

TRUST AGREEMENT

Dated as of _____ 1, 2018

among

MUFG UNION BANK, N.A.,
as Trustee

CALISTOGA PUBLIC FACILITIES CORPORATION,

and the

CITY OF CALISTOGA

Relating to

\$ _____
2018 Water and Wastewater Revenue
Certificates of Participation

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TRUST AGREEMENT

This TRUST AGREEMENT, made and entered into as of _____ 1, 2018, is between MUFG UNION BANK, N.A., a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee"), the CALISTOGA PUBLIC FACILITIES CORPORATION, a nonprofit public benefit corporation organized and existing under the laws of the State of California (the "Corporation"), and the CITY OF CALISTOGA, a municipal corporation duly organized and existing under and by virtue of the laws of the State of California (the "City").

B A C K G R O U N D :

1. The City owns and operates a system for the supply, treatment and distribution of water within the service area of the City (the "Water System"), and the City wishes to finance improvements to the Water System consisting generally of pipeline and other improvements to the distribution system (the "Water Projects").

2. The City also owns and operates a system for the collection, treatment and disposal of wastewater within the service area of the City (the "Wastewater System"), and the City wishes to finance improvements to the Wastewater System consisting generally of certain treatment facilities and distribution system improvements (the "Wastewater Projects").

3. The Corporation has the power to assist the City in the financing of facilities and property useful to the City, and the Corporation has proposed to enter into this Agreement with the City under which the Corporation has agreed to provide funding for refinancing Water Projects and Wastewater Projects (collectively, the "Prior Projects") and sell the Prior Projects to the City in consideration of the agreement by the City to pay the purchase price of the Prior Projects in semiannual installments (the "Installment Payments").

4. For the purpose of obtaining the moneys required to refinance the Prior Projects in accordance with the terms hereof and of the Installment Sale Agreement, the Corporation wishes to assign and transfer certain of its rights under the Installment Sale Agreement to the Trustee, and at the written direction of the Corporation the Trustee will execute and deliver 2018 Water and Wastewater Revenue Certificates of Participation in the aggregate principal amount of \$_____, evidencing direct, undivided fractional interests in the Installment Payments.

A G R E E M E N T :

In consideration of the foregoing and the material covenants hereinafter contained, the City, the Corporation and the Trustee formally covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms defined in Appendix A attached to this Trust Agreement have the respective meanings specified in that Appendix when used in this Trust Agreement. In addition, the capitalized terms defined in Section 1.1 of the Installment Sale Agreement have the same meanings when used herein.

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 hereof by the officers and persons signing it.

Section 1.03. Interpretation.

(a) Unless the context otherwise indicates, words expressed in the singular include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and includes the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Trust Agreement; the words "herein," "hereof," "hereby," "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.

ARTICLE II

THE CERTIFICATES OF PARTICIPATION

Section 2.01. Authorization. The Trustee is hereby authorized and directed upon written request from the Corporation to register, execute and deliver, to the Original Purchaser, Certificates in an aggregate principal amount of \$_____, which represent the direct, undivided fractional ownership interests of the Owners thereof in the Installment Payments.

Section 2.02. Date. Each Certificate will be dated as of the Closing Date. Interest represented by a Certificate is payable from the Interest Payment Date next preceding the date of execution thereof, unless:

(a) it is executed after a Record Date and on or before the following Interest Payment Date, in which event interest represented thereby is payable from such Interest Payment Date; or

(b) it is executed on or before the first Record Date, in which event interest represented thereby is payable from the Closing Date; or

(c) interest represented by such Certificate is in default as of the date of its execution, in which event interest represented thereby is payable from the Interest Payment Date to which interest represented thereby has previously been paid or made available for payment.

Section 2.03. Terms of Certificates. Principal represented by the Certificates is payable on October 1 in each of the respective years and in the respective amounts, and interest represented thereby will be computed at the respective rates, as follows:

<u>Maturity Date</u> <u>(October 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Maturity Date</u> <u>(October 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
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Section 2.04. Fully Registered Form; Interest. The Certificates will be delivered in the form of fully registered Certificates without coupons in the authorized denominations of \$5,000 or any integral multiple thereof, except that no Certificate shall represent principal payable in more than one year. The Certificates will be assigned such alphabetical and numerical designation as the Trustee deems appropriate.

Interest represented by the Certificates is payable on each Interest Payment Date to and including the date of maturity or prepayment, whichever is earlier, as provided in Section 2.09. Said interest shall represent the portion of Installment Payments designated as interest and coming due on each of the respective Interest Payment Dates. The share of the portion of Installment Payments designated as interest with respect to any Certificate will be computed by multiplying the portion of Installment Payments designated as principal represented by such Certificate by the rate of interest represented by such Certificate (on the basis of a 360-day year of twelve 30-day months).

Section 2.05. Book Entry System.

(a) Original Delivery. The Certificates will be initially delivered in the form of a separate single fully registered Certificate (which may be typewritten) for each maturity of the Certificates. Upon initial delivery, the ownership of each such Certificate will be registered on the Registration Books in the name of the Nominee. Except as provided in subsection (c), the ownership of all of the Outstanding Certificates will be registered in the name of the Nominee on the Registration Books.

With respect to Certificates the ownership of which is registered in the name of the Nominee, the City and the Trustee have no responsibility or obligation to any Depository System Participant or to any person on behalf of which the City holds an interest in the Certificates. Without limiting the generality of the immediately preceding sentence, the City and the Trustee have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any Depository System Participant or any other person, other than a Certificate Owner as shown in the Registration Books, of any notice with

respect to the Certificates, including any notice of prepayment, (iii) the selection by the Depository of the beneficial interests in the Certificates to be prepaid in the event the City elects to prepay the Certificates in part, (iv) the payment to any Depository System Participant or any other person, other than a Certificate Owner as shown in the Registration Books, of any amount with respect to principal, premium, if any, or interest represented by the Certificates or (v) any consent given or other action taken by the Depository as Owner of the Certificates. The City and the Trustee may treat and consider the person in whose name each Certificate is registered as the absolute owner of such Certificate for the purpose of payment of principal, premium, if any, and interest represented by such Certificate, for the purpose of giving notices of prepayment and other matters with respect to such Certificate, for the purpose of registering transfers of ownership of such Certificate, and for all other purposes whatsoever. The Trustee will pay the principal, interest and premium, if any, represented by the Certificates only to the respective Owners or their respective attorneys duly authorized in writing, and all such payments will be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal, interest and premium, if any, represented by the Certificates to the extent of the sum or sums so paid. No person other than a Certificate Owner will receive a Certificate evidencing the obligation of the City to make payments of principal, interest and premium, if any, under this Trust Agreement. Upon delivery by the Depository to the Nominee of written notice to the effect that the Depository has determined to substitute a new Nominee in its place, such new nominee will become the Nominee hereunder for all purposes; and upon receipt of such a notice the City will promptly deliver a copy of the same to the Trustee.

(b) Representation Letter. In order to qualify the Certificates for the Depository's book-entry system, the City will execute and deliver to such Depository a letter representing such matters as necessary to so qualify the Certificates. The execution and delivery of such letter does not limit the provisions of subsection (a) above or impose on the City or the Trustee any obligation whatsoever with respect to persons having interests in the Certificates other than the Certificate Owners. Upon the written acceptance by the Trustee, the Trustee will agree to take all action reasonably necessary for all representations of the City in such letter with respect to the Trustee to at all times be complied with. In addition to the execution and delivery of such letter, the City may take any other actions, not inconsistent with this Trust Agreement, to qualify the Certificates for the Depository's book-entry program.

(c) Transfers Outside Book-Entry System. If either (i) the Depository determines not to continue to act as Depository for the Certificates, or (ii) the City determines to terminate the Depository as such, then the City shall thereupon discontinue the book-entry system with such Depository. In such event, the Depository will cooperate with the City and the Trustee in the delivery of replacement Certificates by providing the Trustee with a list showing the interests of the Depository System Participants in the Certificates, and by surrendering the Certificates, registered in the name of the Nominee, to the Trustee on or before the date such replacement Certificates are to be issued. The Depository, by accepting delivery of the Certificates, agrees to be bound by the provisions of this subsection (c). If, prior to the termination of the Depository acting as such, the City fails to identify another Securities Depository to replace the Depository, then the Certificates will no longer be required to be registered in the Registration Books in the name of the Nominee, but will be registered in whatever name or names the Owners transferring or exchanging Certificates shall designate, in accordance with the provisions hereof.

If the City determines that it is in the best interests of the beneficial owners of the Certificates that they be able to obtain certificated Certificates, the City may notify the Depository System Participants of the availability of such certificated Certificates through the Depository. In that event, the Trustee will execute, transfer and exchange Certificates as required by the

Depository and others in appropriate amounts; and whenever the Depository requests, the Trustee and the City shall cooperate with the Depository in taking appropriate action (i) to make available one or more separate certificates evidencing the Certificates to any Depository System Participant having Certificates credited to its account with the Depository, or (ii) to arrange for another Securities Depository to maintain custody of a single certificate evidencing such Certificates, all at the City's expense.

(d) Payments to the Nominee. Notwithstanding any other provision of this Trust Agreement to the contrary, so long as any Certificate is registered in the name of the Nominee, all payments with respect to principal, interest and premium, if any, represented by such Certificate and all notices with respect to such Certificate will be made and given, respectively, as provided in the letter described in subsection (b) of this Section or as otherwise instructed by the Depository.

Section 2.06. Form and Execution of Certificates. The Certificates will be delivered substantially in the form set forth in Appendix B attached hereto, and will be executed by and in the name of the Trustee by the manual signature of an authorized signatory of the Trustee. If any person whose signature appears on any Certificate ceases to be an authorized signatory before the date of delivery of said Certificate, such signature shall nevertheless be as effective as if such person had remained an authorized signatory until such date.

