agent to carry out all phases of the acquisition, design construction, installation and/or equipping of the Project and the City, as agent of the Authority, assumes all rights, duties, responsibilities and liabilities of the Authority regarding the acquisition, design, construction, installation and/or equipping of the Project. Title to the Project, and each and every portion thereof shall vest in the City upon the acquisition, design and construction thereof; provided, however, the City shall be subject to the payment of Installment Payments as described under this Installment Purchase Agreement and any other amounts due hereunder, to the remedies of the Authority in the Event of Default as provided in Article 5 hereof. The City, as agent of the Authority, may enter into any purchase order, construction management agreement, architecture or engineering contract or construction contract required for the design, acquisition, construction, installation and completion of the Project. The Authority hereby assigns to the City all rights and powers to enforce such purchase orders or contracts as are required for design, acquisition, construction, installation, purchase and completion of the Project, which enforcement may be by auction at law or in equity; provided that the assignment made by the Authority herein shall not prevent the Authority, or its assignee, from asserting any rights or remedies legally available to it. Any appointment of the City as agent of the Authority is limited solely to the extent required under applicable law to render enforceable this Installment Purchase Agreement and to enable the City to acquire, construct, own and operate the Project, but shall not operate to bind or obligate the Authority for any purpose whatsoever. The City shall not represent to any person that it is acting as agent for the Authority.

#### **SECTION 3.2. ~~Repayment~~Purchase of the Project by the City.**

(a) Obligation to Pay. The City hereby agrees to purchase from the Authority the Project at a purchase price equal to the Acquisition Amount together with interest on the unpaid principal balance of the Acquisition Amount, payable in Installment Payments, payable on each Installment Payment Date as set forth in Exhibit B.

(b) Rate on Overdue Payments. If the City fails to make any of the payments required in this Section on or before the due date therefor, the Installment 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, to the extent permitted by law, from the due date thereof at the Default Rate, or, if lower, the ~~maximum rate then permitted by law~~ Maximum Rate.

(c) Gross Up of Interest Rate Upon Determination of Taxability. Notwithstanding the foregoing provisions of this Section, in the event a Determination of Taxability occurs, the City shall pay the Taxable Rate, as interest components of the Installment Payments, to the Assignee ~~on~~ from and after the date of demand by the Assignee therefor.

(d) Maximum Rate. Anything herein to the contrary notwithstanding, the amount of interest payable hereunder for any Interest period shall not exceed the Maximum Rate.

**SECTION 3.3. Substitution of the Project.** The City may substitute other property or components of the Project, but only if the City first obtains the consent of the Authority and the Assignee, and files with the Authority and the Assignee a statement of the City which:

(a) identifies the property, facilities or combination thereof, to be substituted and the components of the Project that they will replace; and

(b) states that the estimated costs of the substituted property, facilities or combination thereof is not less than the cost of the components of the Project being replaced;

(c) states that such substitution will not adversely affect Pledged Revenues or otherwise result in a Material Adverse Change; and

(d) an opinion of Special Counsel shall be provided that confirms that such substitution shall not, in and of itself, cause the interest component of any Installment Payment to be federally taxable.

**SECTION 3.4. Term.** The Term of this Installment Purchase Agreement shall commence on the Closing Date, and shall end on the earlier of ~~May 1, 2045~~ May 1, 2045, or the date upon which all Installment Payments and all other sums due to the Authority hereunder shall be paid in full or provision for such payment shall be made as provided in Section 6.1.

**SECTION 3.5. Payments Generally.** The Authority has assigned its right to receive payments hereunder to the Assignee pursuant to the Assignment Agreement. Payments shall be made on or prior to each Installment Payment Date by wire to the Assignee in accordance with written instructions provided by the Assignee to the City. Any such written instructions shall be provided by the Assignee to the City at least five days prior to the first Interest Payment Date.

**SECTION 3.6. Taxes.** Any payment by the City to the Authority will be made net of any taxes (other than income and similar taxes imposed on or measured by the Authority's overall net income). The City shall be responsible for the payment of all such taxes.

**SECTION 3.7. Conditions Precedent.** The Authority's obligation to extend financing under this Installment Purchase Agreement is subject to the condition precedent that the Authority receive, in form and substance satisfactory to the Authority, each of the following:

(a) Installment Purchase Agreement and Related Documents. A duly executed copy of this Installment Purchase Agreement and all instruments and documents contemplated hereby and thereby, including the Project Fund Agreement, the Capitalized Interest Fund Agreement ~~and the DSRF Agreement~~.

(b) Evidence of Authority Authorization. Such certified board resolutions, certificates of incumbency, and other evidence that the Authority may require that this Installment Purchase Agreement, all instruments and documents executed in connection herewith have been duly authorized and executed.

(c) Insurance. Such evidence as the Authority may require that the City is in or will be compliance with Section 4.5 below.

(d) Consents and Approvals. Evidence as the Authority may require that all regulatory and other consents and approvals referred to in Section 2.1 have been obtained and are in full force and effect.

(e) Opinions of Counsel. The City shall provide an opinion of special counsel regarding the tax-exempt status of interest on the interest component of Installment Payments under federal tax laws (and, to the extent applicable, State laws).

(f) Opinion of City Attorney. ~~An~~ opinion of the City Attorney to the City to the effect that (A) the City is duly organized, validly existing, and in good standing under the laws of the State, (B) the City has duly received all requisite approvals and has the legal power to enter into and perform under the Financing Documents, (C) all proceedings of the City necessary to be taken in connection with the authorization, execution, delivery and performance of the Financing Documents have been duly taken and all such authorizations are presently in effect, (D) the Financing Documents have been duly executed and delivered by the City and ~~constitutes~~constitute the valid and binding ~~obligation~~obligations of the City enforceable against the City in accordance with ~~its~~their terms, except as enforceability may be limited: by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the rights of creditors generally and by general equitable principles which may limit the right to obtain the remedy of specific performance of ~~obligation~~obligations other than the obligation to pay money, and (E) the execution, delivery, and performance by the City of the Financing Documents does not and will not: (i) violate any provision of any law, rule or regulation, any judgment, order or ruling of any court or governmental agency, articles of organization, articles of incorporation, other charter documents, bylaws or operating agreement, as applicable, of the City, or any agreement, indenture, mortgage, or other instrument to which the City is a party or by which the City or any of its properties is bound; or (ii) be in conflict with, result in a breach of, or constitute with the giving of notice or passage of time, or both, a default under any such agreement, indenture, mortgage, or other instrument; and ~~(f)~~F no consent, permission, authorization, order or



license of any governmental authority is necessary in connection with the execution, delivery, performance, or enforcement of the Financing Documents, except such as have been obtained and are in full force and effect; and (G) to the best of such counsel's knowledge, there are no actions, suits, or proceedings affecting the City or any of its assets pending or threatened before any governmental entity which: (i) if adversely decided could have a material adverse effect on the City's condition, financial or otherwise, operations, properties or business, or on its ability to perform its obligations under the Financing Documents; or (ii) seeks to rescind, terminate, modify, or suspend any consent, permission, authorization, order or license of any governmental authority referred to above. ~~UNDER REVIEW~~

(g) Opinion of City Attorney as Authority Counsel. An opinion of the City Attorney acting in the capacity of counsel to the Authority in form and substance satisfactory to the Assignee.

(h) A tax certificate of the City.

(i) ~~(g)~~ The City has provided a certificate certifying that on the Closing Date each representation and warranty on the part of the City contained in this Installment Purchase Agreement is true and correct and no Event of Default, or event which would, with the passage of time or the giving of notice, constitute an Event of Default, has occurred and is continuing and no default exists under any other Parity Obligations, or under any other agreements by and between the City and the Assignee and certifying as to such other matters as the Assignee might reasonably request.

(j) ~~(h)~~ All proceedings taken in connection with the transactions contemplated by this Installment Purchase Agreement, and all instruments, authorizations and other documents applicable thereto, are satisfactory to the Assignee and its counsel.

(k) ~~(i)~~ No law, regulation, ruling or other action of the United States, the State of California or any political subdivision or authority therein or thereof shall be in effect or shall have occurred, the effect of which would be to prevent the City from fulfilling its obligations under this Installment Purchase Agreement or the other Contracts.

(l) ~~(j)~~ The Assignee shall have been provided with the opportunity to review all pertinent financial information regarding the City, agreements, documents, and any other material information relating to the City or the Gross Revenues or any other component of the collateral securing the obligations of the City hereunder.

(m) ~~(k)~~ All information provided by the City to the Assignee is accurate in all material respects based on the best knowledge of the City, after due inquiry.

(n) ~~(l)~~ The Assignee shall have received such other certificates, approvals, filings, opinions and documents as shall be reasonably requested by the Assignee.

(o) ~~(m)~~ All other legal matters pertaining to the execution and delivery of this Installment Purchase Agreement shall be reasonably satisfactory to the Assignee.

