

TRUST AGREEMENT

Dated as of July 12, 2018

by and among

**the
FINANCE DIRECTOR OF THE CITY OF FORT BRAGG,
as Trust Administrator**

**the
CITY OF FORT BRAGG JOINT POWERS FINANCING AUTHORITY,**

**and the
CITY OF FORT BRAGG**

**\$5,000,000
Certificates of Participation
(2018 Wastewater System Improvement Project)**

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TRUST AGREEMENT

This TRUST AGREEMENT, made and entered into as of July 12, 2018, by and among the FINANCE DIRECTOR OF THE CITY OF FORT BRAGG, as trust administrator (the "Trust Administrator"), the CITY OF FORT BRAGG JOINT POWERS FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California (the "Authority"), as seller under the Installment Sale Agreement hereinafter defined, and the CITY OF FORT BRAGG, a municipal corporation and general law city organized and existing under the laws of the State of California (the "City");

W I T N E S S E T H

WHEREAS, the City and the Authority have entered into an installment sale agreement (the "Installment Sale Agreement"), dated as of the date hereof, whereby the Authority has agreed to sell certain improvements to the City's wastewater system (the "Project") to the City and the City has agreed to purchase the Project from the Authority; and

WHEREAS, for the purpose of obtaining the moneys required to be deposited by it with the Trust Administrator for financing the construction of the Project, the Authority proposes to assign and transfer certain of its rights under the Installment Sale Agreement to the Trust Administrator and, in consideration of such assignment and the execution of this Trust Agreement, the Trust Administrator has agreed to execute and deliver a series of certificates of participation, evidencing direct, undivided fractional interests in the Installment Payments and Prepayments (each as hereinafter defined) to be made by the City, to provide the moneys required herein to be deposited by the Authority;

WHEREAS, the Installment Payments shall be secured by the Net Revenues of the Enterprise (each as hereinafter defined) on a parity with the installment payments payable under the Installment Purchase Agreement, by and between the City of Fort Bragg and Association of Bay Area Governments, dated as of May 1, 1998 (the "1998 Agreement"); and

WHEREAS, the original purchaser and owner of the Certificates shall be the Government;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS; AUTHORIZATION; EXHIBITS

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in Exhibit A attached hereto shall, for all purposes of this Trust Agreement, have the meanings therein specified.

Section 1.02. Authorization. Each of the parties hereby represents and warrants that it has full legal authority and is duly empowered to enter into this Trust Agreement, and has taken all actions necessary to authorize the execution of this Trust Agreement by the officers and persons signing it.

Section 1.03. Content of Written Certificates.

(a) Contents. Every certificate provided for in this Trust Agreement with respect to compliance with any provision hereof, except the certificate of destruction pursuant to Section 14.07, shall include (a) a statement that the person making or giving such certificate or opinion has read such provision and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the certificate is based; (c) a statement that, in the opinion of such person, he has made or caused to be made such examination or investigation as is necessary to enable him to express an informed opinion with respect to the subject matter referred to in the instrument to which his signature is affixed; (d) a statement of the assumptions upon which such certificate is based, and that such assumptions are reasonable; and (e) a statement as to whether, in the opinion of such person, such provision has been complied with.

(b) Reliance. Any such certificate made or given by a City Representative may be based, insofar as it relates to legal or accounting matters, upon a certificate or opinion of or representation by counsel or an accountant, unless such City Representative knows, or in the exercise of reasonable care should have known, that the certificate, opinion or representation with respect to the matters upon which such certificate or statement may be based, as aforesaid, is erroneous. Any such certificate or opinion made or given by counsel or an accountant may be based, insofar as it relates to factual matters (with respect to which information is in the possession of the City, as the case may be) upon a certificate or opinion of or representation by a City Representative, unless such counsel or accountant knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation with respect to the matters upon which such person's certificate or opinion or representation may be based, as aforesaid, is erroneous. The same City Representative, or the same counsel or accountant, as the case may be, need not certify to all of the matters required to be certified under any provision of this Trust Agreement, but different officers, counsel or accountants may certify to different matters, respectively.

Section 1.04. Exhibits. The following Exhibits are attached to, and by this reference are made a part of, this Trust Agreement:

Exhibit A:	Definitions
Exhibit B:	Form of Certificates of Participation

ARTICLE II THE CERTIFICATE OF PARTICIPATION

Section 2.01. Authorization. The Trust Administrator is hereby authorized and directed upon written request from the Authority to execute and deliver, to the Original Purchaser, the Certificates in the principal amounts evidencing undivided fractional interests in the Installment Payments and the prepayments. The aggregate principal amount of the Certificates shall not in any case exceed the aggregate payments by the Original Purchaser therefor, as such payments and the dates thereof are endorsed on the fully registered Certificates. No provision is made for the Certificates to be executed and delivered in blocks or phases as the Original Purchaser's regulations for single delivery have been satisfactorily met.

Section 2.02. Date. Each Certificate shall be dated as of the date of delivery thereof.

Section 2.03. Maturity; Interest Rates. The Certificates shall mature on October 1 in the years and be payable in sinking fund principal amounts, and interest with respect thereto shall be computed at the Interest Rate of per annum as shown below:

Maturity Date (October 1)	Total Principal	Interest Rate
2019	\$86,000.00	2.000%
2020	87,000.00	2.000
2021	89,000.00	2.000
2022	91,000.00	2.000
2023	93,000.00	2.000
2024	95,000.00	2.000
2025	97,000.00	2.000
2026	99,000.00	2.000
2027	101,000.00	2.000
2028	103,000.00	2.000
2029	105,000.00	2.000
2030	107,000.00	2.000
2031	109,000.00	2.000
2032	111,000.00	2.000
2033	113,000.00	2.000
2034	115,000.00	2.000
2035	118,000.00	2.000
2036	120,000.00	2.000
2037	123,000.00	2.000
2038	125,000.00	2.000
2039	128,000.00	2.000
2040	130,000.00	2.000
2041	133,000.00	2.000
2042	135,000.00	2.000
2043	138,000.00	2.000

Maturity Date (October 1)	Total Principal	Interest Rate
2044	141,000.00	2.000
2045	144,000.00	2.000
2046	146,000.00	2.000
2047	149,000.00	2.000
2048	152,000.00	2.000
2049	155,000.00	2.000
2050	159,000.00	2.000
2051	162,000.00	2.000
2052	165,000.00	2.000
2053	168,000.00	2.000
2054	172,000.00	2.000
2055	175,000.00	2.000
2056	179,000.00	2.000
2057	182,000.00	2.000
	<hr/> \$5,000,000.00	

Section 2.04. Interest. Interest on the Certificates shall be payable semiannually on each Interest Payment Date to and including the date of final principal payment (or provision therefor under Section 14.01 hereof) or prepayment, whichever is earlier, determined on the Original Purchaser's aggregate payments for the single Certificates from the respective date(s) thereof, as such payments and dates thereof are endorsed on the single Certificates. Such interest shall represent the portion of Installment Payments designated as interest and coming due during the six-month period preceding each Interest Payment Date. The portion of Installment Payments designated as interest with respect to any Certificate shall be computed by multiplying the portion of Installment Payments designated as principal with respect to such Certificate by the rate of interest applicable to such Certificate. Interest shall be calculated on the basis of a year of 365 days and actual days elapsed. Each semiannual payment of interest shall be in the amount of one-half of the annual amount of interest due. Unless otherwise requested by the registered owner, principal installments and interest hereon are payable by the Pre-Authorized Debit (PAD) payment process.

Interest on any Certificate shall be payable from the Interest Payment Date next preceding the date of execution thereof, unless

(i) such Certificate is executed on an Interest Payment Date, in which event interest shall be payable from such Interest Payment Date, or

(ii) such Certificate is executed after the close of business on the 15th day of the month immediately preceding the following Interest Payment Date and prior to such Interest Payment Date, in which event interest shall be payable from such Interest Payment Date, or

(iii) such Certificate is executed on or before September 15, 2018, in which event interest shall be payable from the date of delivery thereof;

provided, however, that if at the time of execution of any Certificate, interest with respect thereto is in default, interest with respect thereto shall be payable from the Interest Payment Date to which interest has previously been paid or made available for payment.

Payment of interest with respect to any Certificate shall be made to the person appearing on the registration books of the Trust Administrator as the Owner thereof as of the 15th day of the month preceding such Interest Payment Date, such interest to be paid by wire transfer (in the electronic funds transfer manner specified by the Government if the Government is the Owner) or by check mailed by first class mail to the Owner at the Owner's address as it appears on such registration books.

So long as the Government is the Owner of the Certificates, the Trust Administrator shall make all payments with respect to the Certificates through the Preauthorized Debit (PAD) System, or any other electronic funds transfer system that may be specified by the Government from time to time.

Section 2.05. Form of Certificate; Legends. The Certificates shall be delivered in the form of fully registered Certificates, without coupons, in the Denomination Amount or any integral multiple thereof, except that one Certificate may contain any odd amount, and no Certificate may have principal maturing in more than one year. The Certificates shall be numbered in such manner as the Trust Administrator deems appropriate. At the option of the Original Purchaser of the Certificate, a single, fully-registered Certificate may be executed and delivered, in lieu of serial, registered Certificates, which single Certificate shall mature in installments of the same principal amounts and on the same dates as the registered Certificate it represents. The single Certificate shall be substantially in the form set forth in Exhibit B attached hereto and by this reference incorporated herein. The Certificates may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Trust Agreement as may be necessary or desirable to comply with custom, or otherwise.

Section 2.06. Execution. The Certificate shall be executed by and in the name of the Trust Administrator, at the written direction of the Authority, by the manual signature of an authorized signatory of the Trust Administrator.

Section 2.07. Transfer and Exchange. The following shall apply to transfers and exchanges of Certificates, provided that no transfer or exchange of Certificates shall be required to be made during the 15 days prior to the date of selection of Certificates for prepayment, or of any Certificate selected for prepayment:

(a) Transfer of Certificate. Any Certificate may, in accordance with its terms, be transferred upon the books required to be kept pursuant to the provisions of Section 2.11 hereof by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Certificate for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trust Administrator, duly executed. Whenever any Certificate shall be surrendered for transfer, the Trust Administrator shall deliver a new Certificate or Certificates of the same maturity, interest rate and aggregate principal amount in authorized denominations to the transferee thereof. The Trust Administrator may require the payment by the Certificate Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

(b) Exchange of Certificate. Certificates may be exchanged at the Principal Trust Office, for a like aggregate principal amount of Certificates of other authorized denominations of the same maturity. The Trust Administrator may require the payment

by the Certificate Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

Section 2.08. Certificate Mutilated, Lost, Destroyed or Stolen. If any Certificate becomes mutilated, the Trust Administrator, at the expense of the Owner of said Certificate, shall execute and deliver a new Certificate of like maturity and principal amount in authorized denominations in exchange and substitution for the Certificate so mutilated, but only upon surrender to the Trust Administrator of the Certificate so mutilated. Every mutilated Certificate so surrendered to the Trust Administrator shall be canceled by it and destroyed in accordance with Section 14.07 hereof, and the Trust Administrator shall deliver a certificate of destruction to the City.