Section 2.07. Transfer and Exchange.

(a) Transfer of Certificates. The registration of any Certificate may, in accordance with its terms, be transferred upon the Registration Books by the person in whose name it is registered, in person or by a duly authorized attorney, upon surrender of such Certificate for cancellation at the Trust Office of the Trustee, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. Whenever any Certificate or Certificates is surrendered for registration of transfer, the Trustee will execute and deliver a new Certificate or Certificates representing the same maturity, interest rate and aggregate principal amount, in any authorized denominations. The City will pay all costs of the Trustee incurred in connection with any such transfer, except that the Trustee may require the payment by the Certificate Owner of any tax or other governmental charge required to be paid with respect to such transfer.

(b) Exchange of Certificates. Certificates may be exchanged at the Trust Office of the Trustee, for a like aggregate principal amount of Certificates representing other authorized denominations of the same interest rate and maturity. The City will pay all costs of the Trustee incurred in connection with any such exchange, except that the Trustee 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.

(c) Limitations on Transfer or Exchange. The Trustee may refuse to transfer or exchange either (i) any Certificate during the period established by the Trustee for the selection of Certificates for prepayment, or (ii) the portion of any Certificate which the Trustee has selected for prepayment under the provisions of Section 4.02.

Section 2.08. Certificates Mutilated, Lost, Destroyed or Stolen. If any Certificate is mutilated, the Trustee, at the expense of the Owner of such Certificate, will execute and deliver a new Certificate of like principal amount, interest rate and maturity in replacement for the Certificate so mutilated, on surrender to the Trustee of the Certificate so mutilated. If any Certificate is lost, destroyed or stolen, evidence of such loss, destruction or theft must be submitted to the Trustee,

and, if such evidence is satisfactory to the Trustee and the City and if an indemnity is given satisfactory to the Trustee and the City, the Trustee, at the expense of the Certificate Owner, will execute and deliver a new Certificate of like principal amount, interest rate and maturity and numbered as the Trustee shall determine in lieu of and in replacement for the Certificate so lost, destroyed or stolen. The Trustee may require payment of an appropriate fee for each replacement Certificate delivered under this Section 2.08 and of the expenses which may be incurred by the Trustee in carrying out the duties under this Section 2.08. Any Certificate delivered under the provisions of this Section 2.08 in lieu of any Certificate alleged to be lost, destroyed or stolen is equally entitled to the benefits of this Trust Agreement with all other Certificates secured by this Trust Agreement. The Trustee is not required to treat both the original Certificate and any replacement Certificate as being Outstanding for the purpose of determining the principal amount of Certificates which may be executed and delivered hereunder or for the purpose of determining any percentage of Certificates Outstanding hereunder, but both the original and replacement Certificate will be treated as one and the same. Notwithstanding any other provision of this Section 2.08, in lieu of delivering a replacement for a Certificate which has been mutilated, lost, destroyed or stolen, and which has matured, the Trustee may make payment with respect to such Certificate upon receipt of indemnity satisfactory to the Trustee and the City.

Section 2.09. Payment. The Trustee will pay interest represented by any Certificate on any Interest Payment Date to the person appearing on the Registration Books as the Owner thereof as of the close of business on the Record Date immediately preceding such Interest Payment Date, by check mailed to such Owner by first class mail postage prepaid at such Owner's address as it appears on the Registration Books. However, at the written request of the Owner of Certificates in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of the Record Date preceding any Interest Payment Date, the Trustee will pay interest represented by such Certificates coming due on such Interest Payment Date by wire transfer in immediately available funds to such account in the United States as specified in such written request. The principal and prepayment price represented by any Certificate at maturity or upon prior prepayment is payable in lawful money of the United States of America upon surrender of such Certificate at the Trust Office of the Trustee.

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 Certificates. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the ownership of Certificates 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, 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 him the execution thereof. If 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 also constitutes sufficient proof of authority.

(b) The fact of the ownership of Certificates by any person and the amount, the maturity and the numbers of such Certificates and the date of holding the same is proved by the Registration Books.

Nothing contained in this Section 2.10 limits the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which the Trustee may deem sufficient. Any request or consent of the Owner of any Certificate binds every future Owner of the same Certificate in respect of anything done or suffered to be done by the Trustee under such request or consent.

Section 2.11. Registration Books. The Trustee will keep or cause to be kept sufficient records for the registration and registration of transfer of the Certificates, which shall at all reasonable times upon prior notice be open to inspection by the City and the Corporation during regular business hours; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on the Registration Books, Certificates as hereinbefore provided.

ARTICLE III

DISPOSITION OF PROCEEDS; PROJECT FUND; COSTS OF ISSUANCE FUND AND RESERVE FUND

Section 3.01. Application of Proceeds. On the Closing Date, the Trustee shall deposit the proceeds received from the sale of the Certificates to the Original Purchaser in a temporary fund called the Proceeds Fund, which Trustee shall establish and hold in trust, and the Trustee shall further deposit or transfer such proceeds as follows (whereupon the Proceeds Fund will be closed):

(a) Deposit the amount of \$_____ in the Reserve Fund, constituting the full amount of the Reserve Requirement.

(b) Deposit the amount of \$_____ in the Costs of Issuance Fund.

(c) Transfer the amount of \$_____ to the City for payment of the City's obligations to the United States of America, acting through Rural Utilities Service, United States Department of Agriculture, under the 2005 Wastewater Installment Purchase Agreement and pursuant to the Trust Agreement dated May 18, 2005 related thereto.

(d) Transfer the amount of \$_____ to the City for payment of the City's obligations to the United States of America, acting through Rural Utilities Service, United States Department of Agriculture, under the 2008 Water Installment Purchase Agreement and pursuant to the Trust Agreement dated March 27, 2008 related thereto.

(e) Transfer the amount of \$_____, constituting the remainder of such proceeds, to the Escrow Bank for deposit as set forth in the Escrow Agreement.

Section 3.02. Costs of Issuance Fund. The Trustee shall establish and maintain a special fund designated as the "Costs of Issuance Fund" to be held by the Trustee in trust for the benefit of the City and the Owners of the Certificates, and applied solely as provided herein. The Trustee shall disburse amounts in the Costs of Issuance Fund to pay Costs of Issuance from time to time upon the receipt of a written requisition of the City which states (i) the amounts to be disbursed for payment or reimbursement of Costs of Issuance, (ii) the name and address of the person or persons to whom said amounts are to be disbursed, and (iii) that all amounts to be disbursed are for Costs of Issuance properly chargeable to the Costs of Issuance Fund. The Trustee shall withdraw any funds remaining in the Costs of Issuance Fund on _____ 1, 2018, and transfer all amounts remaining on deposit in the Costs of Issuance Fund to the Installment Payment Fund.

Section 3.04. Reserve Fund. The Trustee shall establish and maintain a special fund designated as the "Reserve Fund" to be held by the Trustee in trust. The Trustee shall deposit an amount equal to the Reserve Requirement in the Reserve Fund on the Closing Date under Section 3.01(a). Moneys in the Reserve Fund will be held in trust as a reserve for the payment when due of the Installment Payments on behalf of the City. Semiannually on or prior to each Installment Payment Date, the Trustee shall transfer any moneys in the Reserve Fund in excess of the Reserve Requirement to the Installment Payment Fund to be credited towards the Installment Payment coming due and payable on such Installment Payment Date.

If on any Interest Payment Date the moneys available in the Installment Payment Fund are not at least equal to the amount of the Installment Payment then coming due and payable, the Trustee shall apply the moneys available in the Reserve Fund to make such payments on behalf of the City by transferring the amount necessary for this purpose to the Installment Payment Fund. If on any Interest Payment Date the moneys on deposit in the Reserve Fund and the Installment Payment Fund (excluding amounts required for payment of principal, interest and prepayment premium, if any, represented by any Certificates theretofore having come due but not presented for payment) are sufficient to pay all Outstanding Certificates, including all principal, interest and prepayment premiums (if any), the Trustee shall, upon the written request of the City, transfer all amounts then on deposit in the Reserve Fund to the Installment Payment Fund to be applied for such purpose to the payment of the Installment Payments on behalf of the City. Upon the discharge of this Trust Agreement under Section 12.01, the Trustee shall withdraw all amounts in the Reserve Fund and, at the written request of the City, apply those amounts towards such discharge or pay them to the City.

Section 3.05. Qualified Reserve Fund Credit Instrument. With prior notification to the Rating Agency, the City may at any time release funds from the Reserve Fund, in whole or in part, by tendering to the Trustee: (a) a Qualified Reserve Fund Credit Instrument, (b) an opinion of Bond Counsel stating that such release will not, of itself, cause interest represented by the Certificates to become includable in gross income for purposes of federal income taxation, and (c) confirmation from the Rating Agency that the release and substitution will not cause a downgrade in the rating for the Bonds. Upon tender of such items to the Trustee, the Trustee will transfer such funds from the Reserve Fund to the City for deposit into a separate account to be held by the City and expended to finance improvements to the Enterprises in accordance with applicable state and federal law. Upon the expiration of any Qualified Reserve Fund Credit Instrument, the City will either (a) replace such Qualified Reserve Fund Credit Instrument with a new Qualified Reserve Fund Credit Instrument, or (b) deposit with the Trustee an amount of funds equal to the Reserve Requirement, to be derived from any source of legally available funds of the City.

ARTICLE IV

PREPAYMENT OF CERTIFICATES

Section 4.01. Prepayment.