### **SECTION 3.8. Nature of City's Obligations.**

(a) Special Obligation. The City's obligation to pay the Installment Payments is a special obligation of the City limited solely to the Pledged Revenues. Under no circumstances is the City required to advance moneys derived from any source of income other than the Pledged Revenues and other sources specifically identified herein for the payment of the Installment Payments, and no other funds or property of the City are liable for the payment of the Installment Payments.

(b) Obligations Absolute. The obligations of the City to pay the Installment Payments from the Pledged Revenues and to perform and observe the other agreements contained herein are absolute and unconditional and are not subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach of the City or the Authority of any obligation to the City or otherwise with respect to the System, 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 have been fully paid or prepaid, the City:

(i) will not suspend or discontinue payment of any Installment Payments;

(ii) will perform and observe all other agreements contained in this Installment Purchase Agreement; and

(iii) will not terminate this Installment Purchase 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 System, sale of the System, the taking by eminent domain of title to or temporary use of any component of the System, commercial frustration of purpose, any change in the tax or other laws of the United States of America or the State of California or any political subdivision of either thereof or any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Installment Purchase Agreement.

(c) Protection of Rights. If the Authority fails to perform any such agreements on its part, the City may institute such action against the Authority as the City deems necessary to compel performance so long as such action does not abrogate the obligations of the City contained in the preceding subsection (b). 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 will (upon reasonable notice, and at the sole expense of the City) cooperate fully with the City to the extent reasonably necessary and take such action reasonably necessary to effect the substitution of the City for the Authority in such action or proceeding if the City shall so request.

**SECTION 3.9. Deposit of and Application of Funds.** On the Closing Date, the Authority shall cause the Acquisition Amount to be deposited by the Assignee as follows:



(a) \$ 6,930,000.00 shall be held by the Assignee for deposit ~~in~~into the Project Fund established by the Assignee to be applied by the City for Project Costs, pursuant to the Project Fund Agreement~~],~~ and shall be invested in Authorized Investments or as otherwise set forth in the Project Fund Agreement~~].~~

(b) \$ 199,269.42 shall be applied by the Assignee for the payment of Costs of Issuance on the Closing Date~~, pursuant to a cost of issuance requisition [~~ and shall be held uninvested until discharged ~~pursuant to~~by payment of invoices received by the Assignee~~].~~

(c) \$ 750,540.99 shall be held by the Assignee for deposit ~~in~~into the Capitalized Interest Fund established by the Assignee to be applied by the ~~Bank~~Assignee pursuant to Section 3.10(b) and the Capitalized Interest Fund Agreement~~],~~ and shall be invested in Authorized Investments or as otherwise set forth in the Capitalized Interest Fund Agreement~~].~~

~~(d) [\$            shall be held by the Assignee for deposit in the Debt Service Reserve Fund established by the Assignee and to be administered pursuant to the DSRF Agreement [and shall be invested in Authorized Investments or as otherwise set forth in the DSRF Agreement.]] [TO BE DELETED IF THE FUNDS ARE BEING SENT FROM THE CITY RATHER THAN FUNDED WITH PROCEEDS].~~

In addition, on the Closing Date, the Authority shall cause the Assignee to deposit into the Debt Service Reserve Fund established by the Assignee with funds transferred from the City to the Assignee in the amount of \$673,198.24 which and shall be invested in Authorized Investments or as otherwise set forth in the DSRF Agreement, and such Debt Service Reserve Fund shall be administered pursuant to this Installment Purchase Agreement and the DSRF Agreement.

### **SECTION 3.10. Revenue Fund; Pledge of Pledged Revenues; Debt Service Reserve Fund.**

(a) Revenue Fund; Receipt and Deposit of Pledged Revenues. There is hereby established a special fund known as the “City of Fort Bragg Broadband System Revenue Fund,” which fund shall be held and maintained by the City so long as this Installment Purchase Agreement and any Parity Obligations are outstanding. The City shall deposit all Gross Revenues in the Revenue Fund promptly upon the receipt thereof, and shall apply amounts in the Revenue Fund solely for the uses and purposes set forth herein and in the Parity Obligation Documents. The City shall withdraw amounts on deposit in the Revenue Fund and apply such amounts at the times and for the purposes, and in the priority, as follows:

- (i) following the Net Revenue Conversion Date (but only following the Net Revenue Conversion Date), all Maintenance and Operation Costs;
- (ii) all Installment Payments and any Parity Obligations;
- (iii) prior to the Net Revenue Conversion Date, all Maintenance and Operation Costs;

(iv) to the Assignee the amount of any deficiency in the Debt Service Reserve Fund or in any reserve fund established for any Parity Obligations ~~held by the Assignee~~, the notice of which deficiency has been given to the City in accordance with this Agreement, ~~[the DSRF Agreement]~~ and the related Parity Obligation Documents, as applicable;

(iv) any other payments required to comply with the provisions of any Parity Debt Documents, including Maintenance and Operation Costs prior to the Net Revenue Conversion Date; and

(vi) any other purposes authorized under subsection (c) of this Section.

(b) Payment of Installment Payments. At least three (3) Business Days prior to each Installment Payment Date, the City shall withdraw from the Revenue Fund and transfer to the Authority an amount of Pledged Revenues equal to the aggregate amount of the Installment Payment when and as the same becomes due and payable; provided, however, that with respect to the following Payment Dates, the Bank shall transfer moneys from the Capitalized Interest Fund in the amounts set forth below for payment of interest component of Installment Payments due on the dates set forth below:

<u>Payment Date</u>	<u>Amount</u>
<u>11/01/2025</u>	<u>\$177,284.79</u>
<u>05/01/2026</u>	<u>191,085.40</u>
<u>11/01/2026</u>	<u>191,085.40</u>
<u>05/01/2027</u>	<u>191,085.40</u>
<u>11/01/2025</u>	<u>177,284.79</u>
<u>Payment Date</u>	<u>Amount</u>

provided, further, however, that with respect to any Payment Date after the exhaustion of the Capitalized Interest Fund, to the extent that the amount of Pledged Revenues are deficient to pay any Installment Payment, ~~[then the City shall notify the Authority and the Assignee immediately (and in any event, at least (2) two Business Days prior to any Installment Payment Date)~~, and the Assignee shall withdraw, pursuant to the terms and provisions in the DSRF Agreement, on the

applicable Installment Payment Date, from the Debt Service Reserve Fund the amount necessary to pay the Installment Payment then due. ~~[[TBD IF CITY OR BANK HOLDS THE DSRF]]~~

(c) Pledge of Pledged Revenues. Prior to the Net Revenue Conversion Date, the Installment Payments shall be secured by a first pledge of and lien on all of the Gross Revenues. From and after the Net Revenue Conversion Date, the Installment Payments shall be secured by a first pledge of and lien on all of the Net Revenues. In addition, the Installment Payments are secured by a pledge of all of the moneys from the investment of such moneys. The Installment Payments and all other Parity Obligations (if any) shall be equally secured by a pledge, charge and lien upon the Pledged Revenues and such other moneys without priority for series, issue, number or date and the payment of the interest on and principal of the Installment Payments shall be and are secured by an exclusive pledge, charge and lien upon the Pledged Revenues and such other moneys. So long as any amounts are due and owing hereunder, the Pledged Revenues and such other moneys may not be used for any other purpose; except as expressly permitted by this Section 3.10.

(d) Determination of Net Revenue Conversion Date. The pledge of and lien on the Gross Revenues for the security hereunder may be converted to a pledge of and lien on the Net Revenues, upon the occurrence of the following events (the "Coverage Test") as follows: the amount of Net Revenues received by the City during any three (3) consecutive Fiscal Years following the completion of the Project based on financial statements of the City for such Fiscal Years which have been audited in accordance with Section 4.1(a) are at least equal to 125% of the amount of Maximum Annual Debt Service.

In the event the City determines that the Coverage Test has been met at any time following the completion of the Project, the City may file with the Assignee a Certificate of the City which states such determination and identifies the calculations which demonstrate that the Coverage Test has been met. Upon the filing of such Certificate of the City with the Assignee, the pledge of Gross Revenues for the security of the Installment Payments shall be converted to a pledge of Net Revenues. In the event the amount of Gross Revenues in any Fiscal Year following the Net Revenue Conversion Date fails to meet the Coverage Test, amounts due and owing hereunder shall nevertheless remain secured by a pledge of the Net Revenues. The determination by the City that the Coverage Test has been met shall be binding and conclusive.

(e) Other Uses Permitted. The City shall manage, conserve and apply the Pledged Revenues in such a manner that all deposits required to be made under the preceding paragraphs will be made at the times and in the amounts so required. Subject to the foregoing sentence, so long as no Default has occurred and is continuing hereunder or would result therefrom, the City may at any time and from time to time use and apply moneys in the Revenue Fund for (i) the acquisition and construction of improvements to the System; (ii) the prepayment of this Installment Purchase Agreement or Parity Obligations; or (iii) any other lawful purpose of the City.