If any Certificate becomes lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trust Administrator and, if such evidence is satisfactory to the Trust Administrator and if an indemnity satisfactory to the Trust Administrator and the Authority shall be given, the Trust Administrator, at the expense of the Certificate Owner, shall execute and deliver a new Certificate of like tenor and maturity and numbered as the Trust Administrator shall determine in lieu of and in substitution for the Certificate so lost, destroyed or stolen.

The Trust Administrator may require payment of an appropriate fee for each new Certificate delivered under this Section and of the expenses which may be incurred by the Trust Administrator in carrying out the duties under this Section.

Any Certificate delivered under the provisions of this Section in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits of this Trust Agreement with all other Certificate secured by this Trust Agreement. The Trust Administrator shall not be required to treat both the original Certificate and any substitute Certificate as being Outstanding for the purpose of determining the principal amount of Certificate which may be executed and delivered hereunder or for the purpose of determining any percentage of Certificate Outstanding hereunder; the Trust Administrator shall consider only the substitute Certificate as Outstanding for such purpose. Notwithstanding any other provision of this Section, in lieu of delivering a new Certificate which has been mutilated, lost, destroyed or stolen, and which has matured, the Trust Administrator may make payment with respect to such Certificate upon receipt of indemnity satisfactory to the Trust Administrator.

Section 2.09. Payment. Except as otherwise provided herein, payment of interest due with respect to any Certificate on any Interest Payment Date shall be made to the person appearing on the Registration Books as the Owner thereof as of the Regular Record Date immediately preceding such Interest Payment Date, such interest to be paid by check mailed on the Interest Payment Date by first class mail to such Owner at his address as it appears on the Registration Books as of such Regular Record Date. The principal and prepayment price with respect to the Certificate at maturity or upon prior prepayment shall be payable by check denominated in lawful money of the United States of America upon surrender of the Certificate at the Principal Trust Office. If the Government is the Owner of the single, fully-registered Certificate, surrender shall not be required for payment, except for final payment.

Section 2.10. Execution of Documents and Proof of Ownership. Any request, direction, consent, revocation of consent, or other instrument in writing required or permitted by this Trust Agreement to be signed or executed by Certificate Owners may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such Owners in person or by their attorneys or agents appointed by an instrument in writing for that purpose, or

by any bank, trust company or other depository for such Certificate. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the holding and ownership of Certificate shall be sufficient for any purpose of this Trust Agreement (except as otherwise herein provided), if made in the following manner:

(a) The fact and date of the execution by any Owner or such Owner's attorney or agent of any such instrument and of any instrument appointing any such attorney or agent, may be proved by a certificate, which need not be acknowledged or verified, of an officer of any bank or trust company located within the United States of America, or of any notary public, or other officer authorized to take acknowledgments of deeds to be recorded in such jurisdictions, that the persons signing such instruments acknowledged before such notary or officer the execution thereof. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such certificate shall also constitute sufficient proof of the authority of such officer or member.

(b) The fact of the holding of Certificate by any Owner and the amount, the maturity and the numbers of such Certificate and the date of his holding the same may be proved by reference to the Certificate Register maintained by the Trust Administrator provided for in Section 2.11 hereof. The Trust Administrator may conclusively assume that such ownership continues until transfer as provided in Section 2.07(a) hereof.

(c) Nothing contained in this Article II shall be construed as limiting the Trust Administrator to such proof, it being intended that the Trust Administrator may accept any other evidence of the matters herein stated which the Trust Administrator may deem sufficient. Any request or consent of the Owner of any Certificate shall bind every future Owner of the same Certificate in respect of anything done or suffered to be done by the Trust Administrator in pursuance of such request or consent.

Section 2.11. Certificate Register. The Trust Administrator will keep or cause to be kept, at the Principal Trust Office, sufficient books for the registration and transfer of the Certificates which shall be open at all reasonable times with reasonable prior notice during normal business hours of the Trust Administrator to inspection by the City and the Authority; and, upon presentation for such purpose, the Trust Administrator shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, Certificates as hereinbefore provided.

Section 2.12. CUSIP Numbers. The Trust Administrator, the City and the Authority shall not be liable for any defect or inaccuracy in any CUSIP number that appears on any Certificate or in any prepayment notice. The Trust Administrator may, in its discretion, include in any prepayment notice a statement to the effect that any CUSIP numbers on the Certificates have been assigned by an independent service and are included in such notice solely for the convenience of the Owners and that neither the Trust Administrator, the City nor the Authority shall be liable for any inaccuracies in such numbers.

CUSIP numbers shall not be required if the Government is the Original Purchaser of a single, fully registered Certificate.

ARTICLE III

CONSTRUCTION FUND

Section 3.01. Construction Fund. The Trust Administrator shall establish the Construction Fund; shall keep the Construction Fund separate and apart from all other funds, accounts and moneys held by the Trust Administrator; and shall administer the Construction Fund as provided herein.

There shall be deposited in the Construction Fund all of the proceeds of sale of the Certificates (\$5,000,000), and any other funds from time to time deposited with the Trust Administrator for deposit in the Construction Fund, in each case in the installments as and when disbursed by the Original Purchaser.

Section 3.02. Payment of Construction Costs.

(a) Amounts in the Construction Fund shall be disbursed for Construction Costs.

(b) The Trust Administrator shall disburse moneys in the Construction Fund to pay Construction Costs only upon receipt of a sequentially numbered requisition, the form of which is attached as Exhibit C, with bills, invoices or statements attached, signed by a City Representative (and, if required, by the Government as the Certificate Owner).

(c) The Trust Administrator shall be responsible for the safekeeping and investment (in accordance with Section 8.02 hereof) of the moneys held in the Construction Fund for the payment of Construction Costs in accordance with this Section, but the Trust Administrator shall not be responsible for such requisitions.

Section 3.03. Payment of Delivery Costs.

(a) Amounts in the Construction Fund shall also be disbursed by the Trust Administrator to pay the Delivery Costs.

(b) The Trust Administrator shall disburse moneys in the Construction Fund to pay the Delivery Costs only upon a receipt of a sequentially numbered requisition, the form of which is attached as Exhibit C, with bills, invoices or statements attached, signed by a City Representative (and, if required, by the Government as the Certificate Owner).

(c) The Trust Administrator shall be responsible for the safekeeping and investment (in accordance with Section 8.02 hereof) of the moneys held in the Construction Fund for the payment of Delivery Costs in accordance with this Section, but the Trust Administrator shall not be responsible for such requisitions.

(d) Any moneys not expended to pay Delivery Costs shall be used to pay the costs of the Project.

Section 3.04. Transfers of Unexpended Proceeds. The Trust Administrator is hereby directed that all unexpended moneys remaining in the Construction Fund and not identified in writing by a City Representative and by the Owner to be required for payment of Construction Costs or other capital improvements (the "Unexpended Proceeds") shall, on the date of completion of the Project or as soon thereafter as the Trust Administrator is so notified, be transferred to the Installment Payment Fund and applied to the prepayment of the Certificates.

ARTICLE IV PREPAYMENT OF CERTIFICATE

Section 4.01. Prepayment.

(a) **Generally.** The Certificates shall not be subject to prepayment prior to maturity, except in the manner, at the times and in all respects in accordance with the provisions of this Article IV.

(b) **Prepayment From Net Proceeds of Insurance and Condemnation and from Unexpended Proceeds.** The Certificates are subject to prepayment in whole on any date and in part on any Interest Payment Date from the (i) Net Proceeds of any insurance or condemnation award and (ii) Unexpended Proceeds, which are, in either case deposited in the Installment Payment Fund and credited towards the prepayment made by the City pursuant to Section 4.03 of the Installment Sale Agreement, at a prepayment price equal to the principal amount thereof, together with accrued interest to the date fixed for prepayment, without premium.

(c) **Optional Prepayment.** In addition, the Certificates are subject to prepayment in whole or in part on any date, at a prepayment price equal to the principal amount thereof, together with accrued interest to the date fixed for prepayment, without premium, from the proceeds of optional prepayments made by the City pursuant to the Installment Sale Agreement. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of optionally prepaying the Certificates in part shall, after payment of interest, be applied to the principal amount of Certificates last to become due under this Agreement and shall not affect the obligation to pay the remaining Certificates as scheduled.

Section 4.02. Selection of Certificates for Prepayment. Whenever provision is made in this Trust Agreement for the prepayment of Certificates and less than all Outstanding Certificates are called for prepayment, the Trust Administrator shall select the Certificates to be prepaid for prepayment in any order of maturity selected by the City and by lot within a maturity. The Trust Administrator shall promptly notify the City and the Authority in writing of the Certificates so selected for prepayment. So long as the Government is the sole owner of the Certificates, prepayment shall be made in inverse order of maturity.

Section 4.03. Notice of Prepayment.

(a) **General.** Notice of any such prepayment shall be given by the Trust Administrator on behalf and at the expense of the City by mailing a copy of a prepayment notice by first class mail at least 30 days and not more than 60 days prior to the date fixed for prepayment to such Owner of the Certificate or Certificates to be redeemed (or such shorter period as agreed by the Owner) at the address shown on the Certificate Register maintained by the Trust Administrator; provided, however, that neither the failure to receive such notice nor any defect in any notice shall affect the sufficiency of the proceedings for the prepayment of the Certificates.

(b) Contents. All notices of prepayment shall be dated and shall state:

(i) the prepayment date,

(ii) the prepayment price,

(iii) if less than all Outstanding Certificates are to be prepaid, the identification (and, in the case of partial prepayment, the respective principal amounts) of the Certificates to be prepaid,

(iv) that on the prepayment date the prepayment price will become due and payable with respect to each such Certificates or portion thereof called for prepayment, and that interest with respect thereto shall cease to accrue from and after said date,

(v) the place where such Certificates are to be surrendered for payment of the prepayment price, which place of payment shall be the Principal Corporate Trust Office.

(c) Prepayment. Notice of prepayment having been given as aforesaid, the Certificates or portions of Certificates so to be redeemed shall, on the prepayment date, become due and payable at the prepayment price therein specified, and from and after such date (unless the City shall default in the payment of the prepayment price) interest with respect to such Certificates or portions of Certificates shall cease to be payable.

Upon surrender of such Certificates for prepayment in accordance with said notice, such Certificates shall be paid by the Trust Administrator at the prepayment price. Installments of interest due on or prior to the prepayment date shall be payable as herein provided for payment of interest. Upon surrender for any partial prepayment of any Certificates, there shall be executed and delivered for the Owner a new Certificate or Certificates of the same maturity in the amount of the unprepaid principal.