(a) Optional Prepayment. The Certificates maturing on or before October 1, _____, are not subject to optional prepayment prior to the respective stated maturities. The Certificates maturing on or after October 1, _____, are subject to optional prepayment in whole on any date on or after October 1, _____, or in part, from prepayments of the Installment Payments made at the option of the City under the Installment Sale Agreement by notice to the Trustee 45 days prior to the prepayment date, at a prepayment price equal to 100% of the principal amount of Certificates or portions thereof to be prepaid, together with accrued interest represented thereby to the prepayment date, without premium.

If the City prepays the Certificates in part but not in whole, the Trustee will select the Certificates for prepayment among maturities on such basis as the City designates in written notice to the Trustee, and by lot within a maturity.

(b) Mandatory Sinking Fund Prepayment. The Certificates maturing on October 1 in each of the years _____ and _____ are also subject to mandatory sinking fund prepayment by lot on October 1 in each year as shown in the following tables, from the principal components of the Installment Payments required to be paid with respect to each of such dates, at a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the prepayment date, without premium, as follows:

Term Certificates Maturing October 1, _____

Prepayment Date <u>(October 1)</u>	Principal <u>Amount</u>
---------------------------------------	----------------------------

Term Certificates Maturing October 1, _____

Prepayment Date <u>(October 1)</u>	Principal <u>Amount</u>
---------------------------------------	----------------------------

Notwithstanding the foregoing provisions of this subsection (b), if some but not all of the Term Certificates of any maturity have been prepaid under any of the preceding provisions of this Section 4.01, the aggregate principal amount of such Term Certificates to be prepaid in each year thereafter under this subsection (b) will be reduced by the aggregate principal amount of such Term Certificates so prepaid, to be allocated among maturities in integral multiples of \$5,000 such that the resulting amount of principal represented by the Term Certificates subject to prepayment on any date under this subsection (b) is not less than the aggregate principal components of the Installment Payments coming due and payable on such date.

Section 4.02. Selection of Certificates for Prepayment. Whenever less than all Outstanding Certificates of any one maturity are called for prepayment, the Trustee will select Certificates for prepayment, that are not held by a Depository, within such maturity by lot in any manner deemed fair by the Trustee. For the purposes of such selection, Certificates will be deemed to be composed of \$5,000 portions, and any such portion may be separately prepaid. The Trustee shall promptly notify the City and the Corporation in writing of the Certificates or portions thereof so selected for prepayment. The selection by the Trustee of any Certificates for prepayment is final and conclusive.

Section 4.03. Notice of Prepayment. The Trustee shall give notice of the prepayment of the Certificates on behalf and at the expense of the City. Such notice must state the prepayment date and prepayment price and, if less than all of the then Outstanding Certificates of any maturity are to be called for prepayment, must designate the numbers of the Certificates to be prepaid, and must require that such Certificates be surrendered on the designated prepayment date at the Trust Office of the Trustee for prepayment, giving notice also that further interest represented by the Certificates will not accrue from and after the prepayment date. Such notice must further state that on the specified date there will become due and payable upon each Certificate, the principal and premium, if any, together with interest accrued to said date, and that from and after such date interest with respect thereto shall cease to accrue and be payable.

The Trustee shall mail prepayment notice mailed by first class mail with postage prepaid, to (a) one or more of the Information Services, and (b) the Owners of Certificates designated for prepayment at their respective addresses appearing on the Registration Books. The Trustee shall mail such notice at least 30 days but not more than 60 days prior to the prepayment date. Neither the failure to receive any notice so mailed nor any defect in any notice so mailed affects the sufficiency of the proceedings for the prepayment of such Certificates or the cessation of accrual of interest represented thereby from and after the date fixed for prepayment.

The City has the right to rescind any notice of the optional redemption by written notice to the Trustee on or prior to the dated fixed for redemption. Any notice of optional redemption will be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Certificates then called for redemption, and such cancellation will not constitute an Event of Default hereunder. The City and the Trustee have no liability to the Owners or any other party related to or arising from such rescission of redemption. The Trustee shall cause notice of such rescission to be mailed, first class mail, postage prepaid, to the respective Owners of any Certificates designated for redemption, at their addresses appearing on the Registration Books, and to the Municipal Securities Rulemaking Board and the Securities Depository.

Section 4.04. Partial Prepayment of Certificates. Upon surrender of any Certificate prepaid in part only, the Trustee will 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 unrepaid portion of the Certificate surrendered and of the same interest rate and the same maturity.

Section 4.05. Effect of Notice of Prepayment. Moneys for the prepayment (including the interest to the applicable date of prepayment) of Certificates having been set aside in the Installment Payment Fund, the Certificates will become due and payable on the date of such prepayment, and, upon presentation and surrender thereof at the Trust Office of the Trustee, said Certificates will be paid at the unpaid principal amount (or applicable portion thereof) represented thereby plus any applicable premium and plus interest accrued and unpaid to said date of prepayment.

If, on said date of prepayment, moneys for the prepayment of all the Certificates to be prepaid, together with interest represented thereby to said date of prepayment, are held by the Trustee so as to be available therefor on such date of prepayment, then, from and after said date of prepayment, interest represented by the Certificates will cease to accrue and become payable. All moneys held by the Trustee for the prepayment of Certificates will be held in trust for the account of the Owners of the Certificates so to be prepaid.

All Certificates paid at maturity or prepaid prior to maturity under the provisions of this Article IV from amounts provided by the City for that purpose will be cancelled upon surrender thereof and destroyed under Section 12.10.

Section 4.06. Purchase of Certificates. In lieu of prepayment of Certificates as provided in this Article IV, amounts held by the Trustee for such prepayment shall, at the written request of the City Representative received by the Trustee no later than 60 days prior to the prepayment date, be applied by the Trustee to 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 Certificates were prepaid. The aggregate principal amount of Certificates of the same maturity purchased in lieu of prepayment under this Section 4.06 may not exceed the aggregate principal amount of Certificates of such maturity which would otherwise be subject to such prepayment.

ARTICLE V

INSTALLMENT PAYMENTS; INSTALLMENT PAYMENT FUND

Section 5.01. Assignment of Rights in Installment Sale Agreement. The Corporation hereby irrevocably assigns to the Trustee, without recourse to the Corporation, all of its rights in the Installment Sale Agreement (excepting only its rights under Sections 4.8, 5.2 and 6.4 thereof), including but not limited to the right to receive and collect all of the Installment Payments and all other amounts required to be deposited in the Installment Payment Fund. The Trustee hereby accepts such assignment. Such assignment neither creates any obligations nor gives rise to any duties on the part of the Trustee other than those obligations and duties contained herein. All Installment Payments and such other amounts to which the Corporation may at any time be entitled will be paid directly to the Trustee, and all of the Installment Payments collected or received by the Corporation will be deemed to be held and to have been collected or received by the Corporation as the agent of the Trustee, and if received by the Corporation at any time shall be deposited by the Corporation with the Trustee within one Business Day after the receipt thereof. The Trustee shall deposit the Installment Payments and such other amounts in the Installment Payment Fund upon the receipt thereof.

Section 5.02. Establishment of Installment Payment Fund. The Trustee shall establish and maintain a special fund designated as the "Installment Payment Fund", into which the Trustee shall deposit all amounts paid to the Trustee for such purpose under the Installment Sale Agreement. The Trustee will hold amounts in the Installment Payment Fund in trust for the benefit of the City and the Owners of the Certificates. So long as any Certificates are Outstanding, neither the City nor the Corporation has any beneficial right or interest in the Installment Payment Fund or the moneys deposited therein, except only as provided in the Installment Sale Agreement or herein.

Section 5.03. Application of Moneys. Except as provided in Section 5.04, the Trustee shall apply amounts in the Installment Payment Fund solely for the purpose of paying the principal, interest and prepayment premiums (if any) represented by the Certificates when due, in accordance with the provisions of Article II and Article IV.

Section 5.04. Surplus. At the written request of the City, the Trustee shall withdraw and remit to the City any surplus remaining in the Installment Payment Fund after prepayment and payment of all Certificates, including all premiums and accrued interest (if any) and payment of any applicable fees and expenses to the Trustee, or provision for such prepayment or payment having been made in accordance with Section 12.01.

ARTICLE VI

MONEYS IN FUNDS; INVESTMENT

Section 6.01. Held in Trust. The moneys and Permitted Investments held by the Trustee under this Trust Agreement are irrevocably held in trust for the benefit of the City and the Owners of the Certificates solely 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 are not subject to levy or attachment or lien by or for the benefit of any creditor of the Corporation, the Trustee, the City or the Owner of any Certificates.

Section 6.02. Investments Authorized. At the written request of the City filed with the Trustee from time to time, the Trustee shall invest amounts held by it in any fund or account established hereunder in Permitted Investments which mature not later than the date such moneys are required or estimated by the City to be required to be expended hereunder. In the absence of any written request of the City directing the investment of uninvested moneys held by the Trustee hereunder, the Trustee shall invest such moneys in Permitted Investments consisting of money market funds; provided, however, that any such investment shall be made by the Trustee only if, prior to the date on which such investment is to be made, the Trustee shall have received a written direction from the District specifying a specific money market fund and, if no such written direction is so received, the Trustee shall hold such moneys uninvested. Such investments, if registrable, shall be registered in the name of the Trustee, as trustee or in the name of its nominee, and shall be held by the Trustee. The Trustee may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section 6.02 and is entitled to its customary fee therefor. Such investments and reinvestments shall be made giving full consideration to the time at which funds are required to be available. The Trustee may act as purchaser or agent in the making or disposing of any investment. Whenever in this Trust Agreement any moneys are required to be transferred by the City to the Trustee, such transfer may be accomplished by transferring a like amount of Permitted Investments. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder. The Trustee is not responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with this Section 6.02. The Trustee shall furnish the City periodic cash transaction statements which include detail for all investment transactions effected by the Trustee or brokers selected by the City. Upon the City's election, such statements will be delivered via the Trustee's online service and upon electing such service, paper statements will be provided only upon request. The City waives the right to receive brokerage confirmations of security transactions effected by the Trustee as they occur, to the extent permitted by law. The City further understands that trade confirmations for securities transactions effected by the Trustee will be available upon request and at no additional cost and other trade confirmations may be obtained from the applicable broker.