**SECTION 3.11. Project Fund.** The Assignee has represented that it will establish a separate fund or account pursuant to the terms and provisions set forth in the Project Fund Agreement, into which the proceeds of this Installment Purchase Agreement shall be deposited as provided in Section 3.9(a). The City covenants that the funds deposited thereunder shall be

requisitioned and spent by the City solely on Project Costs. The City shall maintain accurate records showing all requests for disbursements from the Project Fund, including records which show the name and address of each firm or corporation to whom payment is made and the amount and purpose of each payment. Any funds on deposit in the Project Fund and not needed for Project Costs (if any) shall be transferred by the City to pay Installment Payments hereunder.

## ARTICLE 4 COVENANTS OF THE CITY

### SECTION 4.1. Reports and Notices.

(a) Annual Financial Statements. No later than 270 days after the end of each Fiscal Year, commencing with Fiscal Year ~~2024/25~~2024-25, the City shall deliver to the Authority audited financial statements of the City prepared in accordance with the accounting standards set forth by the Government Accounting Standard Board. Such financial statements will: (1) be audited by ~~independent certified public accountants selected by the City~~an Independent Certified Public Accountants; and (2) be accompanied by a report of such accountants containing an opinion. Notwithstanding the foregoing, if audited financial statements are not available within such 270-day period, the City shall provide to the Authority a statement to that effect together with unaudited financial statements reasonably acceptable to the Authority and the Assignee, and shall thereafter provide to the Authority its audited financial statements within 30 days of approval of such audited financial statements by the City Council of the City. Included with such financial statements shall be a calculation of Debt Service coverage on all Installment Payments hereunder and Parity Obligations outstanding during the prior Fiscal Year and a compliance certificate which shall be substantially similar to the form set forth in Exhibit D hereto.

(b) Budgets. As soon as available, but in no event more than thirty (30) days after City Council approval thereof, the City shall provide a copy of its annual budget to the Assignee.

(c) Notice of Default. Promptly after becoming aware thereof, the City shall provide to the Authority and the Assignee notice of the occurrence of an Event of Default, including, without limitation, any error in the City's financial information previously provided to the Authority and the occurrence of any breach, default, event of default or event that, with the giving of notice and/or the passage of time and/or the occurrence of any other condition, would become a breach, default or event of default under this Installment Purchase Agreement.

(d) Notice of Certain Events. The City shall provide to the Authority (1) notice at least 30 days prior thereto, of any change in the principal place of business of the City or of the System or the office where its records concerning its accounts are kept; and (2) all other notices required to be provided hereunder.

(e) Additional Information. The City shall provide the Assignee with any information it may reasonably request, including, but not limited to, information relating to End Users (in compliance with all applicable privacy and security laws), information relating to the System, and any other information so requested by the Assignee.

**SECTION 4.2. Existence.** The City shall continue to exist as a local agency in compliance with ~~California~~State law.

**SECTION 4.3. Change in Business.** The City shall not, without ~~the~~ prior notice ~~of~~to the Authority and the Assignee, engage in any business activities or operations substantially different from or unrelated to the City's present business activities or operations.

**SECTION 4.4. Liens ~~against~~Against the System.** With respect to the System, the City shall not, without the prior consent of the Authority and the Assignee, create, incur, assume, or allow to exist any mortgage, deed of trust, pledge, lien (including the lien of an attachment, judgment, or execution), security interest, or other encumbrance of any kind upon any of the System's property, real or personal (collectively, "Liens"). The foregoing restrictions will not apply to:

- (a) ~~{~~Liens in favor of the Authority;
- (b) Liens for taxes, assessments, or governmental charges that are not past due;
- (c) pledges and deposits under workers' compensation, unemployment insurance, and social security laws;
- (d) pledges and deposits to secure the performance of bids, tenders, contracts (other than contracts for payment of money), and like obligations arising in the ordinary course of business as conducted on the date hereof;
- (e) easements, rights-of-way, restrictions, and other similar encumbrances that, in the aggregate, do not materially interfere with the occupation, use, and enjoyment of the property or assets encumbered thereby in the normal course of business or materially impair the value of the property subject thereto;
- (f) purchase money Liens to secure indebtedness permitted hereunder; and/or
- (g) Liens relating to Parity Obligations issued in compliance with the provisions of Section 4.14 hereof; and/or
- (h) existing Liens as of the Closing Date and disclosed to the Authority in writing prior to the Closing Date.~~}~~

~~{CONFIRM NO LIENS OR RELATED MATTERS REQUIRED BY THE GOVERNMENT GRANT}~~

**SECTION 4.5. Insurance.** The City shall maintain insurance on the System with reputable and financially sound insurance companies or associations, including self-insurance to the extent customary, acceptable to the ~~Authority~~Assignee in such amounts and covering such risks as are usually carried by companies engaged in the same or similar business and similarly situated, and make such increases in the type or amount of coverage as the ~~Authority~~Assignee may reasonably request. All such policies insuring any collateral for the City's obligations to the

AuthorityAssignee will have additional insured, mortgagee and lender's loss payee clauses or endorsements, as applicable, in form and substance satisfactory to the AuthorityAssignee. At the Authority'sAssignee's request, the City agrees to deliver to the AuthorityAssignee such proof of compliance with this ~~section~~Section as the AuthorityAssignee may require.

**SECTION 4.6. System Maintenance.** As provided in Section 3.10(a), prior to the Net Revenue Conversion Date, the Gross Revenues shall be applied to make payments of Installment Payments and any Parity Obligations in any Fiscal Year prior to the payment of Maintenance and Operation Costs coming due in such Fiscal Year. In the event and to the extent the amount of Gross Revenues following the payment of Installment Payments and any Parity Obligations in any Fiscal Year is insufficient to pay the Maintenance and Operation Costs coming due and payable in such Fiscal Year in full, the City shall pay the remaining Maintenance and Operation Costs from any source of legally available funds, including the General Fund of the City; provided, however, that such requirement to pay any Maintenance and Operation Costs from the General Fund of the City shall be subject to appropriation by the City.

**SECTION 4.7. Against Sale or Other Disposition of the System.** The City will not sell or otherwise dispose of the System or any part thereof essential to the proper operation of the System or that would have a Material Adverse Change on the Pledged Revenues received or receivable by the City, unless the Installment Payments and the Parity Obligations have been fully paid or provision has been made therefor. The City will not enter into any lease or agreement which impairs the operation of the System or any part thereof necessary to secure adequate Pledged Revenues for the payment of the interest on and principal of and redemption premiums, if any, on the Installment Payments and the Parity Obligations, or which would otherwise impair the rights of the Authority or the owners of the Parity Obligations with respect to the Pledged Revenues or the operation of the System or the tax-exempt status of the interest component of Installment Payments.

**SECTION 4.8. Eminent Domain Proceeds.** If all or any part of the System shall be taken by eminent domain proceedings, the net proceeds shall be used as follows:

(a) If (1) the City files with the AuthorityAssignee a certificate showing (i) the estimated loss of annual Pledged Revenues, if any, suffered or to be suffered by the City by reason of such eminent domain proceedings, (ii) a general description of the additions, betterments, extensions or improvements to the System proposed to be acquired and constructed by the City from such Net Proceeds, and (iii) an estimate of the additional annual Pledged Revenues to be derived from such additions, betterments, extensions or improvements, and (2) the City, on the basis of such certificate filed with the AuthorityAssignee, determines that the estimated additional annual Pledged Revenues will sufficiently offset the estimated loss of annual Pledged Revenues resulting from such eminent domain proceedings so that the ability of the City to meet its obligations hereunder will not be substantially impaired (which determination shall be final and conclusive absent manifest error), then the City shall promptly proceed with the acquisition and construction of such additions, betterments, extensions or improvements substantially in accordance with such certificate and such Net Proceeds shall be applied for the payment of the costs of such acquisition and construction, and any balance of



such Net Proceeds not required by the City for such purpose shall be deposited in the Revenue Fund.

(b) If the foregoing conditions are not met, then such Net Proceeds shall be applied in part to the prepayment of the outstanding Installment Payments and the Parity Obligations on a pro rata basis.

#### **SECTION 4.9. Amounts of Rates, Fees and Charges; Financial Covenants.**

(a) The City shall, at all times while any of the Installment Payments remain outstanding, fix, prescribe and collect rates, fees and charges and manage the operation of the System for each Fiscal Year so as to yield Revenues at least sufficient, after making reasonable allowances for contingencies and errors in the estimates, to pay the following amounts during such Fiscal Year:

- (i) All current Maintenance and Operation Costs;
- (ii) The interest on and principal of the Installment Payments and the payments for the Parity Obligations without preference or priority;
- (iii) All payments required for compliance with the terms of this Installment Purchase Agreement or any other Parity Obligation, including without limitation, any obligation to maintain a reserve fund at a certain level;
- (iv) All payments to meet any other obligations of the City which are charges, liens or encumbrances upon, or payable from, the Pledged Revenues; and
- (v) Payments with respect to the Subordinate Obligations as they become due and payable.

The provisions of this Section 4.9(a) are not intended to indicate the order in which the Gross Revenues are to be applied. As provided in Section 4.6, prior to the Net Revenue Conversion Date, the Gross Revenues shall first be applied to make payments of the principal ~~of~~ and interest ~~on~~ components of all Installment Payments and Parity Obligations under subsection (ii) above; and after the Net Revenue Conversion Date the Gross Revenues shall first be applied to pay Maintenance and Operation Costs.