All Certificates which have been prepaid shall be canceled by the Trust Administrator, shall not be reissued and shall be destroyed pursuant to Section 14.07.

(d) CUSIP. The Trust Administrator shall have no responsibility for a defect in the CUSIP number that appears on any Certificates or in the prepayment notice. The prepayment notice may provide that the CUSIP numbers have been assigned by an independent service and are included in the notice solely for the convenience of Certificates Owners and that the Trust Administrator and the City shall not be liable in any way for inaccuracies in said numbers.

Section 4.04. Partial Prepayment of Certificates. Upon surrender of any Certificate prepaid in part only, the Trust Administrator shall execute and deliver to the Owner thereof, at the expense of the City, a new Certificate or Certificates of authorized denominations equal in aggregate principal amount to the unprepaid portion of the Certificate surrendered and of the same interest rate and the same maturity.

Section 4.05. Effect of Notice of Prepayment. After notice has been given and the moneys for the prepayment, including interest to the applicable Interest Payment Date and premium, if any, having been set aside in the Installment Payment Fund, the Certificates to be

redeemed shall become due and payable on the Interest Payment Date, and, upon presentation and surrender thereof at the Principal Trust specified in such notice, such Certificates shall be paid at the unpaid principal amount with respect thereto, and any unpaid and accrued interest to the Interest Payment Date.

If, on the Interest Payment Date, moneys for the prepayment of all the Certificates to be prepaid, together with interest to such Interest Payment Date, shall be held by the Trust Administrator so as to be available therefor on such Interest Payment Date, and, if notice of prepayment thereof shall have been given, then, from and after such Interest Payment Date, interest with respect to the Certificates to be prepaid shall cease to accrue and become payable. If such moneys shall not be so available on the Interest Payment Date, interest with respect to such Certificate shall continue to be payable at the same rates as it would have been payable had the Certificates not been called for prepayment. All moneys held by or on behalf of the Trust Administrator for the prepayment of particular Certificate shall be held in trust for the account of the Owners of the Certificate so to be prepaid. The Trust Administrator shall not be liable for any interest earned on the amounts so held.

Section 4.06. Purchase of Certificates. In lieu of prepayment of Certificates as provided in this Article IV, amounts held by the Trust Administrator for such prepayment may also be used on any Interest Payment Date, upon receipt by the Trust Administrator at least 90 days prior to the next scheduled Interest Payment Date of the written request of a City Representative, for the purchase of Certificates at public or private sale as and when and at such prices (including brokerage, accrued interest and other charges) as the City may in its discretion direct, but not to exceed the prepayment price which would be payable if such Certificate were prepaid; *provided, however*, that no Certificate shall be purchased in lieu of prepayment with a trade settlement date less than 75 days prior to the relevant prepayment date. The aggregate principal amount of Certificates of the same maturity purchased in lieu of prepayment pursuant to this Section 4.06 shall not exceed the aggregate principal amount of Certificates of such maturity which would otherwise be subject to such prepayment. Remaining moneys, if any, shall be deposited in the Installment Payment Fund.

ARTICLE V INSTALLMENT PAYMENTS; INSTALLMENT PAYMENT FUND

Section 5.01. Assignment of Rights in Installment Sale Agreement.

(a) Assignment by the Authority. The Authority, for good and valuable consideration, does hereby irrevocably assign and transfer to the Trust Administrator, for the benefit of the Owner of the Certificates, all of its rights and interest in the Installment Sale Agreement (excepting only its rights under Sections 5.08, 6.03 and 7.04 thereof), including, without limitation, its rights to receive and collect Installment Payments from City under the Installment Sale Agreement, its rights to the pledge of Net Revenues, the right to receive and collect any proceeds of any insurance maintained thereunder, or of any condemnation award rendered with respect to the Project and the right to exercise such rights and remedies as are conferred on the Authority by the Installment Sale Agreement as may be necessary to enforce payment of the Installment Payments when due or otherwise to protect its interests in the event of a default by the City.

(b) Acceptance by the Trust Administrator. The Trust Administrator hereby accepts such assignment in trust for the purpose of securing, equally and proportionately, such payments and rights to the Owner of the Certificates delivered pursuant to this Trust Agreement, all subject to the provisions of this Trust Agreement.

(c) Application of Installment Payments. The Installment Payments shall be applied, and the rights assigned by the Authority to the Trust Administrator shall be exercised, by the Trust Administrator as provided in this Trust Agreement for the benefit of the Owner of the Certificates.

All Installment Payments, prepayments and such other amounts which the Authority may at any time be entitled to shall be paid directly to the Trust Administrator and, if the Authority receives or collects Installment Payments, such payments shall be deemed to be held or to have been collected or received by the Authority as agent of the Trust Administrator.

Section 5.02. Establishment of Installment Payment Fund. The Trust Administrator shall establish the Installment Payment Fund. All moneys at any time deposited by the Trust Administrator in the Installment Payment Fund shall be held by the Trust Administrator in trust for the benefit of the Owners of the Certificates, and shall secure payment of the Certificates.

So long as any Certificates are Outstanding, neither the City nor the Authority shall have any beneficial right or interest in the Installment Payment Fund or the moneys deposited therein, except only as provided in this Trust Agreement, and such moneys shall be used and applied by the Trust Administrator as hereinafter set forth.

Section 5.03. Deposits. There shall be deposited in the Installment Payment Fund all Installment Payments and prepayments received by the Trust Administrator, including any moneys received by the Trust Administrator for deposit therein pursuant to Sections 4.06, 6.04 or 6.05 hereof or Article IV of the Installment Sale Agreement, and any other moneys required to be deposited therein pursuant to the Installment Sale Agreement or pursuant to this Trust Agreement.

Section 5.04. Application of Moneys. All amounts in the Installment Payment Fund shall be used and withdrawn by the Trust Administrator solely for the purpose of paying principal and interest with respect to the Certificates as they become due and payable, in accordance with the provisions of Article II hereof.

Section 5.05. Surplus. Any surplus remaining in the Installment Payment Fund, after payment of all Certificates, and accrued interest (if any) and payment of any applicable fees, costs and expenses to the Trust Administrator, or provision for such prepayment or payment having been made to the satisfaction of the Trust Administrator, shall be withdrawn by the Trust Administrator and remitted to the City.

ARTICLE VI RESERVE FUND

Section 6.01. Establishment of Reserve Fund. The Trust Administrator shall establish the Reserve Fund, which the Trust Administrator shall keep separate and apart from all other funds and moneys held by the Trust Administrator. All moneys at any time on deposit in the Reserve Fund shall be held by the Trust Administrator in trust for the benefit of the Owners of the Certificates, and applied solely as provided herein.

Section 6.02. Deposits. There shall be deposited into the Reserve Fund the amounts specified in Section 3.11 of the Installment Sale Agreement.

Section 6.03. Transfers in Excess of Reserve Requirement. The Trust Administrator shall, on or before each April 1 and October 1, transfer any moneys in the Reserve Fund in excess of the applicable Reserve Requirement to the Project Fund or to the Installment Payment Fund, as provided in Section 8.03 hereof.

Section 6.04. Application in Event of Deficiency in the Installment Payment Fund. If, on any Interest Payment Date, the moneys available in the Installment Payment Fund do not equal the amount of the principal, interest and prepayment premium (if any) with respect to the Certificates then coming due and payable, the Trust Administrator shall apply the moneys available in the Reserve Fund to make delinquent Installment Payments on behalf of the City and transfer the amount necessary for this purpose to the Installment Payment Fund. Upon receipt of any delinquent Installment Payment with respect to which moneys have been advanced from the Reserve Fund such Installment Payment shall be deposited in the Reserve Fund to the extent of such advance.

Section 6.05. Transfer to Make All Installment Payments. If on any Installment Payment Date, the moneys on hand in the Reserve Fund and the Installment Payment Fund are sufficient to pay all of the Outstanding Certificates, including all principal and interest, the Trust Administrator shall, upon the written direction of a City Representative, accompanied by all amounts then on hand in the Reserve Fund, deposit such funds in the Installment Payment Fund to be applied to the payment of the Installment Payments or prepayments on behalf of the City with respect to such Certificates, and such moneys shall be distributed to the Owners of such Certificates in accordance with Article II and Article IV of this Trust Agreement.

Section 6.06. Replenishment of Reserve Fund. The City shall maintain or cause to be maintained in the Reserve Fund amounts equal to the amounts required to be deposited therein pursuant to Section 3.11 of the Installment Sale Agreement, and thereafter the amount of the applicable Reserve Requirement.

If, on any date of computation, amounts on hand in the Reserve Fund are less than such required amounts because of a transfer therefrom made in accordance with Section 6.04 hereof, the City shall pay to the Trust Administrator, within one year from the date of such deficiency if caused by a drawing from Net Revenues, an amount necessary to bring the amounts on deposit in the Reserve Fund to the amount required to be maintained therein; provided, however, that the period of time permitted herein for the replenishment of the Reserve Fund by the City shall not affect any other provision of this Trust Agreement.

ARTICLE VII

INSURANCE AND CONDEMNATION FUND; INSURANCE; EMINENT DOMAIN

Section 7.01. Establishment of Insurance and Condemnation Fund; Application of Net Proceeds of Insurance Award. Any Net Proceeds of insurance against accident to or destruction of any structure constituting any part of the Project collected by the City in the event of any such accident or destruction shall be transferred by the City to the Trust Administrator pursuant to Section 5.07 of the Installment Sale Agreement and the Trust Administrator shall deposit such moneys in a special fund designated as the "Insurance and Condemnation Fund" to be applied and disbursed by the Trust Administrator as provided in Section 5.07(a) of the Installment Sale Agreement.

Section 7.02. Application of Net Proceeds of Eminent Domain Award. If all or any part of the Project is taken by eminent domain (or sold to a government threatening to exercise the power of eminent domain) the Net Proceeds therefrom shall be transferred by the City to the Trust Administrator for deposit in the Insurance and Condemnation Fund pursuant to Section 5.07(b) of the Installment Sale Agreement and shall be applied and disbursed by the Trust Administrator as follows:

(a) If the City determines that such eminent domain proceedings have not materially affected the operation of the Project, or the ability of the City to meet any of its obligations under the Installment Sale Agreement, and if the City determines that such proceeds are:

(i) not needed for repair, replacement or rehabilitation of the Project, upon receipt of a written certificate from the City the Trust Administrator shall transfer such proceeds to the Installment Payment Fund to be credited towards the prepayments required to be paid pursuant to Section 10.03 of the Installment Sale Agreement and applied to the prepayment of Certificate in the manner provided in Article IV hereof, or

(ii) needed for repair or rehabilitation of the Project, upon receipt of a written certificate from the City the Trust Administrator shall pay to the City, or to its order, from said proceeds such amounts as the City may expend for such repair or rehabilitation, upon the filing with the requisitions of the City Representative, substantially in the form described in Section 3.02 in connection with the payment of Construction Costs.