The City shall invest amounts held by it in any fund or account established hereunder or under the Installment Sale Agreement in any investments which are authorized for the investment of City funds under the laws of the State of California.

Section 6.03. Accounting. The Trustee shall furnish to the City, not less than monthly, an accounting (in the form customarily used by the Trustee) of all investments and other transactions made by the Trustee under this Trust Agreement. The City acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant

the City the right to receive brokerage confirmations of security transactions as they occur, the City specifically waives receipt of such confirmations to the extent permitted by law.

Section 6.04. Allocation of Earnings. Any income, profit or loss on such investments will be deposited in or charged to the respective funds from which such investments were made; except that: (a) income received on the investment of amounts on deposit in the Reserve Fund, to the extent not required to be retained therein in order to maintain the Reserve Requirement, shall be transferred either (i) to the Installment Payment Fund as set forth in Section 3.04, or (ii) to the Rebate Fund as set forth in Section 9.04(f); and (b) any income received on the investment of amounts on deposit in the Project Fund shall be transferred to the Rebate Fund if and to the extent the Trustee receives written directions from a City Representative to do so in accordance with Section 9.04(f).

Section 6.05. Valuation and Disposition of Investments.

(a) Except as otherwise provided in subsection (b) of this Section, all investments of amounts deposited in any fund or account established hereunder, 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 as such term is defined in subsection (d) below. The Trustee has no duty in connection with the determination of Fair Market Value other than to follow the investment directions of the City in any written directions of a City Representative.

(b) Investments in the Reserve Fund, and investments in any 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). The City shall inform the Trustee which funds are subject to a yield restriction.

(c) Except as provided in subsection (b), for the purpose of determining the amount in any fund, the Trustee shall value any Permitted Investments credited to such fund at least quarterly at the Fair Market Value thereof. The Trustee may sell or present for prepayment, any Permitted Investment so purchased by the Trustee whenever necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited, and the Trustee is not liable or responsible for any loss resulting from any such Permitted Investment.

(d) For purposes of this Section 6.05, the term "Fair Market Value" means 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 acquisition 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 any related parties do not own more than a 10% beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

ARTICLE VII

THE TRUSTEE

Section 7.01. Appointment of Trustee. MUFG Union Bank, N.A. is hereby appointed Trustee by the Corporation and the City for the purpose of receiving all moneys required to be deposited with the Trustee hereunder and to allocate, use and apply the same as provided herein. The City will maintain a Trustee having a corporate trust office in California, with a reported capital and surplus of at least \$50,000,000, duly authorized to exercise trust powers and subject to supervision or examination by Federal or state authority, so long as any Certificates are Outstanding. If such bank or trust company publishes a report of condition at least annually under law or to the requirements of any supervising or examining authority above referred to then for the purpose of this Section 7.01 the combined capital and surplus of such bank or trust company is as set forth in its most recent report of condition so published. The City and the Corporation will maintain a Trustee which is qualified under the provisions of the foregoing provisions of this Section 7.01, so long as any Certificates are Outstanding.

The Trustee is hereby authorized to pay or prepay the Certificates when duly presented for payment at maturity, or on prepayment, or on purchase by the Trustee as directed by the City prior to maturity in accordance with Section 4.06, and to cancel all Certificates upon payment thereof. The Trustee shall keep accurate records of all funds administered by it and of all Certificates paid and discharged.

Section 7.02. Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it hereby, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Trustee, prior to the occurrence of an Event of Default and after curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth herein, and no implied covenants or obligations will be read into this Trust Agreement against the Trustee. If an Event of Default occurs (which has not been cured or waived), the Trustee may exercise such of the rights and powers vested in it hereby, and shall use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) No provision hereof requires the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers. The Trustee is entitled to interest on any amounts advanced by it in the performance of its duties hereunder.

(c) The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents or receivers and the Trustee is not responsible for any misconduct or negligence on the part of any attorney, agent or receiver appointed with due care by it hereunder. The Trustee is entitled to advice of counsel concerning all matters of trust and its

duty hereunder and is protected in any action taken or suffered by it hereunder in reliance on such advice.

(d) The Trustee is not responsible for the validity hereof or for any recital herein, or in the Certificates, or for any of the supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Certificates issued hereunder or intended to be secured hereby and the Trustee is not bound to ascertain or inquire as to the observance or performance of any covenants, conditions or agreements on the part of the Corporation or the City under the Installment Sale Agreement. The Trustee is not responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Article VI.

(e) The Trustee is not accountable for the use or application of any Certificates or the proceeds thereof. The Trustee may become the Owner of Certificates secured hereby with the same rights which it would have if not the Trustee; 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 Trustee; 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 represents the Owners of the majority in aggregate principal amount of the Certificates then Outstanding.

(f) In the absence of bad faith on its part, Trustee is protected in acting upon any notice, request, consent, certificate, order, requisition, affidavit, letter, telegram or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken or omitted to be taken by the Trustee in good faith hereunder on the request or authority or consent of any person who at the time of making such request or giving such Corporation or consent is the Owner of any Certificate, is conclusive and binding on all future Owners of the same Certificate and upon Certificates issued in exchange therefor or in place thereof.

(g) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee may rely on a certificate signed by a Corporation Representative or a City Representative as sufficient evidence of the facts therein contained and prior to the occurrence of an Event of Default of which the Trustee has been given notice or is deemed to have notice, as provided in Section 7.02(i), shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed by it to be necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a certificate of a Corporation Representative or a City Representative to the effect that an authorization in the form therein set forth has been adopted by the Corporation or the City, as the case may be, as conclusive evidence that such authorization has been duly adopted, and is in full force and effect.

(h) The permissive right of the Trustee to do things enumerated herein shall not be construed as a duty and the Trustee is not answerable for other than

its negligence or willful misconduct. The immunities and exceptions from liability of the Trustee extend to its officers, directors, employees and agents.

(i) The Trustee is not required to take notice or be deemed to have notice of any Event of Default except the failure by the City to make any of the Installment Payments to the Trustee when due or the failure by the Corporation or the City to file with the Trustee any document required hereby or by the Installment Sale Agreement to be so filed subsequent to the delivery of the Certificates, unless the Trustee is specifically notified in writing of such default by the Corporation, the City or the Owners of at least 25% in aggregate principal amount of Certificates then Outstanding. All notices or other instruments required hereby or by the Installment Sale Agreement to be delivered to the Trustee must, in order to be effective, be delivered at the Trust Office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no Event of Default except as aforesaid.

(j) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, have the right (but not the duty) to inspect the Enterprises including all books, papers and records of the City pertaining to the Enterprises and the Certificates, and to take such memoranda from and with regard thereto as may be desired.

(k) The Trustee is not required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(l) Notwithstanding anything elsewhere herein with respect to the execution of any Certificates, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview hereof, the Trustee has the right, but is not required, to demand any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition so that by the terms hereof required as a condition of such action, by the Trustee deemed desirable for the purpose of establishing any right to the execution of any Certificates, the withdrawal of any cash, or the taking of any other action by the Trustee.

(m) Before taking any action referred to in Section 11.02 at the direction of the Certificate Owners, the Trustee may require that a satisfactory indemnity bond or other indemnification acceptable to the Trustee be furnished by the Certificate Owners, or any of them, for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any such action.

(n) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. The Trustee has no liability for interest on any moneys received hereunder except such as may be agreed upon.

(o) The Trustee is not responsible for the sufficiency of the Installment Sale Agreement or its right to receive moneys under the Installment Sale Agreement.

(p) The Trustee is not liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of a majority in aggregate principal amount of the Outstanding Certificates relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, hereunder.

(q) The Trustee is not liable for any error of judgment made in good faith by a responsible officer of the Trustee unless it is proved that the Trustee was negligent in ascertaining the pertinent facts relating thereto.

Section 7.03. Fees, Charges and Expenses of Trustee. The Trustee is entitled to payment and reimbursement from the City and the Corporation for reasonable fees for its services rendered hereunder and all advances, counsel fees (including expenses) and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services. Upon the occurrence of an Event of Default, but only upon such occurrence, the Trustee has a first lien with right of payment prior to payment on account of principal, premium, if any, and interest represented by any Certificate upon the amounts held hereunder for the foregoing fees, charges and expenses incurred by it respectively.

Section 7.04. Notice to Certificate Owners of Default. If an Event of Default occurs of which the Trustee has been given or is deemed to have notice, as provided in Section 7.02(i), then the Trustee shall promptly give written notice thereof by first class mail, postage prepaid, by first class mail, postage prepaid, to the Owner of each Outstanding Certificate, unless such Event of Default has been cured before the giving of such notice; *provided, however,* that unless such Event of Default consists of the failure by the City to make any Installment Payment when due, the Trustee may elect not to give such notice to the Certificate Owners if and so long as the Trustee in good faith determines that it is in the best interests of the Certificate Owners not to give such notice.

Section 7.05. Removal of Trustee. So long as no Event of Default has occurred and is continuing the City may, upon at least 30 days' prior written notice and with the consent of the Corporation, remove the Trustee initially appointed, and any successor thereto, by an instrument or concurrent instruments in writing delivered to the Trustee and the Corporation, and may appoint a successor or successors thereto; provided that any such successor is a commercial bank or trust company meeting the requirements set forth in Section 7.01.

