

**INSTALLMENT SALE AGREEMENT**

**Dated as of May 1, 2022**

**by and between**

**YOLO COUNTY PUBLIC AGENCIES FINANCING AUTHORITY,  
as Seller**

**and the**

**COUNTY OF YOLO,  
as Purchaser**

---

# TABLE OF CONTENTS

Page

<b>ARTICLE I: GENERAL:</b>	
Section 1.01. Definitions .....	2
Section 1.02. Representations, Covenants and Warranties of the County .....	8
Section 1.03. Representations, Covenants and Warranties of the Authority.....	11
Section 1.04. Written Certificates.....	12
Section 1.04. Exhibits.....	13
<b>ARTICLE II: DEPOSITS; CONSTRUCTION OF PROJECT</b>	
Section 2.01. Deposit of Moneys .....	14
Section 2.02. Project Fund.....	14
Section 2.03. Appointment of County as Agent .....	14
Section 2.04. Construction of Project.....	14
Section 2.05. Plans and Specifications; Modification of Project Description .....	15
Section 2.06. Project Completion; Closing of Project Fund .....	15
<b>ARTICLE III: PROJECT SALE AND TITLE; INSTALLMENT PAYMENTS; NET REVENUES</b>	
Section 3.01. Sale .....	16
Section 3.02. Title .....	16
Section 3.03. Assignment by the Authority .....	16
Section 3.04. Term of the Installment Sale Agreement .....	16
Section 3.05. Installment Payments.....	16
Section 3.06. Special Obligation of the County.....	17
Section 3.07. Pledge of Net Revenues; Transfer to Pay Installment Payments; Release from Lien ...	18
Section 3.08. Rate Covenant .....	19
Section 3.09. Limitations on Future Obligations Secured by Net Revenues .....	21
Section 3.10. Rate Stabilization Fund.....	22
Section 3.11. Additional Payments .....	22
<b>ARTICLE IV: PREPAYMENT OF INSTALLMENT PAYMENTS:</b>	
Section 4.01. Prepayment.....	23
Section 4.02. Optional Prepayment .....	23
Section 4.03. Mandatory Prepayment From Net Proceeds of Insurance or Condemnation .....	23
Section 4.04. Credit for Amounts on Deposit.....	23
Section 4.05. Security Deposit.....	23
<b>ARTICLE V: MAINTENANCE; TAXES; INSURANCE; BOOKS AND ACCOUNTS; TAX COVENANTS</b>	
Section 5.01. Maintenance, Taxes and Assessments, Contests.....	25
Section 5.02. Modification of Project.....	25
Section 5.03. Installation of County's Equipment. ....	25
Section 5.04. Sale or Eminent Domain .....	26
Section 5.05. Insurance .....	26
Section 5.06. Advances .....	27
Section 5.07. Books and Accounts .....	27
Section 5.08. Tax Covenants .....	27
<b>ARTICLE VI: DISCLAIMER OF WARRANTIES; ACCESS; INDEMNITY</b>	
Section 6.01. Disclaimer of Warranties.....	30

Section 6.02. Access to the Project and Records.....	30
Section 6.03. Indemnity.....	30

ARTICLE VII:

EVENTS OF DEFAULT AND REMEDIES:

Section 7.01. Events of Default Defined .....	31
Section 7.02. Remedies on Default .....	31
Section 7.03. No Remedy Exclusive.....	32
Section 7.04. Prosecution and Defense of Suits.....	32
Section 7.05. No Additional Waiver Implied by One Waiver.....	32
Section 7.06. Liability Limited to Net Revenues.....	32

ARTICLE VIII

MISCELLANEOUS:

Section 8.01. Assignment, Sale or Lease by the County.....	33
Section 8.02. Amendment of Installment Sale Agreement .....	33
Section 8.03. Binding Effect.....	33
Section 8.04. Applicable Law .....	33
Section 8.05. Severability.....	33
Section 8.06. Captions .....	33
Section 8.07. Net Contract.....	33
Section 8.08. Further Assurances and Corrective Instruments .....	34
Section 8.09. Authority and County Representatives .....	34
Section 8.10. Notices .....	34
Section 8.11. Waiver of Jury Trial; Agreement for Judicial Reference .....	34
Section 8.12. Execution in Counterparts.....	35

Exhibit A	Description of the Project.....	A-1
Exhibit B	Schedule of Installment Payments.....	B-1

## **INSTALLMENT SALE AGREEMENT**

THIS This **INSTALLMENT SALE AGREEMENT** (as it may be hereafter supplemented or amended, this "Agreement"), dated as of May 1, 2022, by and between the YOLO COUNTY PUBLIC AGENCIES FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California, as seller (the "Authority"), and the COUNTY OF YOLO, a public body corporate and politic organized and existing under the Constitution and laws of the State of California, as purchaser (the "County");