(b) If (i) less than all of the Project is taken in such eminent domain proceedings, and if the City determines that such eminent domain proceedings have materially affected the operation of the Project or the ability of the City to meet any of its obligations under the Installment Sale Agreement or (ii) all of the Project is taken in such eminent domain proceedings, then upon receipt of written instruction from the City the Trust Administrator shall transfer such proceeds to the Installment Payment Fund to be credited toward the prepayment required to be paid pursuant to Section 4.03 of the Installment Sale Agreement and applied to the prepayment of Certificate in the manner provided in Article IV hereof.

Section 7.03. Excess Net Proceeds. After all of the Certificates have been retired and the entire amount of principal and interest with respect to the Certificates and any remaining fees and expenses of the Trust Administrator have been paid in full, the Trust Administrator shall transfer any remaining funds to the City.

Section 7.04. Cooperation. The Authority shall cooperate with the City at the expense of the City in filing any proof of loss with respect to any insurance policy maintained pursuant to Article V of the Installment Sale Agreement and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Project or any part thereof.

ARTICLE VIII MONEYS IN FUNDS; INVESTMENT

Section 8.01. Held in Trust. The moneys and investments held by the Trust Administrator under this Trust Agreement, except for those held in the Construction Fund and the Delivery Cost Fund, are irrevocably held in trust for the benefit of the Owner(s) of the Certificates, and for the purposes herein specified, and such moneys, and any income or interest earned thereon, shall be expended only as provided in this Trust Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of either the Authority, the Trust Administrator or the City or any Owner of Certificates, or any of them until after the Certificates have been paid in full.

Section 8.02. Investments Authorized. Moneys held by the Trust Administrator hereunder shall be invested and reinvested by the Trust Administrator, to the maximum extent practicable, in Permitted Investments. Unless otherwise directed, the Trust Administrator shall invest the affected moneys in Permitted Investments described in paragraph (g) of the definition thereof.

A City Representative may, by written order filed with the Trust Administrator, direct investment of moneys held by the Trust Administrator in specific Permitted Investments. Investments purchased with moneys on deposit in the Reserve Fund shall have a term not greater than five years. Investments, if registrable, shall be registered in the name of and held by the Trust Administrator or the Trust Administrator's nominee.

The Trust Administrator may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section 8.02. Such investments and reinvestments shall be made giving full consideration to the time at which funds are required to be available. The Trust Administrator may act as principal or agent in the making or disposing of any investment.

The Trust Administrator shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with this Article VIII.

The Trust Administrator shall be entitled to rely conclusively upon the written instructions of a City Representative directing investments as to the fact that each investment is permitted by the laws of the State and constitutes a Permitted Investment hereunder, and the Trust Administrator shall not be required to make further investigation with respect thereto.

To the extent that any of the requirements concerning any Permitted Investment embodies a legal conclusion, the Trust Administrator shall be entitled to conclusively rely upon a certificate from the appropriate party or an opinion of counsel to such party that such requirement has been met.

Section 8.03. Allocation of Earnings. All interest or income received by the Trust Administrator on investment of the Construction Fund and the Installment Payment Fund shall, as received, be retained in the respective fund.

Amounts retained in the Installment Payment Fund pursuant to this Section 8.03 shall be applied as a credit against the Installment Payment due by the City pursuant to the Installment Sale Agreement on the Installment Payment Date following the date of deposit.

All interest or income received by the Trust Administrator on investment of the Reserve Fund shall be retained in the Reserve Fund if amounts on deposit in the Reserve Fund are less than the applicable Reserve Requirement. Pursuant to Section 6.03 hereof, if amounts then on deposit in the Reserve Fund equal or exceed the Reserve Requirement, such excess shall, as received, be transferred, prior to the date of completion of the Project, to the Construction Fund, and after the date of completion of the Project, shall be transferred to the Installment Payment Fund and shall be applied as a credit against the Installment Payment due by the City pursuant to the Installment Sale Agreement on the Installment Payment Date following the date of deposit.

Transfers to the Installment Payment Fund from the Reserve Fund shall be made by the Trust Administrator on or prior to each Installment Payment Date.

Section 8.04. Accounting. The Trust Administrator shall furnish to the City a semi-annual accounting of all investments, transactions and disbursements made by the Trust Administrator. The Trust Administrator may commingle, at its sole discretion, any of the funds held by it pursuant to this Trust Agreement into a separate fund or funds for investment purposes only; provided, however, that all funds or accounts held by the Trust Administrator hereunder shall be accounted for separately notwithstanding such commingling by the Trust Administrator.

Section 8.05. Acquisition, Disposition and Valuation of Investments.

(a) Except as otherwise provided in subsection (b) of this Section 8.05, the City covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Trust Agreement, or otherwise containing gross proceeds of the Certificates (within the meaning of section 148 of the Tax Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Trust Agreement or the Tax Code) at Fair Market Value.

(b) Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Tax Code and (unless valuation is undertaken at least annually) investments in the Reserve Fund shall be valued at their present value (within the meaning of section 148 of the Tax Code) .

**ARTICLE IX
THE TRUST ADMINISTRATOR**

Section 9.01. Appointment of Trust Administrator. The Trust Administrator is hereby appointed by the Authority and the City for the purpose of receiving all moneys required to be

deposited with the Trust Administrator hereunder and to allocate, use and apply the same as provided in this Trust Agreement.

(a) General. The Trust Administrator is hereby authorized to pay or redeem the Certificates when duly presented for payment at maturity, or on prepayment, and to cancel all Certificates upon payment thereof. The Trust Administrator shall keep accurate records of all funds administered by it and of all Certificates paid and discharged.

(b) Successor. So long as no Event of Default occurs and is continuing, the City may, with the written consent of the Owners, remove the Trust Administrator initially appointed, and any successor thereto, on 30 days' written notice and may appoint a successor or successors thereto; provided that any such successor shall be a bank or trust company that is a corporation organized and doing business under the laws of any state, the City or the United States of America, authorized under such laws to exercise corporate trust powers, which has (or, in the case of a corporation included in a bank holding company system, the related bank holding company has) a combined capital and surplus of at least \$50,000,000, and is subject to supervision or examination by federal or state authority, so long as any Certificates are Outstanding.

If such corporation publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to then for the purpose of this Section 9.01 the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. Any removal of the Trust Administrator shall not be effective until written acceptance of appointment by the successor Trust Administrator.

(c) Resignation. The Trust Administrator may at any time resign by giving written notice to the Authority and the City and by providing notice by first class mail, postage prepaid, to the Owners at their addresses as shown on the Certificate registration books maintained by the Trust Administrator. Said mailing shall be made prior to the proposed effective date of resignation.

Upon receiving such notice of resignation, the City, with the written consent of the Owners, shall promptly appoint a successor Trust Administrator by an instrument in writing; *provided, however,* that if the City does not appoint a successor Trust Administrator within 30 days following receipt of such notice of resignation, the Authority may appoint a successor Trust Administrator and if the Authority does not appoint such successor Trust Administrator, the resigning Trust Administrator, at the expense of the City, may petition any appropriate court having jurisdiction to appoint a successor Trust Administrator.

Any resignation or removal of the Trust Administrator and appointment of a successor Trust Administrator shall become effective upon acceptance of appointment by the successor Trust Administrator and receipt by the Trust Administrator of any fees and expenses due and payable to it.

Section 9.02. Liability of Trust Administrator. The recitals of facts, covenants and agreements herein and in the Certificates contained shall be taken as statements, covenants and agreements of the Authority and the City, and the Trust Administrator neither assumes any

responsibility for the correctness of the same, nor makes any representations as to the validity or sufficiency of this Trust Agreement or of the Certificates nor shall incur any responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Certificates assigned to or imposed upon the Trust Administrator.

Section 9.03. Merger or Consolidation. Any company into which the Trust Administrator may be merged or converted or with which any of them may be consolidated or any company resulting from any merger, conversion or consolidation to which any of them shall be a party or any company to which the Trust Administrator may sell or transfer all or substantially all of its corporate trust business, provided that such company shall be eligible under Section 9.01, shall be the successor to the Trust Administrator without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

Section 9.04. Protection and Rights of the Trust Administrator.

(a) Good Faith. The Trust Administrator shall be protected and shall incur no liability in acting or proceeding in good faith upon any resolution, notice, telegram, request, consent, waiver, certificates, statement, affidavit, voucher, bond, requisition or other paper or document which it shall in good faith believe to be genuine and to have been passed or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Trust Agreement, and the Trust Administrator shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements.

(b) Ownership Claims. The Trust Administrator shall not be bound to recognize any person as an Owner of any Certificate or to take any action at such Owner's request unless such Certificate shall be deposited with the Trust Administrator or satisfactory evidence of the ownership of such Certificate shall be furnished to the Trust Administrator.

(c) Counsel. The Trust Administrator may consult with counsel, who may be counsel to the City, with regard to legal questions and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith in accordance therewith.

(d) Proof. Whenever in the administration of its duties under this Trust Agreement, the Trust Administrator shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) shall be deemed to be conclusively proved and established by the Written Certificate of the City Representative or Authority Representative and such Written Certificate shall be full warranty to the Trust Administrator for any action taken or suffered under the provisions of this Trust Agreement upon the faith thereof, but in its discretion the Trust Administrator may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

(e) Owner. The Trust Administrator may may acquire and dispose of other bonds or evidence of indebtedness of the City with the same rights it would have if it were not the Trust Administrator; and may act as a depository for and permit any of its

officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Certificates, whether or not such committee shall represent the Owners of the majority in principal amount of the Certificates then Outstanding. If a successor Trustee is appointed in accordance with Section 9.05, the successor Trustee may become the Owner of the Certificates with the same rights it would have if it were not Trustee hereunder.

(f) Powers and Liability. The Trust Administrator may execute any of the powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of its duty hereunder, and the Trust Administrator shall not be liable for the default or misconduct of any such attorney, agent, or receiver selected by it with reasonable care. The Trust Administrator shall not be liable for the exercise of any discretion or power under this Trust Agreement or for anything whatever in connection with the funds and accounts established hereunder, except only for its own willful misconduct or negligence.

(g) Limits of Liability. The Trust Administrator undertakes to perform such duties, and only such duties as are specifically set forth in this Trust Agreement and no implied duties or obligations shall be read into this Trust Agreement against the Trust Administrator. No provision in this Trust Agreement shall require the Trust Administrator to risk or expend its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not assured to it. In accepting the duties hereby enumerated, the Trust Administrator acts solely as Trust Administrator for the Owners and not in its individual capacity and all persons, including without limitation the Owners and the City or the Authority having any claim against the Trust Administrator arising from the Trust Agreement shall look only to the funds and accounts held by the Trust Administrator hereunder for payment except as otherwise provided herein. Under no circumstances shall the Trust Administrator be liable in its individual capacity for the obligations evidenced by the Certificates. The Trust Administrator shall not be liable in its individual capacity with respect to any action taken or omitted to be taken by the Trust Administrator in good faith in accordance with the written request of the Owners of the Certificates.