Section 7.06. Resignation by Trustee. The Trustee and any successor Trustee may at any time resign by giving written notice by registered or certified mail to the City. Upon receiving such notice of resignation, the City shall promptly appoint a successor Trustee. Any resignation or removal of the Trustee and appointment of a successor Trustee takes effect on acceptance of appointment by the successor Trustee. Upon such acceptance, the City will mail notice thereof to the Certificate Owners at their respective addresses set forth on the Registration Books.

Section 7.07. Appointment of Successor Trustee. If the Trustee is removed or resigns under Sections 7.05 or 7.06, respectively, the City shall promptly appoint a successor Trustee. If the City for any reason whatsoever fails to appoint a successor Trustee within 30 days following

the delivery to the Trustee of the instrument described in Section 7.05 or within 30 days following the receipt of notice by the City under Section 7.06, at the expense of the City the Trustee may apply to a court of competent jurisdiction for the appointment of a successor Trustee meeting the requirements of Section 7.01. Any such successor Trustee appointed by such court shall become the successor Trustee hereunder notwithstanding any action by the City purporting to appoint a successor Trustee following the expiration of such 30 day period.

Section 7.08. Merger or Consolidation. Any company or association into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company or association to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company or association is eligible under Section 7.01, shall be the successor to the Trustee and vested with all of the title to the trust estate and all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

Section 7.09. Concerning any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Corporation and the City an instrument in writing accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, will become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the written request of the Corporation, or of its successor, execute and deliver an instrument transferring to such successor all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as the Trustee hereunder to its successor. Should any instrument in writing from the Corporation be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Corporation.

Section 7.10. Non-Liability of Trustee. The recitals, statements and representations by the City and the Corporation contained herein or in the Certificates shall be taken and construed as made by and on the part of the City and the Corporation, as the case may be, and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.

The Trustee 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 Enterprises. In no event is the Trustee liable for special or consequential damages in connection with or arising from the Installment Sale Agreement for the existence, furnishing or use of the Enterprises.

Section 7.11. Nature of Trust Engagement. The Trustee undertakes to perform such duties and only such duties as are specifically set forth herein and no implied covenants or obligations shall be read into the Trust Agreement against the Trustee. In accepting the trusts hereby created, the Trustee acts solely as Trustee and not in its individual capacity and all persons, including without limitation the Certificate Owners, the City and the Corporation having any claim against the Trustee arising from the Trust Agreement shall look only to the funds and accounts hereunder for payment except as otherwise provided herein. Under no circumstances is the Trustee liable in its individual capacity for the obligations represented by the Certificates.

ARTICLE VIII

MODIFICATION OR AMENDMENT OF AGREEMENTS

Section 8.01. Amendments Permitted Without Consent of Owners. This Trust Agreement and the rights and obligations of the Owners of the Certificate, and the Installment Sale Agreement and the rights and obligations of the respective parties thereto, may be modified or amended at any time by a supplemental agreement, without the consent of any of the Certificate Owners, only to the extent permitted by law and only for any one or more of the following reasons:

(a) to add to the covenants and agreements of any party, other covenants to be observed, or to surrender any right or power herein reserved to the City,

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

(c) in any respect whatsoever in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable and which do not, in the opinion of Bond Counsel, materially adversely affect the security of the Certificate Owners,

(d) to provide for matters relating to the issuance of Parity Debt or the delivery of a Qualified Reserve Fund Credit Instrument, or

(e) if and to the extent permitted in the opinion of Bond Counsel filed with the Trustee, the City and the Corporation, to delete or modify any of the provisions hereof or thereof relating to the exemption from federal income taxation of interest represented by the Certificates.

Any such supplemental agreement entered into under this Section takes effect on the execution and delivery by the parties hereto or thereto as the case may be.

Section 8.02. Amendments Permitted With Consent of Owners. Except as permitted under Section 8.01, 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 takes effect when the written consents of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, exclusive of Certificates disqualified as provided in Section 12.03, have been filed with the Trustee.

No modification or amendment under this Section 8.02 may (a) 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 (b) 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, without the consent of the Owners of 100% in aggregate

principal amount of the Outstanding Certificates, or (c) modify any of the rights or obligations of the Trustee without its written assent thereto.

No such supplemental agreement may become effective unless there is filed with the Trustee the written consents of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding (exclusive of Certificates disqualified as provided in Section 12.04) and the Trustee has given the notice required below. Each such consent will be effective only if accompanied by proof of ownership of the Certificates for which such consent is given, which proof shall be such as is permitted by Section 2.10. Any such consent binds the Owner of the Certificate giving such consent and each 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 Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed.

After the Owners of the required percentage of Certificates have filed their consents to such supplemental agreement, the Trustee shall mail a notice to the Owners of the Certificates in the manner hereinbefore provided in this Section for the mailing of such supplemental agreement of 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 (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 to be filed with the Trustee, shall be conclusive proof of the matters therein stated. Such supplemental agreement shall become effective upon the mail of such last-mentioned notice, and 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 8.03. Effect of Supplemental Agreement. From and after the time any supplemental agreement becomes effective under this Article VIII, 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, as the case may be, 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 for any and all purposes.

Section 8.04. Endorsement or Replacement of Certificates Delivered After Amendments. The Trustee may determine that Certificates shall bear a notation, by endorsement or otherwise, in form approved by the Trustee, as to such action. In that case, upon demand of the Owner of any Certificate Outstanding at such effective date and presentation of such Owner's Certificate for the purpose at the Trust Office of the Trustee, a suitable notation shall be made on such Certificate. The Trustee may determine that the delivery of substitute Certificates, so modified as in the opinion of the Trustee is necessary to conform to such Certificate Owners' action, which substitute Certificates shall thereupon be prepared, executed and delivered at the expense of the City. In that case, upon demand of the Owner of any Certificate then Outstanding, such substitute Certificate shall be exchanged at the Trust Office of the Trustee, without cost to such Owner, for a Certificate of the same character then Outstanding, upon surrender of such Outstanding Certificate.

Section 8.05. Amendatory Endorsement of Certificates. The provisions of this Article VIII do not prevent any Certificate Owner from accepting any amendment as to the particular Certificates held by such Owner, provided that proper notation thereof is made on such Certificates.

ARTICLE IX

OTHER COVENANTS

Section 9.01. Compliance With and Enforcement of Installment Sale Agreement. The City covenants with the Trustee, for the benefit of the Owners of the Certificates, to perform all obligations and duties imposed on it under the Installment Sale Agreement.

Section 9.02. Observance of Laws and Regulations. The City will observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States or of the State of California, 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, including its right to exist and carry on business as a public agency, to the end that such rights, privileges and franchises shall be maintained and preserved, and will not become abandoned, forfeited or in any manner impaired.

Section 9.03. Recordation and Filing. The City will record and file all such documents as may be required by law (and shall take all further actions which may be necessary or be reasonably required by the Trustee), all in such manner, at such times and in such places as may be required by law in order fully to preserve, protect and perfect the security of the Trustee and the Certificate Owners.

Section 9.04. Tax Covenants.

(a) Private Business Use Limitation. The City shall assure that the proceeds of the Certificates are not used in a manner which would cause any of the obligations of the City under the Installment Sale Agreement to become "private activity bonds" under and within the meaning of Section 141(a) of the Tax Code.

(b) Private Loan Limitation. The City shall assure that no more than 5% of the aggregate amount of the proceeds of the Certificates are used, directly or indirectly, to make or finance a loan (other than loans constituting nonpurpose obligations as defined in the Tax Code or constituting assessments) to persons other than state or local government units.

(c) 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 the obligations of the City under the Installment Sale Agreement to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.

(d) No Arbitrage. The City shall not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Certificates or of any other obligations 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 obligations of the City under

the Installment Sale Agreement to be “arbitrage bonds” within the meaning of Section 148(a) of the Tax Code.

(e) Rebate of Excess Investment Earnings to United States. The City shall calculate or cause to be calculated the Excess Investment Earnings in all respects at the times and in the manner required under the Tax Code. The City shall pay the full amount of Excess Investment Earnings to the United States of America in such amounts, at such times and in such manner as may be required under the Tax Code. Such payments shall be made by the City from any source of legally available funds of the City, including but not limited to from amounts on deposit in the Rebate Fund.

The City shall keep or cause to be kept, and retain or cause to be retained for a period of six years following the retirement of the Certificates, records of the determinations made under this subsection (e). In order to provide for the administration of this subsection (e), the City may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the City may deem appropriate. The Trustee has no duty or obligation to monitor or enforce compliance by the City of any of the requirements herein.

(f) Establishment of Rebate Fund. At the written request of a City Representative, the Trustee shall establish and maintain a special fund designated as the “Rebate Fund” to be held by the Trustee for the benefit of the City. The Trustee shall deposit into the Rebate Fund any amounts provided to it by the City for that purpose, and shall also transfer into the Rebate Fund any earnings received from the investment of amounts in the Project Fund or the Reserve Fund (to the extent permitted by Section 6.04), if and to the extent so directed in writing by a City Representative. At the written direction of the City, amounts on deposit in the Rebate Fund shall be disbursed by the Trustee for the purpose of making payments of Excess Investment Earnings in accordance with subsection (e) of this Section. If the City determines that any amounts held by the Trustee in the Rebate Fund are not required to make payments of Excess Investment Earnings, such amounts shall be transferred to the Installment Payment Fund at the written direction of the City. The Trustee shall be deemed conclusively to have complied with the provisions of this section if it follows the written directions of the City, and shall have no liability or responsibility to enforce compliance by the City with the terms of this section or any tax certificate.

Section 9.05. Continuing Disclosure. The City shall comply with and carry out all of the provisions of that certain Continuing Disclosure Certificate executed and delivered by the City as of the Closing Date, as originally executed and as it may be amended from time to time in accordance with its terms. Notwithstanding any other provision of this Trust Agreement, failure of the City to comply with such Continuing Disclosure Certificate does not constitute an Event of Default. However, any Participating Underwriter (as that term is defined in such Continuing Disclosure Certificate) or any Owner or beneficial owner of the Certificates may take such actions as may be necessary and appropriate to compel performance by the City of its obligations under this Section, including seeking mandate or specific performance by court order.