(b) ~~From and after the Net Revenue Conversion Date, the~~ The City shall have at the end of each Fiscal Year of the City, commencing with the Fiscal Year ending June 30, 2027, a Debt Service Coverage Ratio (as defined below) for such year of not less than 1.25 to 1.00; provided, however that at no time prior to five years after the completion date of the Project, as to be reflected in a Certificate of the City to the Assignee and Authority, the City shall not be required to increase any charges, fees or rates to End Users to meet the Debt Service Coverage Ratio if such increase violates any Government Grant (which such Government Grant currently restricts the City from increasing charges, fees and rates to End Users for five years after the completion of the Project).

For purposes hereof, the term “Debt Service Coverage Ratio” means (i) prior to the Net Revenue Conversion Date, the ratio of: (1) gross income (after taxes and after eliminating any gain or loss on sale of assets or other extraordinary gain or loss), plus depreciation expense, amortization expense, and interest expense, minus non-cash patronage, and non-cash income from subsidiaries and/or joint ventures; to (2) all principal payments due within the period on all Long-Term Debt (as defined below) plus interest expense (all as calculated on a consolidated basis for the applicable period in accordance with the Generally Accepted Accounting Principles), and (ii) after the Net Revenue Conversion Date, the ratio of: (1) net income (after taxes and after eliminating any gain or loss on sale of assets or other extraordinary gain or loss), plus depreciation expense, amortization expense, and interest expense, minus non-cash patronage, and non-cash income from subsidiaries and/or joint ventures, and grant income; to (2) all principal payments due within the period on all Long-Term Debt (as defined below) plus interest expense (all as calculated on a consolidated basis for the applicable period in accordance with the Generally Accepted Accounting Principles).

For purposes hereof, “Long-Term Debt” means, for the City, on a consolidated basis, the sum of (1) all indebtedness for borrowed money, (2) obligations that are evidenced by notes, bonds, debentures or similar instruments, and (3) that portion of obligations with respect to capital leases or other capitalized agreements that are properly classified as a liability on the balance sheet in conformity with Generally Accepted Accounting Principles or that are treated as operating leases under regulations applicable to them but that otherwise would be required to be capitalized under Generally Accepted Accounting Principles, in each case having a maturity of more than one year from the date of its creation or having a maturity within one year from such date but that is renewable or extendible, at the City’s option, to a date more than one year from such date or that arises under a revolving credit or similar agreement that obligates the lender(s) to extend credit during a period of more than one year from such date, including all current maturities in respect of such indebtedness whether or not required to be paid within one year from the date of its creation.

(c) (i) From and after the Net Revenue Conversion Date, if the Revenues of the System as of at the end of any Fiscal Year of the City is less than the Debt Service Coverage Ratio, the City shall, within 30 days after delivery of the Certificate disclosing such deficiency, cause and appoint (and, if the City fails to do so, the Assignee shall cause and appoint) with the approval of the Assignee, as applicable, a Financial Consultant to make recommendations with respect to the rates, fees and charges and the City’s methods of operation and other factors affecting the financial condition in order to increase the fees, rates and changes of the System for future periods. A copy of the Financial Consultant’s report and recommendations, if any, shall be filed with the Authority and the Assignee within 90 days after the date such Financial Consultant is retained.

(ii) The person appointing the Financial Consultant shall notify the Authority and the Assignee of such appointment, and the Financial Consultant shall deliver its report and findings to the City, the Authority and the Assignee. The City shall review such report and any written recommendations made by the Financial Consultant. The City shall meet with the Financial Consultant to discuss the Financial Consultant’s reports, findings and written recommendations. The City shall promptly implement all of the Financial Consultant’s written recommendations except those recommendations that require an



expenditure of funds greater than the amount available or projected to be available for such purpose from Revenues under this Installment Purchase Agreement or those written recommendations that could, based upon the written advice of Bond Counsel, cause interest on the Installment Payments to be includible in gross income for federal income tax purposes. The fees and expenses of the Financial Consultant shall be paid as a Maintenance and Operation Cost. Each party shall deliver to the other party at no additional charge copies of any information, correspondence or documents delivered to the Financial Consultant contemporaneously with delivering such information, correspondence or documents to the Financial Consultant.

(iii) Failure to achieve ~~the~~ Debt Service Coverage Ratio of not less than 1.25 to 1.00 shall not constitute an Event of Default under this Installment Purchase Agreement if the City takes all action necessary to comply with the procedures set forth above for retaining a Financial Consultant and follows each recommendation contained in the Financial Consultant's report to the extent permitted by law, and so long as the Debt Service Coverage Ratio remains not less than 1.00 to 1.00. Notwithstanding the foregoing, if a Debt Service Coverage Ratio of 1.25 to 1.00 is not achieved by the end of the subsequent Fiscal Year of the City after retention of a Financial Consultant, such failure shall constitute an Event of Default.

**SECTION 4.10. Enforcement of and Performance Under Parity Obligations.** The City shall enforce all material provisions of any contracts to which it is a party, an assignee, successor in interest to a party, or third-party beneficiary, in any case where such contracts provide for Broadband services to be produced, transmitted and distributed by the System or provide for payments or services to be rendered to the City. Further, the City will comply with, keep, observe and perform all material agreements, conditions, covenants and terms, express or implied, required to be performed by it, contained in all contracts affecting or involving the System, to the extent that the City is a party thereto.

**SECTION 4.11. Collection of Charges, Fees and Rates.** The City will have in effect at all times rules and regulations requiring each End User to pay the applicable charges, fees and rates and providing for the billing thereof, including, but not limited to, rules and regulations that comply with the Government Grant. In each case where such bill remains unpaid in whole or in part after it becomes delinquent, the City will take necessary actions to enforce the collection procedures contained in the rules and regulations.

**SECTION 4.12. Against Encumbrances.** The City will not mortgage or otherwise encumber, pledge or place any charge or lien upon the System or any of the Pledged Revenues except as provided in this Installment Purchase Agreement and will not issue any obligations secured by Pledged Revenues on a parity with, or senior to, the Installment Payments and Parity Obligations; provided, that the City may at any time issue any Subordinate Obligations with the prior written consent of the Assignee, which consent will not ~~to~~ be unreasonably withheld.

**SECTION 4.13. Execution of Parity Obligations.** The City may at any time execute any Parity Obligations, the Contract Payments under which are payable on a parity with the

Installment Payments; provided, that such Parity Obligations meet the conditions and requirements for the issuance of Parity Obligations under Section 4.14 below.

**SECTION 4.14. Conditions for Entering into Parity Obligations.** The City may at any time after the Net Revenue Conversion Date enter into a Parity Obligation payable from Pledged Revenues and secured by a lien and charge upon the Pledged Revenues equal to and on a parity with the lien and charge securing this Installment Purchase Agreement, but only subject to specific conditions precedent, which are summarized below:

(a) The City shall be in compliance with all agreements, conditions, covenants and terms contained in this Installment Purchase Agreement (including, without limitation, the provisions of Sections 4.9 and 4.11) and in any other Parity Obligations required to be observed or performed by it, and a certificate signed by the Finance Director to that effect shall have been filed with the Authority (this condition shall not apply where the purpose of a Parity Obligation proposed to be issued is to cure such non-compliance, provided that the certification shall identify such noncompliance and state that the issuance of such Parity Obligations and application of the proceeds thereof will cure such noncompliance).

(b) The execution of the Parity Obligation shall have been duly authorized pursuant to all applicable laws.

(c) The Pledged Revenues for the most recent Fiscal Year for which audited financial statements are available shall have produced Pledged Revenues equal to at least one hundred twenty-five percent (125%) of the Maximum Annual Debt Service as calculated after the date of such Parity Obligation and a certificate signed by the Finance Director to that effect shall have been filed with the Authority; provided, that in the event that all or a portion of such Parity Obligation being entered into is for the purpose of refunding and retiring any outstanding Parity Obligation, interest and principal payments on the Parity Obligation to be so refunded and retired from the proceeds of such Parity Obligation being issued shall be excluded from the foregoing computation of Maximum Annual Debt Service.

**SECTION 4.15. Tax Covenants.** The City hereby covenants that, notwithstanding any other provision of this Installment Purchase Agreement, it will make no use of the proceeds of this Installment Purchase Agreement or of any other amounts, regardless of the source, or of any property or take any action, or refrain from taking any action, that would cause this Installment Purchase Agreement to be “arbitrage bonds” within the meaning of Section 148 of the Tax Code.

The City will not use or permit the use of either System or any portion thereof by any person other than a governmental unit as such term is used in Section 141 of the Tax Code, in such manner or to such extent as would result in the loss of exclusion from gross income for federal income tax purposes of the interest payable pursuant to this Installment Purchase Agreement under Section 103 of the Tax Code.