(h) No Representations. The Trust Administrator makes no representation or warranty, express or implied as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the City of the Project. In no event shall the Trust Administrator be liable for incidental, indirect, special or consequential damages in connection with or arising from the Installment Sale Agreement or Trust Agreement for the existence, furnishing or use of the Project.

(i) Enforcement; Knowledge. The Trust Administrator shall not be responsible for the sufficiency or enforceability of the Installment Sale Agreement or the assignment under the Trust Agreement of its rights to receive Installment Payments. The Trust Administrator shall not be deemed to have knowledge of any Event of Default hereunder or under the Installment Sale Agreement except failure by the City to make Installment Payments unless the Trust Administrator is specifically notified in writing of such Event of Default.

(j) Released and Unclaimed Funds. The Trust Administrator shall not be accountable for the use or application by the City or any other party of any funds which the Trust Administrator has released under this Trust Agreement. Subject to applicable escheat laws, any amounts unclaimed two years after the final prepayment or maturity date of the Certificates, whichever occurs first, shall be paid by the Trust Administrator to the City, and thereafter, the Owner of any Certificates remaining unpaid shall look to the City for the payment of such Certificates.

Section 9.05. Appointment of Successor Trustee. In the event that an Event of Default shall occur or if it shall otherwise be necessary for the Trust Administrator to enforce payment of the Installment Payments, prepayments or any other amount required to be deposited into the Installment Payment Fund or the Insurance and Condemnation Fund, or to exercise any of the remedies set forth in Article XIII hereof, or if it is determined that the Trust Administrator is unable to perform any of the other duties hereunder, the City, with the written consent of the Original Purchaser as the Owner, shall appoint a Trustee to succeed to the duties and responsibilities of the Trust Administrator hereunder, such appointment to be effective immediately upon written notice thereof to the Trust Administrator. Any Trustee appointed in such circumstances shall meet the requirements of the third paragraph of Section 9.01 hereof. Upon such appointment, the term "Trust Administrator" in this Agreement shall also refer to such Trustee.

ARTICLE X MODIFICATION OR AMENDMENT OF AGREEMENTS

Section 10.01. Amendments Permitted.

(a) With Consent. This Trust Agreement and the rights and obligations of the Owners of the Certificates and the Installment Sale Agreement and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental agreement which shall become effective when the written consent of the Owners of at least 60% in aggregate principal amount of the Certificates then Outstanding, exclusive of Certificates disqualified as provided in Section 10.03, shall have been filed with the Trust Administrator.

No such modification or amendment may:

(1) extend or have the effect of extending the fixed maturity of any Certificate or reducing the interest rate with respect thereto or extending the time of payment of interest, or reducing the amount of principal thereof or reducing any premium payable upon the prepayment thereof, without the express consent of the Owner of such Certificate, or

(2) reduce or have the effect of reducing the percentage of Certificates required for the affirmative vote or written consent to an amendment or modification of the Installment Sale Agreement, or

(3) modify any of the rights or obligations of the Trust Administrator without its written assent thereto.

Any such supplemental agreement shall become effective as provided in Section 10.02.

(b) Without Consent. This Trust Agreement and the rights and obligations of the Owners of the Certificates and the Installment Sale Agreement and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental agreement, without the consent of any such Owners, but only to the extent permitted by law and only

(1) to cure, correct or supplement any ambiguous or defective provision contained herein or therein, or

(2) in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable and which shall not, in the opinion of nationally recognized bond counsel, materially adversely affect the interest of the Owners of the Certificates, or

(3) if and to the extent specified in an opinion of nationally recognized bond counsel filed with the City, the Authority and the Trust Administrator, to make such additions, deletions or modifications as may be necessary to assure compliance with section 148(f) of the Tax Code or otherwise as may be necessary to assure exclusion from gross income for purposes of federal income taxation of the interest component of Installment Payments.

Any such supplemental agreement shall become effective upon its execution and delivery by the parties hereto or thereto as the case may be.

(c) Counsel. The Trust Administrator may obtain an opinion of legal counsel that any amendment entered into hereunder complies with the provisions of this Article X and the Trust Administrator may rely conclusively on such opinion.

Section 10.02. Procedure for Amendment with Written Consent of Certificate Owners.

(a) General. This Trust Agreement or the Installment Sale Agreement may be amended by supplemental agreement as provided in this Section 10.02 in the event the consent of the Owners of the Certificates is required pursuant to Section 10.01. A copy of such supplemental agreement, together with a request to the Certificate Owners for their consent thereto, shall be mailed by the Trust Administrator to the Owner of each Certificate at his address as set forth in the Certificate Register, but failure to mail copies of such supplemental agreement and request shall not affect the validity of the supplemental agreement when assented to as provided in this Section 10.02.

(b) Effective. Such supplemental agreement shall not become effective unless there shall be filed with the Trust Administrator the written consent of the Owners of at least 60% in aggregate principal amount of the Certificates then Outstanding (exclusive of Certificates disqualified as provided in Section 10.03) and a notice shall have been mailed as hereinafter provided in this Section 10.02. Each such consent shall be effective only if accompanied by proof of ownership of the Certificate for which such consent is given, which proof shall be such as is permitted by Section 2.11.

Any such consent shall be binding upon the Owner of the Certificate giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trust Administrator within five Business Days of the date when the notice of consent hereinafter in this Section 10.02 provided for has been mailed.

Any revocation received by the Trust Administrator later than five Business Days after such notice has been mailed shall be of no force and effect.

(c) Notice. After the Owners of the required percentage of Certificates have filed their consents to such supplemental agreement, the Trust Administrator shall mail a notice to the Owners of the Certificates in the manner hereinbefore provided in this Section 10.02 for the mailing of such supplemental agreement at the notice of adoption thereof, stating in substance that such supplemental agreement has been consented to by the Owners of the required percentage of Certificates and will be effective as provided in this Section 10.02 (but failure to mail copies of said notice shall not affect the validity of such supplemental agreement or consents thereto).

A record, consisting of the papers required by this Section 10.02 to be filed with the Trust Administrator, shall be conclusive proof of the matters therein stated until the contrary is proved. Such supplemental agreement shall be deemed conclusively binding upon the parties hereto and the Owners of all Certificates at the expiration of 60 days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such 60-day period.

Section 10.03. Disqualified Certificates. Certificates owned or held by or for the account of the City or by any person directly or indirectly controlled or controlled by, or under direct or indirect common control with the City (except any Certificates held in any pension or retirement fund) shall not be deemed Outstanding for the purpose of any vote, consent, waiver or other action or any calculation of Outstanding Certificates provided for in this Trust Agreement, and shall not be entitled to vote upon, consent to, or take any other action provided for in this Trust Agreement.

Section 10.04. Effect of Supplemental Agreement. From and after the time any supplemental agreement becomes effective pursuant to this Article X, this Trust Agreement or the Installment Sale Agreement, as the case may be, shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners of Certificates Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any supplemental agreement shall be deemed to be part of the terms and conditions of this Trust Agreement or the Installment Sale Agreement, as the case may be, for any and all purposes.

The City may adopt appropriate regulations to require each Certificate Owner, before such Owner's consent provided for in this Article X shall be deemed effective, to reveal the Certificates as to which such consent is given are disqualified as provided in Section 10.03.

Section 10.05. Endorsement or Replacement of Certificate Delivered After Amendments. The City may determine that Certificates delivered after the effective date of any action taken as provided in this Article X shall bear a notation, by endorsement or otherwise, in form approved by the Trust Administrator, as to such action. In that case, upon demand of the Owner of any Certificate Outstanding at such effective date and presentation of his Certificate for the purpose at the Principal Corporate Trust Office, a suitable notation shall be made on such Certificate. The City may determine that new Certificates, so modified as in the opinion of the City is necessary to conform to such Certificate Owners' action, shall be prepared, executed and delivered. In that case, upon demand of the Owner of any Certificate then Outstanding, such new Certificate shall be exchanged in the Principal Corporate Trust Office, without cost to such Owner, for a Certificate of the same character then Outstanding, upon surrender of such Certificate.

Section 10.06. Amendatory Endorsement of Certificate. The provisions of this Article X shall not prevent any Certificate Owner from accepting any amendment as to the particular Certificate held by such Owner, provided that due notification thereof is made on such Certificate.

ARTICLE XI COVENANTS

Section 11.01. Compliance With and Enforcement of Installment Sale Agreement. The City and the Authority covenant and agree with the Owners of the Certificates to perform all obligations and duties imposed on them under the Installment Sale Agreement and this Trust Agreement. The City or the Authority, immediately upon receiving or giving any notice or communication or other document in any way relating to or affecting their respective interests in the Project which may or can in any manner affect such interest, will deliver the same, or a copy thereof, to the Trust Administrator. 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 or might be a ground for cancellation or termination of the Installment Sale Agreement by the Authority thereunder.

Section 11.02. Payment of Taxes. The City will, subject to any right of challenge thereof, pay or cause to be paid all taxes, assessments and other governmental charges, if any, that may be levied, assessed or charged upon the Project or any part thereof, promptly as and when the same shall become due and payable; and the City will keep the Trust Administrator advised in writing of such payments. The City will not suffer the Project, or any part thereof, to be sold for any taxes, assessments or other charges whatsoever, or to be forfeited therefor.

Section 11.03. Observance of Laws and Regulations. The City will well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it with respect to the Enterprise by contract, or prescribed by any law of the United States, or of the State, 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 by the City with respect to the Enterprise 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 11.04. Prosecution and Defense of Suits. The City shall promptly, upon request of the Trust Administrator or any Certificate Owner holding at least 25% in principal amount of the Certificates from time to time, take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Project, whether now existing or hereafter developing and shall, to the extent permitted by law, prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and shall indemnify and save the Trust Administrator and every Certificate Owner harmless from all loss, cost, damage and expense, including attorneys' fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceeding.

Section 11.05. Further Assurances. The Authority, the City and the Trust Administrator (at the cost and request of the City or the Authority) will make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Trust Agreement, and for the better assuring and confirming unto the Owners of the Certificates the rights and benefits provided herein.

Section 11.06. Filing. The City shall be responsible for the filing of any supplemental instruments or documents of further assurance as may be required by law in order to perfect or renew the security interests created by this Trust Agreement. Neither the Trust Administrator nor the Authority shall be responsible for such filing.