### *B A C K G R O U N D :*

1. The County owns and operates an enterprise for the collection and disposal of municipal solid waste (as further defined herein, the "Solid Waste System"), and the County wishes to finance the acquisition, construction and installation of certain improvements to the Solid Waste System, currently anticipated to consist generally of improvements to the Yolo County Central Landfill including the design and construction of a new landfill module and the design and reconstruction of an existing liquid waste pond and flood protection levee, as more particularly described in Exhibit A attached hereto (collectively, the "Project").

2. The Authority has been formed for the purpose of assisting the County and other local agencies in the financing of public capital improvements.

3. In order to provide funds to finance the Project, the County has requested the Authority to enter into this Agreement under which the Authority agrees to sell the Project to the County in return for semiannual installment payments (the "Installment Payments") to be made by the County as the purchase price of the Project.

4. The Installment Payments are payable from, and are secured by a pledge of and lien on, the net revenues of the Solid Waste System, on a parity with the installment payments payable by the County under an Installment Sale Agreement dated as of November 1, 2019, between the Authority, as seller, and the County, as purchaser.

5. For the purpose of obtaining the moneys required to finance the Project in accordance with the terms hereof, the Authority has assigned and transferred certain of its rights under this Agreement to First Foundation Public Finance (the "Assignee") under an Assignment Agreement dated as of May 1, 2022, among the Authority, the County, and the Assignee, including the right to receive and enforce payment of the Installment Payments.

### *A G R E E M E N T :*

In consideration of the foregoing and the material covenants hereinafter contained, the County and the Authority formally agree as follows:

## ARTICLE I

### GENERAL

#### Section 1.01. Definitions.

"**Anti-Corruption Laws**" means \_\_\_\_\_.

"**Assignee**" means First Foundation Public Finance, a Delaware statutory trust and wholly owned subsidiary of First Foundation Bank, its successors and assigns.

"**Assignment Agreement**" means the Assignment Agreement dated as of May 1, 2022, by and among the Authority, the County and the Assignee, and any duly authorized and executed amendment or supplement thereto.

"**Authority**" means the Yolo County Public Agencies Financing Authority.

"**Authority Representative**" means the Chair, Vice Chair, Treasurer or Secretary of the Authority, or any other person designated as an Authority Representative by a Written Certificate of the Authority signed by its Chair, Vice Chair, Treasurer or Secretary and filed with the County and the Assignee.

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

"**Closing Date**" means May 20, 2022.

"**Code**" means the Internal Revenue Code of 1986 as in effect on the date of delivery of this Agreement or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of delivery of this Agreement, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

"**County**" means the County of Yolo, a public body corporate and politic organized and existing under the Constitution and laws of the State of California.

"**County Representative**" means the County Administrator, Interim County Administrator, Assistant County Administrator, Chief Financial Officer or Interim Chief Financial Officer, or any other person designated as a County Representative by a Written Certificate of the County signed by its County Administrative Officer, Assistant County Administrator or Chief Financial Officer and filed with the Authority and the Assignee.

"**Default Rate**" means the Interest Rate plus 3.00%.

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

**"Delivery Costs"** means all items of expense directly or indirectly payable by or reimbursable to the County or the Authority relating to the execution and delivery of this Agreement, including but not limited to filing and recording costs, settlement costs, printing costs, reproduction and binding, financing discounts, legal fees and charges, financial and other professional consultant fees, and other charges and fees in connection with the foregoing, as described further in the Assignment Agreement.

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

- (a) on the date when the County files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability has occurred;
- (b) on the date when the Assignee notifies the County that it has received a written opinion from Bond Counsel to the effect that an Event of Taxability has occurred, which shall be accompanied by a copy of such opinion of Bond Counsel, unless, within 180 days after receipt by the County of such notification and copy of such opinion by the Assignee, the County delivers to the Assignee a ruling or determination letter issued to or on behalf of the County by the Commissioner or any Director of the Internal Revenue Service (or any other governmental official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability has not occurred;
- (c) on the date when the County has been advised in writing by the Commissioner or any Director of the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that, based upon any review or audit or upon any other ground whatsoever, an Event of Taxability has occurred; or
- (d) on the date when the County receives notice from the Assignee that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed the interest on the Installment Payments as includable in the gross income of the Assignee due to the occurrence of an Event of Taxability, provided that the Assignee has provided a copy of document(s) received from the Internal Revenue Service to the County; *provided, however,* that no Determination of Taxability shall occur under this paragraph or paragraphs (b) or (c) above unless the County has been afforded the opportunity, at its expense, to contest any such assessment, and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined; *provided further, however,* that upon demand from the Assignee following an event listed in this paragraph or paragraphs (a), (b) or (c) above, the County shall reimburse the Assignee for any payments, including any taxes, interest, penalties or other charges, Assignee is be obligated to make to the Internal Revenue Service as a result of the Determination of Taxability.