The City will not make any use of the proceeds from this Installment Purchase Agreement or any other funds of the City, or take or omit to take any other action, that would cause the obligation provided herein to be “federally guaranteed” within the meaning of Section 149(b) of the Tax Code or “private activity bonds” within the meaning of Section 141 of

the Tax Code. To that end, so long as the Installment Payments are unpaid, the City, with respect to such proceeds and such other funds, will comply with all requirements of such Sections and all regulations of the United States Department of the Treasury issued thereunder and under the Tax Code to the extent such requirements are, at the time, applicable and in effect.

The City shall promptly file or cause to be filed an information report for the Installment Payments in compliance with Section 149(e) of the Tax Code.

The City has complied with the Tax Code, with respect to this Installment Purchase Agreement, and the City shall not knowingly take or omit to take any action that, under existing law which may adversely affect the exclusion from gross income for federal income tax purposes, or the exemption from any applicable State tax of the interest on Installment Purchase Agreement.

**SECTION 4.16. Reconstruction of System; Application of Insurance Proceeds.** If any useful portion of the System shall be damaged or destroyed, the City shall, as expeditiously as possible, continuously and diligently pursue or cause to be pursued the reconstruction or replacement thereof, unless the City shall file with the Authority a written certificate of an engineer qualified to render such certificate to the effect that such reconstruction or replacement is not in the best interests of the City and the Authority. The proceeds of any insurance paid on account of such damage or destruction, other than business interruption loss insurance or public liability insurance, shall be deposited by the City in a special account, held in trust by the City, and made available for, and to the extent necessary applied to, the cost of such reconstruction or replacement, if any. Pending such application, such proceeds may be invested by the City in investments permitted by Section 53601 of the ~~California~~[State](#) Government Code which mature not later than such times as shall be necessary to provide moneys when needed to pay such cost of reconstruction or replacement. Any balance of such proceeds of insurance not required by the City for the purposes aforesaid shall be deemed Revenues.

**SECTION 4.17. Records and Accounts.** The City covenants and agrees that it shall keep proper books of record and accounts of the System, separate from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the System, the Revenues and the Pledged Revenues. Said books shall at all reasonable times be subject to the inspection of the Authority [and the Assignee](#).

**SECTION 4.18. Collection of Charges.** The City covenants and agrees that, except to the extent that the City is required under agreements and/or contracts existing on the effective date of this Installment Purchase Agreement, no Broadband service from the System may be furnished or rendered to the United States of America, the State, or any private corporation or person free of charge, or for consideration lower than that charged other persons for similar service in accordance with the City's regulations. The City covenants that it shall maintain and enforce valid regulations for the payment of bills by End Users for Broadband service.

**SECTION 4.19. Against Competing [Broadband](#) System.** The City will not acquire, construct, operate or maintain, and will not, within the scope of its lawful powers, permit any other private or public corporation, political subdivision, district or agency, or any person

whomsoever to acquire, construct, operate or maintain any Broadband system, communication system or similar utility in an area presently served by the System.

**SECTION 4.20. Compliance with this Installment Purchase Agreement.** The City will faithfully observe and perform or cause to be faithfully observed and performed all the covenants, conditions and requirements of this Installment Purchase Agreement, and will not suffer or permit any default to occur hereunder. The City will not do or permit anything to be done, or omit or refrain from doing anything, in any case where any such act done or permitted to be done, or any such omission of or refraining from action, would constitute an Event of Default hereunder. Upon request by the Authority, the City shall provide a written certificate of the City to the effect that it is in compliance with all covenants, conditions and requirements of this Installment Purchase Agreement, other than those expressly waived by Authority.

**SECTION 4.21. Observance of Laws and Regulations.** The City will well and truly keep, observe and perform or cause to be kept, observed and performed all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State, including, but not limited to, all Environmental Laws, all laws required pursuant to the Government Grant, and the provisions of Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code and Section 10001.5 of the Public Utilities Code, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired and enjoyed by the City, including the City's right to exist and carry on business as a Broadband Internet access service provider, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

**SECTION 4.22. ~~Budget~~Budgets.** The City hereby covenants to take such action as may be necessary to include all Installment Payments and all other amounts due hereunder in its annual budget and to make the necessary annual appropriations for all such Installment Payments and all other amounts due hereunder. The covenants on the part of the City herein contained shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the ministerial 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 such official duty of such officials to enable the City to carry out and perform the covenants and agreements on the part of the City contained in this Installment Purchase Agreement.

**SECTION 4.23. Inspection.** The City shall permit the Authority or its agents, upon reasonable notice and during normal business hours or at such other times as the parties may agree, to inspect and visit any of its properties, examine and make excerpts from its books and records, and to discuss its business affairs, finances and accounts with its officers, directors, employees, and independent certified public accountants and to conduct reviews of any collateral.

**SECTION 4.24. Further Assurances and Other Information.** From time to time and at its expense, execute and deliver such documents and do such other acts and things as the Authority in its sole discretion may deem necessary or advisable from time to time in order to more fully carry out the provisions and purpose of this Installment Purchase Agreement,

including delivery of such other information regarding the condition or operations, financial or otherwise, of the City as the Authority may from time to time reasonably request, including, but not limited to, copies of all pleadings, notices and communications referred to in Section 4.1 herein.

**SECTION 4.25. Delivery of Original Documents.** The City shall deliver to the Authority the original executed versions of this Installment Purchase Agreement, the Financing Documents and the certificates, instruments and documents required to be executed hereunder.

**SECTION 4.26. No Public Registration.** During any period that the Authority is a party to this Installment Purchase Agreement, this Installment Purchase Agreement shall not be (i) assigned a rating by any credit rating agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) offered pursuant to any type of offering document or official statement or (iv) assigned a CUSIP number by Standard & Poor's CUSIP Service.

**SECTION 4.27. Indemnity for Taxes.** At all times the City shall indemnify and hold and save the Authority harmless from and against any and all actions or causes of action, claims, demands, liabilities, loss, damage or expense of whatsoever kind and nature incurred by the Authority as a result of the non-payment of any documentary stamp tax, intangible tax, interest or penalties associated therewith or any other local, state or federal assessment required to be paid, but not paid in conjunction with the indebtedness evidenced by this Installment Purchase Agreement. The City agrees to pay to the Authority, its successors and assigns, all sums of money requested by the Authority hereunder within ten days of such request, which the Authority will or may advance, pay or cause to be paid, or become liable to pay, on account of or in connection with failure to pay as required by the regulations of the Governmental Authority so imposing said payment. The Authority will be entitled to charge for any and all disbursements made by it in good faith, under the reasonable belief that it or the City is or was liable for the amount so assessed. Any default by the City in making any payments required under this covenant will constitute a payment Event of Default under this Installment Purchase Agreement and the Authority may, at its option, declare the entire amount of principal plus accrued interest thereon due and payable without notice or demand.

**SECTION 4.28. ERISA.** The City and its subsidiaries, for so long as this Installment Purchase Agreement remains outstanding, will remain in compliance in all material respects with the applicable provisions of ERISA, if any, the failure to comply with which has or may have a material adverse effect on the City.

## **ARTICLE 5**

### **EVENTS OF DEFAULT AND REMEDIES**

**SECTION 5.1. Events of Default and Acceleration of Installment Purchase Agreement.** Any of the following events shall constitute an event of default:

- (a) Events of Default.

(i) If default shall be made in the due and punctual payment of the interest component of Installment Payments payable pursuant to this Installment Purchase Agreement or with respect to any Parity Obligation when and as the same shall become due and payable; or

(ii) If default shall be made in the due and punctual payment of the principal component of Installment Payments of or redemption premium, if any, on or of any sinking fund installment pursuant to this Installment Purchase Agreement or with respect to any Parity Obligation when and as the same shall become due and payable, whether at maturity as therein expressed, by declaration or otherwise;

(iii) If default shall be made by the City in the observance or performance of any of the other agreements, conditions, covenants or terms on its part contained in this Installment Purchase Agreement (other than as qualified under Section 4.9(c(iii))), and such default shall have continued for a period of thirty (30) days after the City shall have been given notice in writing of such default by the Authority, which may give notice in its discretion; provided, that such default shall not constitute an Event of Default if the City shall commence to cure such default within such thirty (30)-day period and thereafter diligently and in good faith shall proceed to cure such default within a reasonable period of time but not later than an additional thirty (30) days; or

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

(v) Any representation or warranty made or deemed to be made by or on behalf of the City in this Installment Purchase Agreement or in any certificate, financial or other statement furnished by or on behalf of the City to the Authority pursuant hereto or thereto shall prove to have been inaccurate, misleading or incomplete in any material respect when made; or

(vi) Any material provision of this Installment Purchase Agreement shall at any time for any reason cease to be the legal, valid and binding obligation of the City or shall cease to be in full force and effect, or shall be declared to be unenforceable, invalid or void, or the validity or enforceability thereof shall be contested by the City, or the City shall renounce the same or deny that it has any further liability hereunder or thereunder; or

(vii) Dissolution, termination of existence, insolvency or business failure of the City or the System; or

(viii) Any court of competent jurisdiction with jurisdiction to rule on the validity of any provision of this Installment Purchase Agreement shall find or rule that this Installment Purchase Agreement is not valid or not binding on the City; or

(ix) The City should, after any applicable grace period, breach or be in default under the terms of this Installment Purchase Agreement or any other agreement between the City and the Authority or any affiliate of the Authority (including as applicable Farm Credit Leasing Services Authority); or

(x) A judgment, decree, or order for the payment of money will have been rendered against the System which has a material adverse effect on the City and either: (1) enforcement proceedings will have been commenced; (2) a lien prohibited by this Installment Purchase Agreement will have been obtained; or (3) such judgment, decree, or order will continue unsatisfied and in effect for a period of 30 consecutive days without being vacated, discharged, satisfied, bonded, or stayed pending appeal; or

(xi) This Installment Purchase Agreement ceases to be legal, valid, binding and enforceable against the City or is in any way terminated (except in accordance with its terms) or becomes or is declared ineffective or inoperative; or

(xii) The City ~~has~~experiences a Material Adverse Change.