Section 11.07. Private Activity Bond Limitation. The City shall assure that proceeds of the Certificates are not so used as to cause the Certificates or the Installment Sale Agreement to satisfy the private business tests of section 141(b) of the Tax Code or the private loan financing test of section 141(c) of the Tax Code.

Section 11.08. Federal Guarantee Prohibition. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Certificates or the Installment Sale Agreement to be "federally guaranteed" within the meaning of section 149(b) of the Tax Code.

Section 11.09. Rebate Requirement. The City shall take any and all actions necessary to assure compliance with section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Certificates and the Installment Sale Agreement.

Section 11.10. No Arbitrage. The City shall not take, or permit or suffer to be taken by the Trust Administrator or otherwise, any action with respect to the proceeds of the Certificates which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Certificates or the Installment Sale Agreement to be "arbitrage bonds" within the meaning of section 148 of the Tax Code.

Section 11.11. Maintenance of Tax-Exemption. The City shall take all actions necessary to assure the exclusion of interest with respect to the Certificates from the gross income of the Owners of the Certificates to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the Closing Date.

ARTICLE XII LIMITATION OF LIABILITY

Section 12.01. Limited Liability of City. Except for the payment of Installment Payments and prepayments when due in accordance with the Installment Sale Agreement and the performance of the other covenants and agreements of the City contained in said Agreement, the City shall have no pecuniary obligation or liability to any of the other parties or to the Owners of the Certificates with respect to this Trust Agreement or the terms, execution, delivery or transfer of the Certificates, or the distribution of Installment Payments to the Owners by the Trust Administrator except as expressly set forth herein.

Section 12.02. No Liability of the Authority for Trust Administrator Performance. Neither the City nor the Authority shall have any obligation or liability to the other party or to the Owners of the Certificates with respect to the performance by the Trust Administrator of any duty imposed upon the Trust Administrator under this Trust Agreement.

Section 12.03. Indemnification of Trust Administrator. The City shall to the extent permitted by law indemnify and save the Trust Administrator, its officers, employees, directors and agents harmless from and against all claims, losses, costs, expenses, liability and damages, including legal fees and expenses, arising out of:

- (a) the use, maintenance, condition or management of, or from any work or thing done on, the Project by the Authority or the City;
- (b) any breach or default on the part of the Authority or the City in the performance of any of their respective obligations under the Installment Sale Agreement, this Trust Agreement and any other agreement made and entered into for purposes of the Project;
- (c) any act of the Authority or the City or of any of their respective agents, contractors, servants, employees or licensees with respect to the Project;
- (d) any act of any assignee of, or purchaser from the Authority or the City or of any of its or their respective agents, contractors, servants, employees or licensees with respect to the Project;
- (e) the acquisition, construction, installation and equipping of the Project or the authorization of payment of Construction Costs or Delivery Costs;
- (f) the actions of any other party, including but not limited to the ownership, operation or use of the Project by the Authority or the City,
- (g) the Trust Administrator's exercise and performance of its powers and duties hereunder, or
- (h) the offering and sale of the Certificates.

No indemnification will be made under this Section 12.03 or elsewhere in this Trust Agreement for willful misconduct or negligence under this Trust Agreement by the Trust Administrator, its officers or employees. The City's obligations hereunder shall

remain valid and binding notwithstanding maturity and payment of the Certificates or resignation or removal of the Trust Administrator.

Section 12.04. Limitation of Rights to Parties and Certificate Owners. Nothing in this Trust Agreement or in the Certificates expressed or implied is intended or shall be construed to give any person other than the City, the Authority, the Trust Administrator and the Owners of the Certificates, any legal or equitable right, remedy or claim under or in respect of this Trust Agreement or any covenant, condition or provision hereof; and all such covenants, conditions and provisions are and shall be for the sole and exclusive benefit of the City, the Authority, the Trust Administrator and said Owners.

ARTICLE XIII

EVENTS OF DEFAULT AND REMEDIES OF CERTIFICATE OWNERS

Section 13.01. Assignment of Rights. Pursuant to the Trust Agreement, the Authority transfers, assigns and sets over to the Trust Administrator all of the Authority's rights under the Installment Sale Agreement (excepting only its rights under Sections 5.08, 6.03 and 7.04 thereof), including without limitation the Authority's rights to exercise such rights and remedies conferred on the Authority pursuant to the Installment Sale Agreement as may be necessary or convenient

(i) to enforce payment of the Installment Payments, prepayments and any other amounts required to be deposited in the Installment Payment Fund or the Insurance and Condemnation Fund, and

(ii) otherwise to exercise the Authority's rights and take any action to protect the interests of the Trust Administrator or the Certificate Owners in an Event of Default.

Section 13.02. Remedies. If an Event of Default occurs, then and in each and every such case during the continuance of such Event of Default, the Trust Administrator may exercise any and all remedies available hereunder pursuant to law or granted pursuant to the Installment Sale Agreement.

Upon the occurrence of an Event of Default, the Trust Administrator may, and shall, at the written direction of the Owners of a majority of the principal amount of Certificates then Outstanding, by written notice to the City, declare the principal of the Installment Payments to be immediately due and payable, whereupon that portion of the principal of the Installment Sale Agreement thereby coming due and the interest thereon accrued to the date of payment shall, without further action, become and be immediately due and payable, anything in this Trust Agreement or in the Installment Payments to the contrary notwithstanding.

Remedies shall be cumulative with respect to the Trust Administrator and the Owners. If any remedial action is discontinued or abandoned, the Trust Administrator and the Owners shall be restored to their former positions.

Section 13.03. Application of Funds. All moneys received by the Trust Administrator pursuant to any right given or action taken under the provisions of this Article XIII or of Article VII of the Installment Sale Agreement, shall be applied by the Trust Administrator in the order

following upon presentation of the several Certificates and the stamping thereon of the payment if only partially paid or upon the surrender thereof if fully paid:

(a) **First**, to the payment of the costs and expenses of the Trust Administrator hereunder (including, but not limited to, the costs and expenses of itself and its counsel) and, after such payment to the Trust Administrator, of the Certificate Owners in declaring such Event of Default, including reasonable compensation to its or their agents, attorneys and counsel, together with interest on all such amounts advanced as provided in the Installment Sale Agreement;

(b) **Second**, to the payment of the whole amount then owing and unpaid with respect to the Certificates for principal and interest, with interest on the overdue principal and installments of interest at the rate or rates specified in the respective Certificates (but such interest on overdue installments of interest shall be paid only to the extent funds are available therefor following payment of principal and interest and interest on overdue principal, as aforesaid), and if such moneys are insufficient to pay in full the whole amount so owing and unpaid with respect to the Certificates, then to the payment first of interest unpaid and owing at the time of such Event of Default, and second to the payment of such principal and interest without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and interest.

Section 13.04. Institution of Legal Proceedings. If one or more Events of Default shall happen and be continuing, the Trust Administrator in its discretion may, and upon the written request of the Owners of a majority in principal amount of the Certificates then Outstanding, and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Owners of Certificates by a suit in equity or action at law, for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trust Administrator shall deem most effectual to enforce any of its rights or duties hereunder.

Section 13.05. Non-waiver. Nothing in this Article XIII or in any other provision of this Trust Agreement, or in the Certificates, shall affect or impair the obligation of the City, which is absolute and unconditional subject to Section 3.06 of the Installment Sale Agreement, to pay or prepay the Installment Payments as provided in the Installment Sale Agreement, or affect or impair the right of action, which is also absolute and unconditional, of the Certificate Owners to institute suit to enforce such payment. No delay or omission of the Trust Administrator or of any Owner of any of the Certificates to exercise any right or power arising upon the happening of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein, and every power and remedy given by this Article XIII to the Trust Administrator or to the Owners of Certificates may be exercised from time to time and as often as shall be deemed expedient by the Trust Administrator or the Certificate Owners.

Section 13.06. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trust Administrator or to the Certificate Owners is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise.

Section 13.07. Power of Trust Administrator to Control Proceedings. In the event that the Trust Administrator, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of a majority in principal amount of the Certificates then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Certificates, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trust Administrator shall not, unless there no longer continues an Event of Default hereunder, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of at least a majority in principal amount of the Certificates Outstanding hereunder opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation.

Section 13.08. Limitation on Certificate Owners' Right to Sue. No Owner of any Certificate shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Trust Agreement, unless

(a) such Owner has previously given to the Trust Administrator written notice of the occurrence of an Event of Default hereunder;

(b) the Owners of at least a majority in aggregate principal amount of all the Certificates then Outstanding make written request upon the Trust Administrator to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name;

(c) said Owners have tendered to the Trust Administrator reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; provided, however, that so long as the Government is the sole Owner, this condition shall not apply; and

(d) the Trust Administrator refuses or omits to comply with such request for a period of 60 days after such written request has been received by, and said tender of indemnity has been made to, the Trust Administrator.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Certificates of any remedy hereunder; it being understood and intended that no one or more Owners of Certificates shall have any right in any manner whatever by his or their action to enforce any right under this Trust Agreement, except in the manner herein provided, and that all proceedings at law or in equity with respect to an Event of Default shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Certificates.

The right of any Owner of any Certificate to receive payment of said Owner's proportionate interest in the Installment Payments as the same become due, or to institute suit for the enforcement of such payment, shall not be impaired or affected without the consent of such Owner, notwithstanding the foregoing provisions of this Section 13.08 or any other provision of this Trust Agreement.

Section 13.09. Parties Interested Herein. Nothing in this Trust Agreement expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, the Authority, the Trust Administrator and the Owners any right, remedy or claim under or by reason of this Trust Agreement, or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Trust Agreement contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Authority, the Trust Administrator and the Owners.

ARTICLE XIV MISCELLANEOUS

Section 14.01. Defeasance. The Outstanding Certificates may be paid and discharged in any one or more of the following ways:

(a) **Payment.** By paying or causing to be paid the principal with respect to and interest with respect to all Certificates Outstanding, as and when the same become due and payable;

(b) **Deposit.** By depositing with the Trust Administrator, in trust, at or before maturity, money which, together with the amounts then on deposit in the Installment Payment Fund and the Reserve Fund, is fully sufficient to pay all Certificates Outstanding, including all principal and interest;

(c) **Escrow.** By irrevocably depositing with the Trust Administrator or an escrow agent, cash or Defeasance Obligations in such amount as an independent certified public accountant shall determine in a written report will, together with the interest to accrue thereon, be fully sufficient to pay and discharge all Certificates (including all principal and interest) at or before their respective maturity dates; or

(d) **Security Deposit.** By depositing with the Trust Administrator, security for the payment of Installment Payments as more particularly described in Section 4.05 of the Installment Sale Agreement, said security to be held by the Trust Administrator, as agent for City, and to be applied by the Trust Administrator to Installment Payments representing the obligation of the City under the Installment Sale Agreement, as described in Section 4.05 of the Installment Sale Agreement;

(e) **Effect.** Notwithstanding that any Certificates shall not have been surrendered for payment, all rights hereunder of the Owners of the Certificates and all obligations of the Authority, the Trust Administrator and the City under this Trust Agreement with respect to all Outstanding Certificates shall cease and terminate, except only the obligation of the Trust Administrator to pay or cause to be paid, from Installment Payments paid by or on behalf of the City from deposits pursuant to paragraphs (b) through (d) of this Section 14.01, to the Owners of the Certificates not so surrendered and paid all sums due with respect thereto, and in the event of deposits pursuant to paragraphs (b) through (d) of this Section 14.01, the Certificates shall continue to represent direct, undivided and fractional interests of the Owners thereof in Installment Payments under the Installment Sale Agreement.