Section 9.06. Further Assurances. The Corporation and the City 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 hereof and of the Installment Sale Agreement, and for the better assuring and confirming unto the Owners of the Certificates the rights and benefits provided herein.

ARTICLE X

LIMITATION OF LIABILITY

Section 10.01. Limited Liability of City and Corporation. Except for the payment of Installment Payments when due in accordance with the Installment Sale Agreement and the performance of the other covenants and agreements of the City contained in the Installment Sale Agreement and herein, the City has no pecuniary obligation or liability to the Corporation, the Trustee, the Owners of the Certificates with respect hereto or the terms, execution, delivery or transfer of the Certificates, or the distribution of Installment Payments to the Owners by the Trustee, except as expressly set forth herein.

The Corporation has no pecuniary obligation or liability to the City or the Trustee, or to any of the Owners of the Certificates, with respect to the performance by the City of its obligations under the Installment Sale Agreement or this Trust Agreement, with respect hereto or the terms, execution, delivery or transfer of the Certificates, or with respect to the distribution of Installment Payments to the Owners by the Trustee.

Section 10.02. No Liability for Trustee Performance. Neither the City nor the Corporation has any obligation or liability to any of the other parties or to the Owners of the Certificates with respect to the performance by the Trustee of any duty imposed on it hereunder.

Section 10.03. Indemnification of Corporation and Trustee. The City shall indemnify the Corporation and Trustee, and their respective officers, agents and employees, against all claims, losses, costs, expenses, liability and damages, including legal fees and expenses, arising out of or in connection with any of the following:

- (a) the use, maintenance, condition or management of, or from any work or thing done on, the Enterprises by the City,
- (b) any breach or default on the part of the City in the performance of any of its obligations hereunder and any other agreement made and entered into for purposes of the Enterprises,
- (c) any act of the City or of any of its agents, contractors, servants, employees, licensees with respect to the Enterprises,
- (d) any act of any assignee of, or purchaser from the City or of any of its agents, contractors, servants, employees or licensees with respect to the Enterprises,
- (e) the actions of any other party, including but not limited to the ownership, operation or use of the Enterprises by the City,
- (f) the Trustee's exercise and performance of its powers and duties hereunder, or
- (g) the execution, delivery and sale of the Certificates.

No indemnification is made under this Section or elsewhere herein for the willful misconduct or negligence by the Trustee or the Corporation, or their respective officers, agents,

employees, successors or assigns. The City's obligations under this Section 10.03 survive the maturity and payment of the Certificates.

Section 10.04. Opinion of Counsel. Before being required to take any action, the Trustee may require an opinion of counsel acceptable to the Trustee, or an opinion of Bond Counsel acceptable to the Trustee with respect to any federal tax matters, or a verified certificate of any party hereto, or both, concerning the proposed action. If it does so in good faith, Trustee is protected in relying on any such opinion or certificate obtained by it.

Section 10.05. Limitation of Rights to Parties and Certificate Owners. Nothing herein or in the Certificates expressed or implied gives any person other than the City, the Corporation, the Trustee and the Owners of the Certificates, any legal or equitable right, remedy or claim under or in respect hereof 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 Corporation, the Trustee and the Owners.

ARTICLE XI

EVENTS OF DEFAULT AND REMEDIES OF CERTIFICATE OWNERS

Section 11.01. Assignment of Rights. Under Section 5.01, the Corporation assigns to the Trustee all of the Corporation's rights in and to the Installment Sale Agreement (excepting only the Corporation's rights under Sections 4.8, 5.2 and 6.4 thereof), including without limitation all of the Corporation's rights to exercise such rights and remedies conferred on the Corporation under the Installment Sale Agreement as may be necessary or convenient (a) to enforce payment of the Installment Payments and any other amounts required to be deposited in the Installment Payment Fund, and (b) otherwise to exercise the Corporation's rights and take any action to protect the interests of the Trustee, the Certificate Owners upon the occurrence of an Event of Default.

Section 11.02. Remedies. If an Event of Default occurs, then and in each and every such case during the continuance of such Event of Default, the Trustee may, and at the written direction of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, the Trustee shall exercise any and all remedies available under law or granted under the Installment Sale Agreement.

Section 11.03. Application of Funds. All moneys received by the Trustee under any right given or action taken under the provisions of this Article XI or Article VI of the Installment Sale Agreement shall be applied by the Trustee in the following order:

First, to the payment of the fees, costs and expenses of the Trustee and of the Certificate Owners in declaring and enforcing such Event of Default, including reasonable compensation to its or their agents, attorneys and counsel;

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 Overdue Rate (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 in case such moneys shall be insufficient to pay in full the whole amount so owing and unpaid with respect to the Certificates, then 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 11.04. Institution of Legal Proceedings. If one or more Events of Default occur and are continuing, the Trustee 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, either 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 Trustee shall deem most effectual in support of any of its rights or duties hereunder.

Section 11.05. Non-waiver. Nothing in this Article XI or in any other provision hereof or in the Certificates, affects or impairs the obligation of the City, which is absolute and unconditional, to pay or prepay the Installment Payments as provided in the Installment Sale Agreement, or affects or impairs the right of action, which is also absolute and unconditional, of the Certificate Owners to institute suit to enforce and collect such payment. No delay or omission of the Trustee or any Owner of any of the Certificates to exercise any right or power arising upon the happening of any Event of Default impairs any such right or power or waives any such Event of Default or acquiesces therein, and every power and remedy given by this Article XI to the Trustee, the Owners of Certificates may be exercised from time to time and as often as the Trustee, the Certificate Owners deem expedient.

Section 11.06. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee or 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 11.07. Power of Trustee to Control Proceedings. If the Trustee, upon the occurrence of an Event of Default, takes any action, by judicial proceedings or otherwise, under its duties hereunder, whether on its own discretion or at the request of the Owners of a majority in aggregate 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.

Section 11.08. Limitation on Certificate Owners' Right to Sue. No Owner of any Outstanding Certificate has 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 Trustee written notice of the occurrence of an Event of Default;

(b) the Owners of a majority in aggregate principal amount of all the Certificates then Outstanding have requested the Trustee in writing to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name;

(c) said Owners shall have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; and

(d) the Trustee has refused or failed 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 Trustee.

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 its or their action to enforce any right hereunder, 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 direct, undivided fractional 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 or any other provision hereof.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Discharge of this Trust Agreement. If and when the obligations represented by any Outstanding Certificates are paid and discharged in any one or more of the following ways:

(a) by paying or causing to be paid the principal, interest and prepayment premiums (if any) represented by such Certificates Outstanding when due; or

(b) by irrevocably depositing with the Trustee or any other fiduciary, under an escrow deposit and trust agreement, security for the payment of Installment Payments relating to such Certificates as more particularly described in Section 7.1 of the Installment Sale Agreement, said security to be held by the Trustee on behalf of the City to be applied by the Trustee or by such other fiduciary to pay or prepay such Installment Payments as the same become due, under Section 7.1 of the Installment Sale Agreement;

then, notwithstanding that such Certificates have not been surrendered for payment, all rights hereunder of the Owners of such Certificates and all obligations of the Corporation, the Trustee and the City with respect to such Certificates shall cease and terminate, except only the obligations of the Trustee under Sections 2.07 and 2.08, and the obligation of the Trustee to pay or cause to be paid, from Installment Payments paid by or on behalf of the City from funds deposited under the preceding paragraph (b) of this Section, to the Owners of such Certificates not so surrendered and paid all sums represented thereby when due and in the event of deposits

under the preceding paragraph (b), such Certificates will continue to represent direct, undivided fractional interests of the Owners thereof in the Installment Payments.

Any funds held by the Trustee, at the time of discharge of the obligations represented by all Outstanding Certificates as a result of one of the events described in the preceding paragraphs (a) or (b) of this Section, which are not required for the payment to be made to Owners, shall, upon payment in full of all fees and expenses of the Trustee (including attorneys' fees) then due, be paid over to the City.

Section 12.02. Notices. Any notice, request, complaint, demand or other communication hereunder shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopier or other form of telecommunication, at its number set forth below. Notice is effective either (a) upon transmission by fax or other form of telecommunication, (b) upon actual receipt after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The City, the Corporation or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the City: City of Calistoga
1232 Washington Street
Calistoga, California 94515
Attention: City Manager

If to the Corporation: Calistoga Public Facilities Financing
Corporation
1232 Washington Street
Calistoga, California 94515
Attention: Executive Director

If to the Trustee: MUFG Union Bank, N.A.
Corporate Trust Services
350 California Street, 17th Floor
San Francisco, California 94104
Fax: 415-273-2492
Email: CashControlGroup-LosAngeles@unionbank.com

Section 12.03. Records. The Trustee will keep complete and accurate records of all moneys received and disbursed hereunder, which are available for inspection by the City, the Corporation and any Owner, or the agent of any of them, upon prior written request during regular business hours.

Section 12.04. Disqualified Certificates. In determining whether the Owners of the requisite aggregate principal amount of Certificates have concurred in any demand, request, direction, consent or waiver hereunder, Certificates which are owned or held by or for the account of the City or the Corporation (but excluding Certificates held in any employees' retirement fund) will be disregarded and deemed not to be Outstanding for the purpose of any such determination. For the purpose of determining whether the Trustee is protected in relying on any such demand, request, direction, consent or waiver, only Certificates which the Trustee knows to be so owned or held shall be disregarded.