(b) Remedies on Default. Whenever any Event of Default shall have happened and be continuing, the Authority shall have the right, at its option upon notice to the City, to (i) apply to and obtain from any court of competent jurisdiction such decree or order as may be necessary to require officials of the City to charge and collect rates for services provided by the City and the System sufficient to meet all requirements of this Installment Purchase Agreement, and (ii) take whatever action at law or in equity as may appear necessary or desirable to collect the Installment Payments then due or thereafter to become due during the Term of this Installment Purchase Agreement, or enforce performance and observance of any obligation, agreement or covenant of the City under this Installment Purchase Agreement, subject to the following paragraph.

Notwithstanding any provision of this Installment Purchase Agreement, the City's liability to pay the Installment Payments and other amounts hereunder shall be limited solely to Pledged Revenues as provided in Article 3 hereof. In the event that Pledged Revenues shall be insufficient at any time to pay the principal and interest ~~on~~components of the Installment Payments in full, the City shall not be liable to pay or prepay such delinquent Installment Payments other than from Pledged Revenues.

In addition to the rights and remedies set forth above, upon the occurrence and during the continuance of an Event of Default, at the Assignee's option in each instance, the entire indebtedness outstanding hereunder will bear interest from the date of such Event of Default until such Event of Default will have been waived or cured in a manner satisfactory to the Authority at the Default Rate. All interest provided for herein will be payable on demand and will be calculated on the basis of a year consisting of 360 days consisting of twelve 30-day months.

**SECTION 5.2. Other Remedies of the Authority.** The Authority shall have the right:

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

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

(c) by suit in equity upon the happening of an Event of Default to require the City and its Board of Directors, officers and employees to account as the trustee of an express trust.

**SECTION 5.3. 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 Purchase 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 5 it shall not be necessary to give any notice, other than such notice as may be required, in this Article 5 or by law.

**SECTION 5.4. Agreement to Pay Attorneys' Fees and Expenses.** In the event either party to this Installment Purchase Agreement should default under any of the provisions hereof and the non-defaulting party should employ attorneys (including in-house counsel) or incur other expenses for the collection of moneys or the enforcement of 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 non-defaulting party the reasonable fees of such attorneys (including the allocable cost of in-house counsel) and such other expenses so incurred by the non-defaulting party.

**SECTION 5.5. No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this Installment Purchase 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.

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



the Authority shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

## ARTICLE 6

### PREPAYMENT OF AGREEMENT

**SECTION 6.1. Defeasance.** Notwithstanding any other provision of this Installment Purchase Agreement, the City may on any date secure the payment of Installment Payments, in whole, by irrevocably depositing with Authority an amount of cash which is either (a) sufficient to pay all such Installment Payments and any applicable prepayment premium and all other sums due hereunder, including the principal and interest components thereof, when due, or (b) invested in whole or in part in Federal Securities in such amount as will, in the opinion of an independent certified public accountant, together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient and irrevocably pledged to the Authority to pay all such Installment Payments and any applicable Prepayment Premium and all other sums due hereunder when due or when due on any optional prepayment date pursuant to Section 6.2 as the City shall instruct at the time of said deposit. In the event of a deposit pursuant to this Section for the payment of all remaining Installment Payments, all obligations of the City under this Installment Purchase Agreement, and the pledge of Pledged Revenues and all other security provided by this Installment Purchase Agreement for said obligations, shall cease and terminate, excepting only the obligation of the City to make, or cause to be made, all of Installment Payments from such deposit. Said deposit shall be deemed to be and shall constitute a special fund irrevocably pledged for the payment of such Installment Payments in accordance with the provisions of this Installment Purchase Agreement.

**SECTION 6.2. Optional Prepayment.** The Installment Payments may be prepaid, in whole but not in part, on any date by paying to the Authority the principal ~~portion~~component of the Installment Payments to be prepaid, together with the Prepayment Premium identified in Section 6.3 hereof.

**SECTION 6.3. Prepayment Premium.** The City may exercise its option to prepay the principal components of the Installment Payments in whole but not in part on any Installment Payment Date, upon 30 days' notice to the Authority and the Assignee, 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, plus the following premium:

Prepayment Date	Premium
<del>{</del> November 1 <del>}</del> , 2025 to November 1, 2027	3%
After <del>{</del> November 1 <del>}</del> , 2027 to November 1, 2029	2%
After <del>{</del> November 1 <del>}</del> , 2029	1%

to November 1, 2031

After November 1, 2031

0%

Notwithstanding the above, the City shall have a one-time option to prepay or satisfy up to no more than 10% in the aggregate of the amount of Installment Payments due hereunder from the proceeds of Pledged Revenues or from any other funds of the City that are legally available therefor, upon thirty (30) days' written notice to the Authority and the Assignee, at a prepayment price equal to 100% of such Installment Payments, plus interest accrued to the date of prepayment at the Interest Rate. If the City exercises such option to prepay, the Assignee shall provide an updated Schedule of Installment Payments to replace Exhibit B hereto.

**SECTION 6.4. Mandatory Prepayment ~~From~~from Net Proceeds of Insurance or Eminent Domain.** The City shall prepay the unpaid principal components of the Installment Payments in whole on any date or in part, on any Installment Payment Date, from and to the extent the City determines to apply any Net Proceeds of insurance award or condemnation award with respect to the Enterprise for such purpose pursuant to Sections 4.8 at a price equal to the principal components of the Installment Payments to be prepaid. The City and the Authority hereby agree that such proceeds, to the extent remaining after payment of any delinquent Installment Payments, shall be credited towards the City's obligations under this Section 6.3

**SECTION 6.5. Effect of Prepayment.** In the event that the City prepays the Installment Payments and all other sums due to the Authority hereunder in full pursuant to Article 6, the City's obligations under this Installment Purchase Agreement shall thereupon cease and terminate, including but not limited to the City's obligation to pay Installment Payments under this Installment Purchase Agreement; subject however, to the provisions of Section 6.1 in the case of prepayment by application of a defeasance deposit.

## ARTICLE 7 MISCELLANEOUS

**SECTION 7.1. Notices.** All written notices to be given under this Installment Purchase Agreement shall be given by ~~first-class~~first-class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopier or other form of telecommunication or electronic mail, at its number set forth below. Notice shall be effective either (a) upon transmission by ~~telecopier~~email or other form of telecommunication, (b) 48 hours after deposit in the United States of America ~~first-class~~first-class mail, postage prepaid, or (c) in the case of personal delivery, to any person or electronic mail, upon actual receipt. The Authority and the City may, by written notice to the other party, from time to time modify the address or number to which communications are to be given hereunder.

If to the Authority, as follows:

Fort Bragg Joint Powers ~~Public~~ Financing  
Authority  
c/o City of Fort Bragg  
416 N. Franklin Street

If to the City, as follows:

City of Fort Bragg  
416 N. Franklin Street  
Fort Bragg, CA 95437  
Attn: City Manager

Fort Bragg, CA 95437  
Attn: Executive Director  
[Email:](#)

[Email:](#)

If to the Assignee, as follows:

EverBank, N.A.  
301 West Bay Street, 8th Floor  
Jacksonville, FL 32202  
Attention: Director of Public Finance  
[Email:](#)

**SECTION 7.2. Assignment by the Authority.** The Authority's rights under this Installment Purchase Agreement, including the right to receive and enforce payment of the Installment Payments to be made by the City under this Installment Purchase Agreement may be assigned by the Authority to a Qualified Institutional Buyer upon delivery to the City of a Letter in substantially ~~familiar~~[similar](#) form as ~~set forth in Exhibit C.~~ Upon any assignment the Authority shall provide the City a written notice of such assignment naming the assignee. The City acknowledges and agrees that the Authority has entered into the Assignment Agreement with Assignee concurrently with this Installment Purchase Agreement pursuant to which the Authority has assigned its rights and obligations under this Installment Purchase Agreement to the Assignee.

The Authority or any assignee has the right to make additional assignments of its rights and obligations under this Installment Purchase Agreement, but the City shall not be required to pay more than a single payee, regardless of the number of assignees, and no such assignment will be effective as against the City unless and until the City consents to such assignment. The City shall pay all Installment Payments hereunder under the written direction of the Authority or the assignee named in the most recent assignment or notice of assignment filed with the City. During the Term of this Installment Purchase Agreement, the City shall keep a complete and accurate record of all such notices of assignment.