**“Environmental Laws”** means any and all federal, state and local statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes into the environment including, without limitation, ambient air, surface water, ground water or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes or the clean-up or other remediation thereof.

**“Event of Taxability”** means any action taken or not taken by the County which has the effect of causing interest paid or payable on the Installment Payments to be includable, in whole or in part, in the gross income of the holder of the Installment Payments for federal income tax purposes.

**“Event of Default”** means an event of default under Section 7.01 hereof.

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

**“Financial Consultant”** means any consultant or firm of such consultants appointed by the County and who, or each of whom: (a) is judged by the County to have experience in matters relating to the financing of solid waste systems; (b) is in fact independent and not under domination of the County; (c) does not have any substantial interest, direct or indirect, with the County; and (d) is not connected with the County as an officer or employee of the County, but who may be regularly retained to make reports to the County.

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

**“Gross Revenues”** means all gross charges received for, and all other gross income and receipts derived by the County from, the ownership and operation of the Solid Waste System or otherwise arising from the Solid Waste System, including but not limited to (a) any amounts transferred to the Solid Waste Fund from a Rate Stabilization Fund in accordance with Section 3.08, and (b) investment earnings on the foregoing.

Gross Revenues *do not* include (i) the proceeds of any capital grants, (ii) the proceeds of any *ad valorem* property taxes levied for the purpose of paying general obligation bonds of the County relating to the Solid Waste System, or (iii) the proceeds of any special assessments or special taxes levied upon real property for the purpose of paying special assessment bonds or special tax obligations of the County relating to the Solid Waste System.

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

**"Installment Payment"** means any payment required to be paid by the County to the Authority pursuant to Section 3.05 hereof.

**"Installment Payment Date"** means June 1 and December 1 of each year, commencing December 1, 2022.

**"Interest Rate"** means the rate of interest to be paid on the Installment Payments, which is 2.77% per annum, calculated on the basis of a 360-day year of twelve 30-day months.

**"Material Adverse Effect"** means an event or occurrence which adversely affects in a material manner (a) the Solid Waste System, (b) the ability of the County to own and operate the Solid Waste System or to meet or perform its obligations under this Agreement on a timely basis, or (c) the validity or enforceability of this Agreement.

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

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

**"Operation and Maintenance Costs"** means the reasonable and necessary costs paid or incurred by the County for maintaining and operating the Solid Waste System, determined in accordance with generally accepted accounting principles, including but not limited to (a) all reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Solid Waste System in good repair and working order, (b) the reasonable administrative costs of the County attributable to the operation and maintenance of the Solid Waste System, (c) pension and OPEB expenses payable in the current Fiscal Year, and (d) landfill closure and post-closure costs payable in the current Fiscal Year, including without limitation amounts payable under the agreement entitled "Pledge of Revenue Agreement for Postclosure Maintenance of the Yolo County Central Landfill" between the County and the California Department of Resources Recycling and Recovery.

"Operation and Maintenance Costs" do *not* include (i) Installment Payments, or any payments on Parity Obligations or other obligations incurred by the County with respect to the Solid Waste System, (ii) fees charged to the Solid Waste System by the County which are not for services essential to the operation of the Solid Waste System, (iii) depreciation, replacement and obsolescence charges or reserves therefor, and (iv) amortization of intangibles or other bookkeeping entries of a similar nature.

**"Parity Obligations"** means (i) the 2019 Installment Payments, and (ii) the payments made pursuant to any other indebtedness or other obligations (including leases and installment sale agreements) hereafter issued or incurred and secured by a pledge of and lien on Net Revenues on a parity with the Installment Payments in accordance with this Agreement.

**"Parity Obligations Documents"** means the 2019 Installment Sale Agreement and any indenture of trust, trust agreement, loan agreement, installment sale agreement or other document authorizing the issuance of any Parity Obligations.



**"Prepayment"** means any payment applied towards the prepayment of the Installment Payments, in whole or in part, pursuant to Article IV hereof.