Section 12.05. Payment of Certificates After Discharge. Notwithstanding any provisions hereof, but subject to any applicable laws of the State of California relating to the escheat of funds or property, any moneys held by the Trustee for the payment of the principal or interest represented by any Certificates and remaining unclaimed for 2 years after the principal represented by all of the Certificates has become due and payable (whether at maturity or upon call for prepayment or by acceleration as provided herein), if such moneys were so held at such date, or 2 years after the date of deposit of such moneys if deposited after said date when all of the Certificates became due and payable, shall be repaid to the City free from the trusts created hereby upon receipt of an indemnification agreement acceptable to the City and the Trustee indemnifying the Trustee with respect to claims of Owners of Certificates which have not yet been paid, and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however,* that before the repayment of such moneys to the City as aforesaid, the Trustee may (at the cost of the City) first mail, by first class mail postage prepaid, to the Owners of Certificates which have not yet been paid, at the respective addresses shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Trustee with respect to the Certificates so payable and not presented and with respect to the provisions relating to the repayment to the City of the moneys held for the payment thereof. Any moneys so held by the Trustee will be held uninvested.

Section 12.06. Governing Law. This Trust Agreement shall be construed and governed in accordance with the laws of the State of California.

Section 12.07. Binding Effect; Successors; Benefits Limited to Parties. This Trust Agreement is binding on and inures to the benefit of the parties and their respective successors and assigns. Whenever herein either the Corporation, the City or the Trustee is named or referred to, such reference includes the successors or assigns thereof, and all the covenants and agreements contained herein by or on behalf of the Corporation, the City or the Trustee will bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not. Nothing herein expressed or implied confers on, or to gives to, any person or entity, other than the Corporation, the City, the Trustee, the Certificate Owners, any right, remedy or claim hereunder or by reason hereof or of any covenant, condition or stipulation contained herein. All covenants, stipulations, promises and agreements contained herein by or on behalf of the Corporation or the City are for the sole and exclusive benefit of the Corporation, the City, the Trustee and the Certificate Owners.

Section 12.08. Execution in Counterparts. This Trust Agreement may be executed in several counterparts, each of which is an original and all of which constitute one and the same agreement.

Section 12.10. Delivery of Cancelled Certificates. Whenever provision is made herein for the surrender to or cancellation by the Trustee of any Certificates, the Trustee shall cancel and destroy such Certificates and shall deliver a certificate of destruction with respect thereto to the City.

Section 12.11. Corporation and City Representatives. Whenever under the provisions hereof the approval of the Corporation or the City is required, or a written certificate, requisition, direction or order is required to be delivered by the City or the Corporation to the Trustee, or the Corporation or the City is required to take some action at the request of the other, such approval or such request shall be given, and such certificate, requisition, direction or order shall be executed, for the Corporation by a Corporation Representative and for the City by a City

Representative, and any party hereto is authorized to rely upon any such approval, request, certificate, requisition, direction or order.

Section 12.12. Headings. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, are solely for convenience of reference and do not affect the meaning, construction or effect hereof. All references herein to "Articles", "Sections", and other subdivisions are to the corresponding Articles, Sections or subdivisions hereof; 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 12.13. Waiver of Notice. Whenever the giving of notice by mail or otherwise is required hereunder, the giving of such notice may be waived in writing by the person entitled to receive it, and the giving or receipt of such notice is not a condition precedent to the validity of any action taken in reliance on such waiver.

Section 12.14. Severability of Invalid Provisions. If any one or more of the provisions contained herein or in the Certificates are for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability will not affect any other provision hereof, 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 hereof may be held illegal, invalid or unenforceable.

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

MUFG UNION BANK, N.A., as Trustee

By _____
Authorized Officer

CALISTOGA PUBLIC FACILITIES CORPORATION

By _____
Treasurer

CITY OF CALISTOGA

By _____
City Manager

ATTEST:

By _____
City Clerk

APPENDIX A

DEFINITIONS

Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Trust Agreement have the respective meanings specified in this Appendix A.

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

“Business Day” means a day which is not a Saturday, Sunday or legal holiday on which banking institutions in the State of California, or in any state in which the Trust Office of the Trustee is located, are closed.

“Certificates” means the \$ _____ aggregate principal amount of certificates of participation, designated the 2018 Water and Wastewater Revenue Certificates of Participation, executed and delivered hereunder and at any time Outstanding hereunder.

“City” means the City of Calistoga, a municipal corporation duly organized and existing under the laws of the State of California.

“City Representative” means the City Manager or Administrative Services Director of the City, or any other person authorized by resolution of the City Council of the City to act on behalf of the City under or with respect to the Installment Sale Agreement and this Trust Agreement.

“Closing Date” means _____, 2018, being the day when the Certificates, duly executed by the Trustee, are delivered to the Original Purchaser.

“Corporation” means the Calistoga Public Facilities Corporation, a nonprofit public benefit corporation duly organized and existing under the laws of the State of California.

“Corporation Representative” means the President, Vice President, Treasurer or Secretary of the Corporation, or any other person authorized by resolution of the Board of Directors of the Corporation to act on behalf of the Corporation under or with respect to the Installment Sale Agreement and this Trust Agreement.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the City relating to the execution and delivery of the Installment Sale Agreement or the execution, sale and delivery of the Certificates, including but not limited to filing and recording costs, settlement costs, underwriter’s discount and original issue discount (if any), printing costs, reproduction and binding costs, initial fees and charges of the Trustee and its counsel, initial charges of the Corporation, out-of-pocket expenses incurred by the City, financing discounts, legal fees and charges, financial and other professional consultant fees, costs of rating agencies for credit ratings, fees for execution,

transportation and safekeeping of the Certificates and charges and fees in connection with the foregoing.

“Costs of Issuance Fund” means the fund by that name established and held by the Trustee under Section 3.02.

“Depository System Participant” means any participant in the Depository’s book-entry system.

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

“Escrow Agreement” means the Escrow Deposit and Trust Agreement, dated as of _____ 1, 2018, by and between the City and the Escrow Bank.

“Escrow Bank” means MUFG Union Bank, N.A., as escrow bank under the Escrow Agreement.

“Excess Investment Earnings” means an amount required to be rebated to the United States of America under Section 148(f) of the Tax Code due to investment of gross proceeds of the Certificates at a yield in excess of the yield represented by the Certificates.

“Event of Default” means an event of default under the Installment Sale Agreement, as described in Section 6.1 thereof.

“Federal Securities” means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.

“Fiscal Year” means the twelve-month period beginning on July 1 of any year and ending on June 30 of the next succeeding year, or any other twelve-month period selected by the City as its fiscal year.

“Independent Accountant” means any accountant or firm of such accountants appointed and paid by the City, and who, or each of whom (a) is in fact independent and not under domination of the City; (b) does not have any substantial interest, direct or indirect, with the City; and (c) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or other audits of the books of or reports to the City.

“Information Services” means the Electronic Municipal Market Access website (EMMA); or, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other services providing information with respect to called bonds as the City may designate in a written request delivered to the Trustee.

“Installment Payment” means all payments required to be paid by the City on any date under Section 4.4 of the Installment Sale Agreement, including any amounts payable upon delinquent installments and including any prepayment thereof under Section 7.2 of the Installment Sale Agreement.

“Installment Payment Fund” means the fund by that name established and held by the Trustee under Section 5.02.

“Installment Sale Agreement” means the Installment Sale Agreement, dated as of _____ 1, 2018, between the City and the Corporation, together with any duly authorized and executed amendments thereto.

“Interest Payment Date” means, with respect to any Certificate, October 1, 2018, and each April 1 and October 1 thereafter to and including the date of maturity or the date of prepayment of such Certificate.

“Nominee” means (a) initially, Cede & Co. as nominee of DTC, and (b) any other nominee of the Depository designated under Section 2.05(a).

“Original Purchaser” means Hilltop Securities Inc., as original purchaser of the Certificates upon the negotiated sale thereof.

“Outstanding”, when used as of any particular time with respect to Certificates, means (subject to the provisions of Section 12.05) all Certificates theretofore executed and delivered by the Trustee hereunder except (a) Certificates theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation; (b) Certificates paid and discharged in accordance with Section 12.01, provided that, if such Certificates are to be prepaid prior to maturity, notice of such prepayment has been given as provided in Section 4.03 or provision satisfactory to the Trustee has been made for the giving of such notice; and (c) Certificates in lieu of or in exchange for which other Certificates has been executed and delivered by the Trustee under Section 2.08.

“Owner”, when used with respect to a Certificate, means the person in whose name the ownership of such Certificate shall be registered on the Registration Books.

“Permitted Investments” means any of the following:

- (a) Federal Securities;
- (b) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself): (i) certificates of beneficial ownership of the Farmers Home Administration; (ii) Federal Housing Administration debentures; (iii) participation certificates of the General Services Administration; (iv) guaranteed mortgage-backed bonds or guaranteed pass-through obligations of the Government National Mortgage Association; (v) guaranteed Title XI financings of the U.S. Maritime Administration; and (vi) project notes, local authority bonds, new communities debentures and U.S. public housing notes and bonds of the U.S. Department of Housing and Urban Development.

(c) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities only as stripped by the agency itself): (i) senior debt obligations of the Federal Home Loan Bank System; (ii) participation certificates and senior debt obligations of the Federal Home Loan Mortgage Corporation; (iii) mortgaged-backed securities and senior debt obligations of Fannie Mae; (iv) senior debt obligations of the Student Loan Marketing Association; (v) obligations of the Resolution Funding Corporation; and (vi) consolidated system-wide bonds and notes of the Farm Credit System.

(d) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and which are rated in the highest short-term rating category by the Rating Agency (such funds may include funds for which the Trustee, its affiliates, parent or subsidiaries provide investment advisory or other management services).