**SECTION 7.3. Assignment by the City.** This Installment Purchase Agreement may not be assigned by the City, other than to a public agency which shall succeed to the interests of the City in and to the System and which (by operation of law, by contract or otherwise) becomes legally bound to all of the terms and provisions hereof. The prior written consent of the Authority shall be required in the case of any such assignment. In connection with any such assignment by the City, the City shall provide the Authority with an opinion of bond counsel that the assignee is legally obligated to pay all Installment Payments and other sums hereunder and to satisfy all of the obligations of the City under this Installment Purchase Agreement and the other Financing Documents, and that such assignment shall not adversely affect the exclusion of interest payable pursuant to this Installment Purchase Agreement from gross income for federal income tax purposes and the exemption of such interest for State of California income tax purposes.

**SECTION 7.4. Amendment of this Installment Purchase Agreement.** This Installment Purchase Agreement may be amended only in writing by the City and the Authority, [with the prior written consent of the Assignee.](#)

**SECTION 7.5. Binding Effect.** This Installment Purchase Agreement shall inure to the benefit of and shall be binding upon the Authority and the City and their respective successors and assigns.

**SECTION 7.6. Severability.** In the event any provision of this Installment Purchase Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**SECTION 7.7. Net-Net-Net Parity Obligation.** This Installment Purchase Agreement shall be deemed and construed to be a “net-net-net” contract, and the City hereby agrees that the Installment Payments shall be an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever.

**SECTION 7.8. Further Assurances and Corrective Instruments.** The Authority and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Installment Purchase Agreement.

**SECTION 7.9. Execution in Counterparts.** This Installment Purchase Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 7.10. Applicable Law and Venue.** This Installment Purchase Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the County of Mendocino.

**SECTION 7.11. Captions.** The captions or headings in this Installment Purchase Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Installment Purchase Agreement.

**SECTION 7.12. USA Patriot Act Notice.** The Authority hereby notifies the City that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify, and record information that identifies the City in accordance with the USA Patriot Act. The City covenants and agrees it will not, and agrees to cause each of its subsidiaries not to, at any time, directly or indirectly be (a) a person with whom the Authority is restricted from doing business under any Anti-Terrorism Law, (b) engaged in any business involved in making or receiving any contribution of funds, goods or services to or for the benefit of such a person or in any transaction that evades or avoids, or has the purpose of evading or avoiding, the prohibitions set forth in any Anti-Terrorism Law, or (c) otherwise in violation of any Anti-Terrorism Law (the City will and will cause each of its subsidiaries to provide to the Authority any certifications or information that the Authority requests to confirm compliance by the City and its subsidiaries with any Anti-Terrorism Law). “Anti-Terrorism Law” means any law relating to terrorism or money laundering, including Executive Order No. 13224, the USA Patriot Act, the laws comprising or implementing the Authority Secrecy Act, and the Laws administered by the United States Treasury Department’s Office of Foreign Asset Control, as any of the foregoing laws may from time to time be amended, renewed, extended, or replaced.

**SECTION 7.13. Costs and Expenses.** To the extent allowed by law, the City agrees to pay all reasonable out-of-pocket costs and expenses (including the fees and expenses of counsel retained or employed by the Authority) incurred by the Authority and any participants of the Authority in connection with the origination, administration, collection and enforcement of this Installment Purchase Agreement, including, without limitation, all costs and expenses incurred in obtaining, perfecting, maintaining, determining the priority of, and releasing any security for the City's obligations to the Authority, and any stamp, intangible, transfer or like tax incurred in connection with this Installment Purchase Agreement or the recording hereof or thereof.

**SECTION 7.14. Indemnification.** To the extent allowed by law, the City indemnifies the Authority, its affiliates and its and their respective officers, directors, employees, agents and advisors (each an "Indemnitee") against, and holds each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including fees and expenses of employed or retained counsel) incurred by any Indemnitee or asserted against any Indemnitee by any third party arising out of or as a result of (a) the execution or delivery of any Financing Document, (b) the acquisition, construction, ownership, operation and all other matters relating to, the acquisition, construction, ownership, operation and all other matters relating to the Project and the System or the grant of agency made by the Authority under Section 3.1 hereunder, the performance or nonperformance by the City of its obligations under any Financing Document or the consummation of the transactions contemplated thereby, including the use of the proceeds therefrom, (c) breach of representations, warranties or covenants of the City under this Installment Purchase Agreement, or (d) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, including any such items or losses relating to or arising under Environmental Laws or pertaining to environmental matters, regardless whether any Indemnitee is a party thereto; provided that such indemnity will not, as to an Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the active negligence or willful misconduct of such Indemnitee.

**SECTION 7.15. Waiver of Jury Trial.** (a) To the extent allowed by law, the City and the Authority each hereby irrevocably waives any right it may have to a trial by jury in connection with any action directly or indirectly arising out of or relating to this Installment Purchase Agreement. Each party hereto (1) certifies that no representative, administrative agent or attorney of any other person has represented, expressly or otherwise, that such other person would not, in the event of litigation, seek to enforce the foregoing waiver and (2) acknowledges that it and the other parties hereto have been induced to enter into this Installment Purchase Agreement by, among other things, the mutual waivers and certifications in this section.

(b) THE AUTHORITY AND THE ASSIGNEE (BY ~~THEIR~~ITS ACCEPTANCE HEREOF) HEREBY, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) BETWEEN THE AUTHORITY AND THE ASSIGNEE ARISING OUT OF OR IN ANY WAY RELATED TO THIS INSTALLMENT PURCHASE AGREEMENT, THE NOTE AND THE OTHER RELATED DOCUMENTS. THIS PROVISION IS A MATERIAL INDUCEMENT TO THE ASSIGNEE TO PROVIDE THE FINANCING EVIDENCED BY THIS INSTALLMENT

PURCHASE AGREEMENT. IF AND TO THE EXTENT THAT THE FOREGOING WAIVER OF THE RIGHT TO A JURY TRIAL IS UNENFORCEABLE FOR ANY REASON IN SUCH FORUM, THE AUTHORITY AND THE ASSIGNEE HEREBY CONSENT TO THE ADJUDICATION OF ANY AND ALL CLAIMS PURSUANT TO JUDICIAL REFERENCE AS PROVIDED IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638, AND THE JUDICIAL REFEREE, WHO SHALL BE A BENCH OFFICER OR RETIRED BENCH OFFICER, SHALL BE EMPOWERED TO HEAR AND DETERMINE ANY AND ALL ISSUES IN SUCH REFERENCE WHETHER FACT OR LAW. THE AUTHORITY AND THE ASSIGNEE REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND CONSENT AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS AND CONSENTS TO JUDICIAL REFERENCE FOLLOWING THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL OF ITS CHOICE ON SUCH MATTERS. IN THE EVENT OF LITIGATION, A COPY OF THIS INSTALLMENT PURCHASE AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT OR TO JUDICIAL REFERENCE UNDER CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638 AS PROVIDED HEREIN.

(c) THE AUTHORITY WAIVES, TO THE EXTENT NOT PROHIBITED BY LAW, ANY RIGHT THE UNDERSIGNED MAY HAVE TO CLAIM OR RECOVER FROM THE ASSIGNEE IN ANY LEGAL ACTION OR PROCEEDING ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES.

(d) THE ASSIGNEE HEREBY RECOGNIZES THAT THE PROCEDURAL REQUIREMENTS AND REMEDIES APPLICABLE TO COMMENCING AN ACTION AGAINST THE AUTHORITY DIFFER FROM REQUIREMENTS APPLICABLE TO NONGOVERNMENTAL ENTITIES.

*(Signature page follows)*

IN WITNESS WHEREOF, the Authority has caused this Installment Purchase Agreement to be executed in its corporate name by its duly authorized officer, and the City has caused this Installment Purchase Agreement to be executed in its name by its duly authorized officer, as of the date first above written.