**"Project"** means the improvements to the Solid Waste System described in Exhibit A hereto.

**"Project Costs"** means all costs of the acquisition, construction and installation of the Project which are paid from moneys on deposit in the Project Fund, including but not limited to:

- (a) all costs required to be paid to any person under the terms of any agreement for the acquisition, construction and installation of the Project or otherwise relating to the acquisition, construction and installation of the Project;
- (b) obligations incurred for labor and materials in connection with the acquisition, construction and installation of the Project;
- (c) the cost of performance or other bonds and any and all types of insurance that may be necessary or appropriate to have in effect in connection with the acquisition, construction and installation of the Project;
- (d) preliminary costs of the Project, including but not limited to design, environmental, engineering and architectural services, costs for testing, surveys, estimates, plans and specifications and preliminary investigations therefor, development fees and costs for supervising construction, as well as for the performance of all other duties required by or consequent to the proper acquisition, construction and installation of the Project;
- (e) costs of equipping and furnishing the Project and costs of taking occupancy of the Project;
- (f) any sums required to reimburse the County for advances made for any of the above items or for any other costs incurred and for work done which are properly chargeable to the acquisition, construction and installation of the Project;
- (g) all financing costs incurred in connection with the acquisition, construction and installation of the Project; and
- (h) the interest components of Installment Payments coming due during the period of construction of the Project and for not more than six months thereafter.

**"Project Fund"** means the fund or account by that name established and held by the County under Section 2.02.

**"Solid Waste System"** means the County's enterprise for the collection and disposal of municipal solid waste, including without limitation all facilities, properties and improvements at any time owned or operated by the County for the collection and disposal of municipal solid waste, together with any necessary lands, rights, entitlements and other property useful in connection therewith, all extensions thereof, and all improvements thereto acquired, constructed or installed by the County in the future.

**"Taxable Rate"** means the rate of interest to be paid on the Installment Payments following a Determination of Taxability, which is 3.40% per annum, calculated on the basis of a 360-day year of twelve 30-day months.

**"Term of the Installment Sale Agreement"** means the time during which this Agreement is in effect which begins on the Closing Date and ends on December 1, ~~2042~~2041, unless sooner terminated pursuant to the terms hereof.

**"2019 Installment Payments"** means the installment payments payable by the County under the 2019 Installment Sale Agreement.

**"2019 Installment Sale Agreement"** means the Installment Sale Agreement dated as of November 1, 2019, between the Authority, as seller, and the County, as purchaser, as it may be amended from time to time.

**Section 1.02. Representations, Covenants and Warranties of the County.** The County represents, covenants and warrants to the Authority as follows:

- (a) Due Organization and Existence. The County is a public body corporate and politic organized and existing under the Constitution and laws of the State of California, has full legal right, power and authority under said laws to enter into this Agreement and the Assignment Agreement, and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action the Board of Supervisors of the County has duly authorized the execution and delivery of this Agreement and the Assignment Agreement.
- (b) Due Execution. The representatives of the County executing this Agreement and the Assignment Agreement are fully authorized to execute the same.
- (c) Valid, Binding and Enforceable Obligations. This Agreement and the Assignment Agreement have been duly authorized, executed and delivered by the County and constitute the legal, valid and binding agreements of the County enforceable against the County in accordance with their respective terms; except as the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and except as such enforceability may be subject to the exercise of judicial discretion in accordance with principles of equity.
- (d) No Conflicts. The execution and delivery of this Agreement and the Assignment Agreement, and the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the County is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the County, which would have consequences that would materially adversely affect the consummation of the transactions contemplated by this Agreement or the financial condition, assets, properties or operations of the County, including but not limited to the performance of the County's obligations under this Agreement and the Assignment Agreement.
- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the County or of the voters of the County, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Agreement and the Assignment Agreement or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the County after reasonable investigation, threatened against or affecting the County or the assets, properties or operations of the County which, if determined adversely to the County or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement and the Assignment Agreement, or upon the financial condition, assets, properties or operations of the County, and the County is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which might have consequences that would materially adversely affect the consummation of the transactions contemplated by this Agreement or the Assignment Agreement, or the financial conditions, assets, properties or operations of the County, including but not limited to the payment and performance of the County's obligations under this Agreement or the Assignment Agreement.
- (g) No Senior Indebtedness. The County has not issued or incurred any obligations which are outstanding as of the Closing Date having any priority in payment over the Installment Payments as provided herein.
- (h) Parity Indebtedness. As of the Closing Date, the only Parity Obligations are the 2019 Installment Payments.
- (i) Financial Condition. The financial statements of the County for the year ended June 30, 2021, supplied to the Assignee (i) were prepared in accordance with generally accepted accounting principles, consistently applied, and (ii) fairly present the County's financial condition as of their date. Other than as described in such financial statements or otherwise disclosed to the Assignee, there has been no material adverse change in the County's financial condition subsequent to June 30, 2021.
- (j) No Defaults. To the best knowledge of the County, the County has never failed to appropriate payments under, or defaulted under any of its payment or performance obligations or covenants under, any agreement of the same general nature as this Agreement or any of its bonds, notes, or other debt obligations.
- (k) Fee Title. The County is the owner in fee of title, or has necessary rights of access, to the property where the Solid Waste System is located. No lien or encumbrance on such property materially impairs the County's use of the property for the purposes for which it is, or may reasonably be expected to be, used.
- (l) Accuracy of Information. All information, reports and other papers and data furnished by the County to the Assignee were, at the time the same were so furnished, complete and accurate in all material respects and insofar as necessary to give the Assignee a true and accurate knowledge of the subject matter and were provided in expectation of the Assignee's reliance thereon in entering into the transactions contemplated by this Agreement and the