(e) Certificates of deposit (including those of the Trustee, its parent and its affiliates) secured at all times by collateral described in (a) or (b) above, which have a maturity not greater than one year from the date of investment and which are issued by commercial banks, savings and loan associations or mutual savings banks whose short-term obligations are rated A or better by the Rating Agency, which collateral must be held by a third party and provided that the Trustee must have a perfected first security interest in such collateral.

(f) Certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Trustee and its affiliates) which are fully insured by the Federal Deposit Insurance Corporation or collateralized by Permitted Investments described in clause (a) for amounts in excess of FDIC insurance.

(g) Investment agreements with a financial institution the long-term debt or claims paying ability of which, or in the case of a guaranteed corporation the long-term debt, or, in the case of a monoline financial guaranty insurance company, claims paying ability, of the guarantor or the institution is rated at least A or better from the Rating Agency, by the terms of which the Trustee is permitted to withdraw the invested funds if the rating from the Rating Agency falls below A.

(h) Commercial paper rated A or better by the Rating Agency.

(i) Bonds or notes issued by any state or municipality which are rated A or better by the Rating Agency.

(j) Federal funds, deposit accounts or bankers acceptances with a maximum term of one year of any bank which an unsecured, uninsured and unguaranteed obligation rating of A or better by the Rating Agency.

(k) The Local Agency Investment Fund which is administered by the California Treasurer for the investment of funds belonging to local agencies within the State of California, provided for investment of funds held by the Trustee, the

Trustee is entitled to make investments and withdrawals in its own name as Trustee.

(l) Repurchase agreements with a financial institution the long-term debt or claims paying ability of which, or, in the case of a guaranteed corporation the long-term debt, or, in the case of a monoline financial guaranty insurance company, claims paying ability, of the guarantor or the institution is rated at least A or better from the Rating Agency; provided that: (i) the over-collateralization is at 102%, computed weekly, consisting of such securities as described in this section, items (a), (b) and (c); (ii) a third party custodian, the Trustee or the Federal Reserve Bank shall have possession of such obligations; (iii) the Trustee shall have perfected a first priority security interest in such obligations; and (iv) failure to maintain the requisite collateral percentage will require the Trustee to liquidate the agreement.

(m) Forward delivery or forward purchase agreements with underlying securities of the types described in (a), (b), (c) and (h) above.

“Qualified Reserve Fund Credit Instrument” means an irrevocable standby or direct-pay letter of credit or surety bond issued by a commercial bank or insurance company and deposited with the Trustee under Section 3.04, provided that all of the following requirements are met at the time of acceptance thereof by the Trustee: (a) the long-term credit rating of such bank or insurance company is A or better from the Rating Agency; (b) such letter of credit or surety bond has a term of at least 12 months; (c) such letter of credit or surety bond has a stated amount at least equal to the portion of the Reserve Requirement with respect to which funds are proposed to be released under Section 3.04; and (d) the Trustee is authorized under the terms of such letter of credit or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Installment Payment Fund for the purpose of making payments required under Section 5.02.

“Rating Agency” means Standard & Poor’s Corporation, its successors and assigns.

“Rebate Fund” means the fund by that name established and held by the Trustee under Section 9.04(f).

“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.

“Registration Books” means the records maintained by the Trustee under Section 2.11 for registration of the ownership and transfer of ownership of the Certificates.

“Reserve Fund” means the fund by that name established and held by the Trustee under Section 3.04.

“Reserve Requirement” means, as of the date of calculation, an amount equal to the maximum amount Installment Payments payable by the City under the Installment Sale Agreement in the current or any calendar year.

“Securities Depositories” means DTC; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the City may designate in a written request of the City delivered to the Trustee.

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

“Term Certificates” means the Certificates maturing on October 1 in each of the years _____ and _____.

“Trust Agreement” means this Trust Agreement, together with any amendments or supplements hereto permitted to be made hereunder.

“Trust Office” means, with respect to the Trustee, the corporate trust office of the Trustee at its address set forth in Section 12.02; provided, however, that for purposes of the payment, prepayment, cancellation, surrender, transfer or exchange of certificates, such term means the principal corporate trust office of the Trustee in Los Angeles, California, or such other or additional offices as may be specified by the Trustee in writing to the City.

“Trustee” means MUFG Union Bank, N.A., or any successor thereto acting as Trustee hereunder.

Installment Payments designated as interest coming due during the interest period immediately preceding each of the Interest Payment Dates. Interest represented hereby shall be payable from the Interest Payment Date next preceding the date of execution of this Certificate unless (a) this Certificate is executed after the close of business on the 15th day of the month immediately preceding an Interest Payment Date and on or before such Interest Payment Date, in which event interest shall be payable from such Interest Payment Date, or (b) unless this Certificate is executed on or before September 15, 2018, in which event interest shall be payable from the Original Issue Date identified above. The Registered Owner's share of the portion of the Installment Payments designated as interest is the result of the multiplication of the aforesaid share of the portion of the Installment Payments designated as principal by the Rate of Interest per annum identified above, calculated on the basis of a 360-day year comprised of twelve 30-day months. Principal and prepayment premium (if any) represented hereby is payable in lawful money of the United States of America upon surrender hereof at the Trust Office of the Trustee. Interest represented hereby is payable by check mailed by first class mail by the Trustee on each Interest Payment Date to the Registered Owner at such Owner's address as it appears on the registration books of the Trustee as of the close of business on the 15th day of the preceding month; *provided, however*, that at the written request of the owner of Certificates in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of the 15th day of the month preceding an Interest Payment Date, interest represented by such Certificates shall be paid on such Interest Payment Date by wire transfer in immediately available funds to such account within the United States of America as shall be specified in such request.

This Certificate has been executed and delivered by the Trustee under the terms of a Trust Agreement dated as of _____ 1, 2018, among the Trustee, the Corporation and the City (the "Trust Agreement"). The City has certified that it is authorized to enter into the Installment Sale Agreement and the Trust Agreement under the laws of the State of California, for the purpose of financing the acquisition, construction and improvement of properties used for the public purposes of the City relating to the Enterprises. Reference is hereby made to the Installment Sale Agreement and the Trust Agreement (copies of which are on file at the Trust Office of the Trustee) for a description of the terms on which the Certificates are delivered, the rights thereunder of the owners of the Certificates, the rights, duties and immunities of the Trustee and the rights and obligations of the City under the Installment Sale Agreement, to all of the provisions of the Installment Sale Agreement and the Trust Agreement the Registered Owner of this Certificate, by acceptance hereof, assents and agrees.

The City is obligated under the Installment Sale Agreement to pay the Installment Payments from the Net Revenues of the respective Enterprises (as those terms are defined in the Installment Sale Agreement). The obligation of the City to pay the Installment Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to pay the Installment Payments does not constitute a debt of the City, the State of California or any of its political subdivisions, and does not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

The Certificates maturing on or before October 1, _____, are not subject to optional prepayment prior to the respective stated maturities. The Certificates maturing on or after October 1, _____, are subject to optional prepayment in whole on any date on or after October 1, _____, or in part, from prepayments of the Installment Payments made at the option of the City under the Installment Sale Agreement, at a prepayment price equal to 100% of the principal amount of Certificates or portions thereof to be prepaid, together with accrued interest represented thereby to the prepayment date, without premium.

The Certificates maturing on October 1 in each of the years _____ and _____ are also subject to mandatory sinking fund prepayment by lot on October 1 in each year as shown in the following tables, from the principal components of the Installment Payments required to be paid with respect to each of such dates, at a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the prepayment date, without premium, as follows:

Term Certificates Maturing October 1, _____

Prepayment Date (<u>October 1</u>)	Principal <u>Amount</u>
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Term Certificates Maturing October 1, _____

Prepayment Date (<u>October 1</u>)	Principal <u>Amount</u>
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As provided in the Trust Agreement, notice of prepayment shall be mailed by the Trustee by first class mail, postage prepaid, not less than 30 nor more than 60 days before the prepayment date, to the registered owners of the Certificates to be prepaid, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for prepayment or the cessation of accrual of interest represented thereby. If this Certificate is called for prepayment and payment is duly provided therefor as specified in the Trust Agreement, interest represented hereby shall cease to accrue from and after the date fixed for prepayment.

This Certificate is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Trust Office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Trust Agreement and upon surrender and cancellation of this Certificate. Upon such transfer a new Certificate or Certificates, of authorized denomination or denominations, representing the same aggregate principal amount and representing the same rate of interest, will be delivered to the transferee in exchange herefor. The City, the Corporation and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, whether or not this Certificate shall be overdue, and the City, the Corporation and the Trustee shall not be affected by any notice to the contrary.

To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement may be amended by the parties thereto with the written consent of the owners of a majority in aggregate principal amount of the Certificates then outstanding, and

may be amended without such consent under certain circumstances; provided that no such amendment shall extend the fixed maturity of any Certificate or reduce the interest or principal represented thereby, without the express consent of the owner of such Certificate.

The City has certified, recited and declared that all things, conditions and acts required by the laws of the State of California, the Installment Sale Agreement and the Trust Agreement to exist, to have happened and to have been performed precedent to and in the delivery of the Certificates, do exist, have happened and have been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, this Certificate has been executed and delivered by MUFG Union Bank, N.A., as trustee, acting under the Trust Agreement.

Execution Date:

MUFG UNION BANK, N.A., as Trustee

By: _____
Authorized Officer

ASSIGNMENT

For value received the undersigned do(es) hereby sell, assign and transfer unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within registered Certificate and hereby irrevocably constitute(s) and appoint(s) _____ attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Note: Signature(s) must be guaranteed by an eligible guarantor institution (banks, stockbrokers, saving and loan associations and credit unions with membership in an approved signature medallion program) under Securities and Exchange Commission Rule 17Ad-15.

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