(f) Payment Date. All monies held or deposited pursuant to subsections (b) through (d), above, shall be used to pay and prepay Certificates on the earliest possible date.

(g) Surplus Funds. Any funds held by the Trust Administrator, at the time of one of the events described above in subsections (a) through (d) above, which are not required for the payment to be made to Owners, or for payments to be made to the Trust Administrator by the City (including attorneys' fees), shall be paid over to the City.

Section 14.02. Records. The Trust Administrator shall keep complete and accurate records of all moneys received and disbursed under this Trust Agreement, which shall be available for inspection by the City, the Authority, and the Owners of not less than 10% in aggregate principal amount of the Certificates Outstanding, or the agent of any of them, upon reasonable prior notice and during regular business hours.

Section 14.03. Notices. All written notices to be given under this Trust Agreement shall be given by mail first class, postage prepaid, to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other parties in writing from time to time. Any such notice shall be deemed to have been received 48 hours after deposit in the United States mail, with postage fully prepaid.

If to the City: City of Fort Bragg
416 North Franklin Street
Fort Bragg, CA 95437
Attn: Finance Director

If to the Authority: City of Fort Bragg Joint Powers Financing Authority
416 North Franklin Street
Fort Bragg, CA 95437
Attn: Treasurer

If to the Trust Administrator: Finance Director
City of Fort Bragg
416 North Franklin Street
Fort Bragg, CA 95437

Section 14.04. Governing Law. This Trust Agreement shall be construed and governed in accordance with the laws of the State.

Section 14.05. Binding Effect; Successors. This Trust Agreement shall be binding upon and be for the benefit of the parties hereto and their respective successors and assigns. Whenever in this Trust Agreement the Authority, the City or the Trust Administrator is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Trust Agreement contained by or on behalf of the Authority, the City or the Trust Administrator shall bind and be for the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 14.06. Execution in Counterparts. This Trust Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

Section 14.07. Destruction of Canceled Certificate. Whenever in this Trust Agreement provision is made for the surrender to or cancellation by the Trust Administrator and the delivery to the City of any Certificate, the Trust Administrator may, in lieu of such cancellation and delivery, destroy such Certificate and deliver a certificate of such destruction to the City.

Section 14.08. Headings. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Trust Agreement. All references herein to "Articles," "Sections," and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Trust Agreement; and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section or subdivision hereof.

Section 14.09. Limitation of Rights to Parties and Certificate Owners. Nothing in this Trust Agreement or in the Certificates expressed or implied is intended or shall be construed to give to any person other than the Authority, the City, the Trust Administrator and the Owners of the Certificates, any legal or equitable right, remedy or claim under or in respect of this Trust Agreement or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Authority, the City, the Trust Administrator and the Owners of the Certificates delivered hereunder.

Section 14.10. Waiver of Notice. Whenever in this Trust Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 14.11. Payments Due on Other than Business Day. If the date for making any payment as provided in this Trust Agreement is not a Business Day, such payment may be made on the next succeeding Business Day with the same force and effect as if done on the date provided therefore herein.

Section 14.12. Payment of Unclaimed Moneys. Notwithstanding any provisions of this Trust Agreement, any moneys held by the Trust Administrator in trust for the payment of the principal or interest due with respect to any Certificate and remaining unclaimed two years from the date of prepayment of such Certificate, or if the law shall have been changed and a City has notified the Trust Administrator of such change or the Trust Administrator notifies the City, then on the date 30 days prior to the then applicable escheat provision of State law, shall, on such date, be repaid to the City free from the trusts created by this Trust Agreement, and all liability of the Trust Administrator with respect to such moneys shall thereupon cease; *provided, however*, that before the repayment of such moneys to the City as aforesaid, the Trust Administrator may (at the cost and request of the City) first mail to the Owners to whom such amounts have not yet been paid, at the addresses shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Trust Administrator with respect to the amounts so payable and with respect to the provisions relating to the repayment to the City of the moneys held for the payment thereof. The Trust Administrator shall not be liable for any interest on funds held by it. The City shall not be liable for any interest on the sums paid to it pursuant to this Section 14.11 and shall not be regarded as a Trust Administrator of such money.

Section 14.13. Separability of Invalid Provisions. If any one or more of the provisions contained in this Trust Agreement or in the Certificates is for any reason held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Trust Agreement, and this Trust Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The parties hereto hereby declare that they would have entered into this Trust Agreement and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the delivery of the Certificates pursuant thereto irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases of this Trust Agreement may be held illegal, invalid or unenforceable.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Trust Agreement as of the date and year first above written.

FINANCE DIRECTOR OF THE CITY OF
FORT BRAGG,
as Trust Administrator

By _____
Finance Director

CITY OF FORT BRAGG JOINT POWERS
FINANCING AUTHORITY

Attest

By _____
Secretary

By _____
Executive Director

CITY OF FORT BRAGG

Attest

By _____
City Clerk

By _____
City Manager

EXHIBIT A

DEFINITIONS

“1998 Agreement” means the Installment Purchase Agreement, by and between the City of Fort Bragg and Association of Bay Area Governments, dated as of May 1, 1998.

“Authority” means the City of Fort Bragg Joint Powers Financing Authority.

“Authority Representative” means the Chairman, Vice Chairman, Executive Director, Treasurer, or any persons authorized to act on behalf of the Authority under or with respect to the Trust Agreement or the Installment Sale Agreement and identified as such to the Trust Administrator in writing.

“Business Day” means any day other than (i) a Saturday or a Sunday or (ii) a day on which banking institutions in the state in which the Trust Administrator has its principal trust office are authorized or obligated by law or executive order to be closed.

“Certificate Register” means the registration books relating to the Certificate maintained by the Trust Administrator in accordance with Section 2.12 of the Trust Agreement.

“Certificates” means the \$5,000,000 City of Fort Bragg Certificates of Participation (2018 Wastewater System Improvement Project), dated the Closing Date, executed and delivered pursuant to the Trust Agreement.

“City” means the City of Fort Bragg, California.

“City Representative” means the Mayor or Vice Mayor, the City Manager, the Finance Director, the City Clerk, the City Attorney, or any other official of the City authorized by the Council to act for the City.

“Closing Date” means July 12, 2018, the date upon which there is a physical delivery of the Certificate in exchange for the amount representing the purchase price of all or the first advance of a portion of the purchase price of the Certificate by the Original Purchaser.

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

“Construction Fund” means the fund of that name established pursuant to Article III of the Trust Agreement and held by the Trust Administrator.

“Council” means the City Council as the legislative body of the City.

“Debt Service” means the scheduled amount of interest and sinking fund amounts payable with respect to the Certificates during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning or during such period.

“Defeasance Obligations” means (a) cash, or (b) non-callable Federal Securities.

“Delivery Costs” means all items of expense directly or indirectly payable by or reimbursable to the City or the Authority relating to the refinancing and financing of the Project from the proceeds of the Certificate, including but not limited to filing and recording costs, settlement costs, printing costs, reproduction and binding costs, financing discounts, legal fees and charges, financial and other professional consultant fees, costs of rating agencies or credit ratings, fees for execution, transportation and safekeeping of the Certificates, travel expenses and charges and fees in connection with the foregoing.

“Denomination Amount” means the minimum denomination of the Certificate, which is \$1,000.

“Enterprise” means the entire system for the collection, treatment and disposal of wastewater owned and/or operated by the City (including through the Fort Bragg Municipal Improvement District No. 1), including but not limited to all facilities, properties and improvements at any time owned and/or operated for the collection, treatment and disposal of wastewater, together with any necessary lands, rights, entitlements and other property useful in connection therewith, together with all extensions thereof and improvements thereto hereafter acquired, constructed or installed.

“Event of Default” means an event of default under Section 7.01 of the Installment Sale Agreement.

“Fair Market Value” means for purposes of valuing the Permitted Investments, the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Tax Code) and, otherwise, the term “fair market value” means the acquisitions price in a bona fide arm’s length transaction (as referenced above) if

(i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code,

(ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code,

(iii) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or

(iv) any commingled investment fund in which the City and related parties do not own more than a 10% beneficial interest if the return paid by such fund is without regard to the source of investment.

The Trust Administrator shall have no duty in connection with the determination of Fair Market Value other than to follow the investment directions of a City Representative in any written directions of a City Representative.

"Federal Securities" means direct general obligations (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 guaranteed by, the United States of America.

"Fiscal Year" means any period of 12 consecutive months established by the City as its fiscal year and shall initially mean the period commencing July 1 of one year and ending on June 30 of the following year.

"Government" means the United States of America, acting through the Rural Utilities Service (or successor agency, bureau or division) of the United States Department of Agriculture.

"Gross Revenues" means all gross income and revenue received or receivable by the City from the ownership or operation of the Enterprise, determined in accordance with Generally Accepted Accounting Principles, including all fees, rates, charges and all amounts paid under any contracts received by or owed to the City in connection with the operation of the Enterprise and all proceeds of insurance covering business interruption loss relating to the Enterprise and all other income and revenue howsoever derived by the City from the ownership or operation of the Enterprise or arising from the Enterprise.

"Installment Payment" means any payment required to be paid by the City to the Authority pursuant to Section 3.05 of the Installment Sale Agreement.

"Installment Payment Date" means each Interest Payment Date.

"Installment Payment Fund" means the fund designated "City of Fort Bragg Project Installment Payment Fund" established and held by the Trust Administrator pursuant to Article V of the Trust Agreement.

"Installment Sale Agreement" means the Installment Sale Agreement, dated as of the date of this Trust Agreement, by and between the Authority and the City, and any duly authorized and executed amendment or supplement thereto.

"Insurance and Condemnation Fund" means the fund by that name established pursuant to Article VII of the Trust Agreement and held by the Trust Administrator.

"Interest Payment Date" means April 1 and October 1 of each year, commencing October 1, 2018.

"Interest Rate" means the rate of interest to be paid on the Certificates which is 2.000% per annum.

"Net Proceeds" means any insurance proceeds or condemnation award paid with respect to the Project, remaining after payment therefrom of all expenses incurred in the collection thereof.