CITY OF FORT BRAGG JOINT POWERS  
PUBLIC FINANCING AUTHORITY

By: \_\_\_\_\_  
[Isaac Whippy], Executive Director

ATTEST:

By: \_\_\_\_\_  
[Diana Paoli], Secretary

CITY OF FORT BRAGG

By: \_\_\_\_\_  
Isaac Whippy, City Manager

ATTEST:

By: \_\_\_\_\_  
Diana Paoli, City Clerk

*-Signature Page-  
Installment Purchase Agreement*

## EXHIBIT A

### DESCRIPTION OF THE PROJECT

¶ Acquisition, if applicable, design and construction of improvements to the City's Broadband system including but not limited to expansion of the existing ¶ Mendocino Community Network, known as MCN ¶ that the City is acquiring with non-Acquisition Costs proceeds from the Mendocino Unified School City. ~~¶ UNDER REVIEW ¶~~



## EXHIBIT B

### SCHEDULE OF INSTALLMENT PAYMENTS

<u>Payment Date</u>	<u>Principal Component</u>	<u>Interest Rate*</u>	<u>Interest Component</u>	<u>Total Installment Payment</u>
11/01/2025	-	4.850%	\$177,284.79**	\$177,284.79
05/01/2026	-	4.850%	191,085.40**	191,085.40
11/01/2026	-	4.850%	191,085.40**	191,085.40
05/01/2027	-	4.850%	191,085.40**	191,085.40
11/01/2027	-	4.850%	191,085.40	191,085.40
	\$145,513.72	4.850%	191,085.40	336,599.12
05/01/2028				
11/01/2028	149,042.42	4.850%	187,556.69	336,599.11
05/01/2029	152,656.70	4.850%	183,942.42	336,599.12
11/01/2029	156,358.63	4.850%	180,240.49	336,599.12
05/01/2030	160,150.32	4.850%	176,448.79	336,599.11
	164,033.97	4.850%	172,565.15	336,599.12
11/01/2030				
05/01/2031	168,011.79	4.850%	168,587.33	336,599.12
11/01/2031	172,086.08	4.850%	164,513.04	336,599.12
05/01/2032	176,259.17	4.850%	160,339.95	336,599.12
11/01/2032	180,533.45	4.850%	156,065.67	336,599.12
	184,911.39	4.850%	151,687.73	336,599.12
05/01/2033				
11/01/2033	189,395.49	4.850%	147,203.63	336,599.12
05/01/2034	193,988.33	4.850%	142,610.79	336,599.12
11/01/2034	198,692.55	4.850%	137,906.57	336,599.12
05/01/2035	203,510.84	4.850%	133,088.28	336,599.12
	208,445.98	4.850%	128,153.14	336,599.12
11/01/2035				
05/01/2036	213,500.79	4.850%	123,098.32	336,599.11
11/01/2036	218,678.19	4.850%	117,920.93	336,599.12
05/01/2037	223,981.13	4.850%	112,617.98	336,599.11
	229,412.68	4.850%	107,186.44	336,599.12
11/01/2037				
05/01/2038	234,975.93	4.850%	101,623.18	336,599.11
11/01/2038	240,674.10	4.850%	95,925.02	336,599.12
05/01/2039	246,510.45	4.850%	90,088.67	336,599.12

<u>11/01/2039</u>	<u>252,488.33</u>	<u>4.850%</u>	<u>84,110.79</u>	<u>336,599.12</u>
<u>05/01/2040</u>	<u>258,611.17</u>	<u>4.850%</u>	<u>77,987.95</u>	<u>336,599.12</u>
<u>11/01/2040</u>	<u>264,882.49</u>	<u>4.850%</u>	<u>71,716.63</u>	<u>336,599.12</u>
<u>05/01/2041</u>	<u>271,305.89</u>	<u>4.850%</u>	<u>65,293.23</u>	<u>336,599.12</u>
<u>11/01/2041</u>	<u>277,885.06</u>	<u>4.850%</u>	<u>58,714.06</u>	<u>336,599.12</u>
<u>05/01/2042</u>	<u>284,623.77</u>	<u>4.850%</u>	<u>51,975.35</u>	<u>336,599.12</u>
<u>11/01/2042</u>	<u>291,525.90</u>	<u>4.850%</u>	<u>45,073.22</u>	<u>336,599.12</u>
<u>05/01/2043</u>	<u>298,595.40</u>	<u>4.850%</u>	<u>38,003.72</u>	<u>336,599.12</u>
<u>11/01/2043</u>	<u>305,836.34</u>	<u>4.850%</u>	<u>30,762.78</u>	<u>336,599.12</u>
<u>05/01/2044</u>	<u>313,252.87</u>	<u>4.850%</u>	<u>23,346.25</u>	<u>336,599.12</u>
<u>11/01/2044</u>	<u>320,849.25</u>	<u>4.850%</u>	<u>15,749.87</u>	<u>336,599.12</u>
<u>05/01/2045</u>	<u>328,629.84</u>	<u>4.850%</u>	<u>7,969.27</u>	<u>336,599.11</u>
<b>Total</b>	<b>\$7,879,810.41</b>		<b>\$4,842,785.12</b>	<b>\$12,722,595.53</b>

\*Assumes no Event of Default or Event of Taxability has occurred and is continuing.  
~~[TO COME WITH NOTATION THAT ASSUMED INTEREST RATE DOESN'T INCLUDE EVENTS OF DEFAULT OF EVENTS OF TAXABILITY]\*\*~~ To be paid from the Capitalized Interest Fund held by the Assignee pursuant to the Capitalized Interest Fund Administration Agreement dated as of May 14, 2025, among the City, EverBank, N.A. and the Assignee.

## EXHIBIT C

### FORM OF ASSIGNEE LETTER

#### **CITY OF FORT BRAGG INSTALLMENT PURCHASE AGREEMENT (the “Obligation”)**

In connection with that certain Installment Purchase Agreement dated as of May 1, 2025 (the “Obligation”) entered into by the City of Fort Bragg (the “City”) and the City of Fort Bragg Joint Powers ~~Public~~ Financing Authority (the “Authority”), \_\_\_\_\_, as assignee of the Authority (the “Assignee”), the Assignee hereby states:

1. The Assignee has knowledge and experience in financial and business matters relating to the Obligation and is capable of evaluating the merits and risks of the Obligation and is able to bear the economic risks thereof.

2. The Assignee has made such investigation of the financial information provided by the City as the Assignee, in the exercise of its business judgment, considers appropriate under the circumstances. In making its decision to acquire the Obligation, the Assignee has relied on the accuracy and completeness of information provided by the City. The Assignee has not required the City to deliver any offering document in connection with the issuance of the Obligation.

3. The Assignee is aware that the Obligation involves various risks, that the Obligation is not a general obligation of the City, and that payment of the Obligation is secured only from the sources described in the resolution or ordinance of the City authorizing the Obligation (the “Authorizing Measure”) and the Installment Purchase Agreement and related Financing documents identified therein.

4. Neither the Assignee nor any of its affiliates is acting as a fiduciary for the City or in the capacity of broker, dealer, underwriter, or municipal advisor with respect to the Obligation. Neither the Assignee nor any of its affiliates has provided or will provide any financial, legal, tax, accounting or other advice to the City with respect to the Obligation; it being understood that the City has sought and obtained and will obtain such advice (including as it relates to structure, timing, terms, and similar matters) with respect to the Obligation from its own advisors (and not the Assignee or any of its affiliates) to the extent that the City desired or desires to obtain such advice.

5. The Assignee acknowledges that the Obligation is not being qualified under the Trust Indenture Act of 1939, as amended, and the Obligation is not being registered in reliance upon the exemption from registration under Section 3(a)(2) of the Securities Act of 1933, as amended, and that neither the City nor bond counsel shall have any obligation to effect any such registration or qualification.

6. The Assignee is not acting as a broker or other intermediary and is making the Financing and acquiring the Obligation for its own account and not with a present view to a resale or other distribution to the public. The Assignee understands that the Obligation may not be transferred except in compliance with applicable federal and state laws.

7. The Assignee is an (a) “accredited investor” within the meaning of the Securities Act of 1933, as amended, and Regulation D thereunder, or (b) a qualified institutional buyer.

DATED as of \_\_\_\_\_, 20\_\_

[\_\_\_\_\_]

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

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

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

## EXHIBIT D

### FORM OF COMPLIANCE CERTIFICATE

#### CERTIFICATE OF COMPLIANCE

IT IS HEREBY CERTIFIED by the undersigned, the \_\_\_\_\_ of the City of Fort Bragg (the "City") on \_\_\_\_\_, 202\_\_ that:

1. To the best of my knowledge, the City is not in default under any documents related to the Installment Purchase Agreement dated as of May 1, 2025 (as amended and supplemented, the "Agreement"; capitalized terms used but not defined herein shall have the meaning set forth in the Agreement), by and between the City and the City of Fort Bragg Joint Powers ~~Public~~ Financing Authority.
2. The City confirms that during the prior Fiscal Year that it has fixed and prescribed rates and charges for the System in compliance with Section 4.9 of the Agreement.
- [3. ~~From and after the Net Revenue Conversion Date, as required by Section 4.9(b) of the Agreement, the~~The following is a calculation of Debt Service Coverage Ratio on all Installment Payments and Parity Obligations outstanding during the prior Fiscal Year:

\_\_\_\_\_ coverage] ~~NET~~PLEDGED REVENUES/TOTAL DEBT SERVICE =

CITY OF FORT BRAGG

By:

Name:

Title:

<b>Summary report:</b> <b>Litera Compare for Word 11.10.0.38 Document comparison done on</b> <b>5/9/2025 9:01:01 AM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original filename:</b> Fort Bragg 2025 Installment Purchase Agreement v5_1.docx	
<b>Modified filename:</b> Fort Bragg 2025 Installment Purchase Agreement v8_2.docx	
<b>Changes:</b>	
<u>Add</u>	160
<del>Delete</del>	177
<del>Move From</del>	0
<u>Move To</u>	0
<u>Table Insert</u>	2
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	339