“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 Operation and Maintenance Costs becoming payable during such period.

“Operation and Maintenance Expenses” means the reasonable and necessary costs paid or incurred by the City for maintaining and operating the Enterprise, 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 Enterprise 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 Enterprise, 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 Trust Agreement or the Installment Sale Agreement, or of any agreement or of any resolution authorizing the execution of any Parity Obligations, such as compensation, reimbursement and indemnification of the Trust Administrator and the Authority and fees and expenses of independent certified public accountants; but excluding in all cases (i) payment of Parity Obligations and Subordinate Debt, (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.

“Original Purchaser” means the Government as the first purchaser of the Certificates upon their delivery by the Trust Administrator on the Closing Date.

“Outstanding,” when used as of any particular time with respect to a Certificate, means (subject to the provisions of Section 10.03 of the Trust Agreement) all Certificates theretofore executed and delivered by the Trust Administrator under the Trust Agreement except:

(a) Certificates theretofore canceled by the Trust Administrator or surrendered to the Trust Administrator for cancellation;

(b) Certificates for the payment or prepayment of which funds or eligible securities in the necessary amount, including accrued interest thereon, shall have theretofore been deposited with the Trust Administrator (whether upon or prior to the maturity or prepayment date of such Certificate), provided that, if such Certificates are to be redeemed prior to maturity, notice of such prepayment has been given as provided in Section 4.03 of the Trust Agreement or provision satisfactory to the Trust Administrator shall have been made for the giving of such notice; and

(c) Certificates in lieu of or in exchange for which other Certificates shall have been executed and delivered by the Trust Administrator pursuant to Section 2.09 of the Trust Agreement.

“Owner” or **“Certificate Owner”** or **“Owner of a Certificate,”** or any similar term, means the person or entity in whose name a Certificate is registered.

“Parity Obligations” means (i) the Installment Payments, (ii) the installment payments payable under the 1998 Agreement, and (iii) the payments made pursuant to any other indebtedness or other obligations (including leases and installment sale agreements) hereafter

issued or incurred and secured by a pledge of and lien on Net Revenues equally and ratably with the Installment Payments.

"Permitted Investments" means any of the following 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, provided that the same are of appropriate maturity and acquired at Fair Market Value and provided, further, that the investments as defined in the then-current version of the City's investment policy shall control:

(a) Federal Securities;

(b) bonds, debentures or notes issued by any of the following: Banks for Cooperatives, Federal Land Banks or Federal National Mortgage Association (including participation certificate and Federal Farm Credit Banks Consolidated System Bonds);

(c) bonds or obligations of the State of California which are rated "AA" or better by S&P;

(d) interest bearing demand or time deposits (including certificates of deposit) in national banks, state banks, federal savings and loan associations or state chartered savings and loan associations, which have deposits insured by the Federal Deposit Insurance Corporation (the "FDIC"); provided, however, that the portion of such certificates of deposit in excess of the amount insured by the FDIC, if any, shall be with a provider whose short term S&P rating is "A-1+" or better;

(e) repurchase agreements with

(i) any institution with long-term debt rated in one of the two highest Rating Categories by S&P;

(ii) with any corporation or other entity that falls under the jurisdiction of the Federal Bankruptcy Code, provided that:

(A) the term of such repurchase agreement is less than one year or due on demand;

(B) the Trust Administrator has possession of the collateral;

(C) the market value of the collateral is maintained as follows:

(1) if valued daily and with a remaining maturity of (a) one year or less, at 102%; (b) five years or less, at 105%; (c) ten years or less, at 106%; (d) fifteen years or less, at 108%; and (e) thirty years or less, at 114%;

(2) if valued weekly and with a remaining maturity of (a) one year or less, at 103%; (b) five years or less, at 111%; (c) ten years or less, at 112%; (d) fifteen years or less, at 114%; and (e) thirty years or less, at 120%;

(3) if valued monthly and with a remaining maturity of
(a) one year or less, at 106%; (b) five years or less, at 118%; (c) ten years or less, at 123%; (d) fifteen years or less, at 128%; and
(e) thirty years or less, at 138%; and

(4) if valued quarterly and with a remaining maturity of
(a) one year or less, at 107%; (b) five years or less, at 120%; (c) ten years or less, at 130%; (d) fifteen years or less, at 133%; and
(e) thirty years or less, at 140%

(D) failure to maintain the requisite collateral levels will require the Trust Administrator to liquidate the collateral immediately;

(E) the repurchase securities must be obligations of, or fully guaranteed as to principal and interest by, the United States of America; and

(F) the repurchase securities are free and clear of any third-party lien or claim; or

(iii) with financial institutions insured by the FDIC or any broker-dealer with "retail customers" which falls under the jurisdiction of the Securities Investors Protection Corp. ("SIPC"), provided that

(A) the market value of the collateral is maintained as described in (ii)(C) above;

(B) the Trust Administrator has possession of the collateral;

(C) the Trust Administrator has a perfected first priority security interest in the collateral;

(D) the collateral is free and clear of any third party lien or claim and, in the case of a broker-dealer with "retail customers" which falls under the jurisdiction of SIPC, the collateral was not acquired pursuant to a repurchase agreement or a reverse repurchase agreement;

(E) the repurchase securities must be obligations of, or fully guaranteed as to principal and interest by, the United States of America; and

(F) failure to maintain the requisite collateral levels will require the Trust Administrator to liquidate the collateral immediately; and

(f) money market funds consisting of Federal Securities, which are rated in the highest Rating Category by S&P; and

(g) the Local Agency Investment Fund of the State of California.

"Prepayment" means any payment applied towards the prepayment of the Installment Payments, in whole or in part, pursuant to Article X of the Installment Sale Agreement.

“Principal Amount” means the aggregate principal amount with respect to the Certificates, being \$5,000,000.

“Principal Trust Office” means the office of the Trust Administrator at the offices of the City in Fort Bragg, California, or at such other address designated by the Trust Administrator by written notice filed with the City and the Authority.

“Proceeds” when used with reference to the Certificate, means the face amount of the Certificate, plus accrued interest and premium, if any, less original issue discount, if any.

“Project” means the improvements to the Enterprise described in Exhibit A to the Installment Sale Agreement.

“Rating Category” means, with respect to any Permitted Investment, one or more of the generic categories of rating by S&P applicable to such Permitted Investment, without regard to any refinement or gradation of such rating category by a plus or minus sign.

“Regular Record Date” means the close of business on the 15th day of the month preceding each Interest Payment Date, whether or not such 15th day is a Business Day.

“Reserve Fund” means the fund of that name established under Article VI of the Trust Agreement and held by the Trust Administrator.

“Reserve Requirement” has the meaning set forth in the Installment Sale Agreement.

“S&P” means S&P Global Ratings, or its successors.

“State” means the State of California.

“Subordinate Debt” means indebtedness or other obligations (including leases and installment sale agreements) hereafter issued or incurred and secured by a pledge of and lien on Net Revenues subordinate to the Installment Payments.

“Tax Code” means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced in the Installment Sale Agreement or the Trust Agreement) as it may be amended to apply to obligations issued on the Closing Date, together with applicable temporary and final regulations promulgated under the Tax Code.

“Term of the Installment Sale Agreement” means the time during which the Installment Sale Agreement is in effect which begins on the Closing Date and ends on the payment of the final Installment Payment, unless sooner terminated pursuant to the terms of the Installment Sale Agreement.

“Treasurer” means the person who is the City’s Finance Director or deputy or assistant thereto as the chief financial officer of the City.

“Trust Administrator” means the Treasurer, or any successor thereto, acting as Trust Administrator pursuant to the Trust Agreement.

"Trust Agreement" means this Trust Agreement, dated as of July 12, 2018, by and among the Trust Administrator, the Authority and the City, together with any amendments or supplements thereto permitted to be made thereunder.

"Written Certificate" of the City means a written certificate signed in the name of the City by a City Representative as contemplated by and containing the elements required by Section 1.03 of the Trust Agreement and Section 1.03 of the Installment Sale Agreement.

EXHIBIT B
FORM OF CERTIFICATE OF PARTICIPATION

[See separate COP Form]

EXHIBIT C

\$5,000,000

CERTIFICATES OF PARTICIPATION

(2018 Wastewater System Improvements Project)

Evidencing the Direct, Undivided Fractional Interests of the Owner

Thereof in Installment Payments to be Made by the

CITY OF FORT BRAGG

As the Purchase Price for Certain Property Pursuant

to an Installment Sale Agreement with the

CITY OF FORT BRAGG JOINT POWERS FINANCING AUTHORITY

WRITTEN REQUISITION NO. __ FOR DISBURSEMENT FROM CONSTRUCTION FUND

The undersigned hereby states and certifies that:

1. the undersigned is the duly appointed, qualified and acting _____ of the City of Fort Bragg, a municipal corporation organized and existing under the laws of the State of California (the "City"), and as such, is familiar with the facts herein certified and is authorized and qualified to certify the same;

2. the undersigned is a duly designated "City Representative", as such term is defined in that certain Trust Agreement, dated as of July 12, 2018 (the "Trust Agreement"), by and among the Finance Director of the City of Fort Bragg, as trust administrator (the "Trust Administrator"), City of Fort Bragg Joint Powers Financing Authority (the "Authority") and the City;

3. Under Section 3.02 or Section 3.03 of the Trust Agreement, the Trust Administrator is hereby requested to disburse this date, from the Construction Fund established under the Trust Agreement, to the payees set forth on Attachment I attached hereto and by this reference incorporated herein, at the addresses identified thereon, the amount set forth opposite such payee for payment of Construction Costs or Delivery Costs, as applicable.

4. The amounts to be disbursed constitute Construction Costs or Delivery Costs, as applicable; those amounts are required to be disbursed pursuant to a contract entered into therefor by or on behalf of the Authority or the City, or were necessarily and reasonably incurred; and said amounts are not being paid in advance of the time, if any, fixed for payment.

5. No amount set forth in this requisition was included in any requisition requesting disbursement previously filed with the Trust Administrator pursuant to Section 3.02 or Section 3.03 of the Trust Agreement.

6. Insofar as this requisition relates to payment for work, materials, equipment or supplies, such work was actually performed, or such materials, equipment or supplies were actually installed in furtherance of the construction of the Project or delivered to the appropriate site for such purpose, or delivered for storage or fabrication at a place approved by the City.

7. If this requisition relates to payment to a contractor, no liens have been imposed on the Project as a result of said construction except liens that have not yet ripened or that would attach by operation of law.

8. any capitalized terms used herein and not otherwise defined have the meanings ascribed thereto in the Trust Agreement.

Dated: _____, 20__

CITY OF FORT BRAGG

By:

Title: _____

ATTACHMENT I

<u>Payee Name and Address</u>	<u>Purpose of Obligation</u>	<u>Amount</u>
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