Assignment Agreement. No fact is known to the County which has had or, so far as the County can now reasonably foresee, may in the future have a material adverse effect on the County, which has not been set forth in the financial statements previously furnished to the Assignee or in other such information, reports, papers and data or otherwise disclosed in writing to the Assignee prior to the Closing Date. Any financial, budget and other projections furnished to the Assignee by the County or its agents were prepared in good faith on the basis of the assumptions stated therein, which were fair and reasonable in light of the conditions existing at the time of delivery of such financial, budget or other projections, and represented, and as of the date of this representation, represent the County's best estimate of its future financial performance.

- (m) Rate Setting. The County is empowered to set rates, fees and charges for the services and facilities furnished by the Solid Waste System without review or approval by any state or local government agency.
- (n) Environmental Laws. In the ordinary course of its business, the County conducts an ongoing review of Environmental Laws on the business, operations and the condition of the Solid Waste System, in the course of which it identifies and evaluates associated liabilities and costs (including, but not limited to, any capital or operating expenditures required for clean-up or closure of properties currently or previously owned or operated, any capital or operating expenditures required to achieve or maintain compliance with environmental protection standards imposed by law or as a condition of any license, permit or contract, any related constraints on operating activities, including any periodic or permanent shutdown of any facility or reduction in the level of or change in the nature of operations conducted thereat and any actual or potential liabilities to third parties, including employees, and any related costs and expenses). On the basis of such review, the County does not believe that Environmental Laws are likely to have a Material Adverse Effect.
- (o) No Sovereign Immunity. The County is not entitled to claim immunity on the grounds of sovereignty or other similar grounds (including, without limitation, governmental immunity) with respect to itself or the Net Revenues (irrespective of their use or intended use) from (i) any action, suit or other proceeding arising under or relating to this Agreement or the Assignment Agreement, (ii) relief by way of injunction, order for specific performance or writ of mandamus or for recovery of property, or (iii) execution or enforcement of any judgment to which it or the Net Revenues might otherwise be made subject in any action, suit or proceeding relating to this Agreement or the Assignment Agreement, and no such immunity (whether or not claimed) may be attributed to the County or the Net Revenues.
- (p) Insurance. As of the Closing Date, the County maintains such insurance, including self-insurance, as is required by Section 5.05 hereof.
- (q) Anti-Corruption Laws. The County and its respective officers and directors and to the knowledge of the County, its employees and agents, are in compliance with Anti-Corruption Laws in all material respects. None of the

County or any of its directors or officers or employees, or to the knowledge of the County, any agent of the County that will act in any capacity in connection with or benefit from this Agreement, is a sanctioned person (as defined in the Anti-Corruption Laws). The transaction contemplated by this Agreement does not violate Anti-Corruption Laws.

- (r) Compliance with Laws. The County is in compliance with its investment policy and all laws applicable to the County, non-compliance with which could reasonably be expected to have a Material Adverse Effect.

**Section 1.03. Representations, Covenants and Warranties of the Authority.** The Authority represents, covenants and warrants to the County as follows:

- (a) Due Organization and Existence. The Authority is a joint powers authority duly organized and existing under the Joint Exercise of Powers Law of the State of California, and has power to enter into this Agreement and the Assignment Agreement and to perform the duties and obligations imposed on it hereunder and thereunder. The Board of Directors of the Authority has duly authorized the execution and delivery of this Agreement and the Assignment Agreement.
- (b) Due Execution. The representatives of the Authority executing this Agreement and the Assignment Agreement are fully authorized to execute the same.
- (c) Valid, Binding and Enforceable Obligations. This Agreement and the Assignment Agreement have been duly authorized, executed and delivered by the Authority and constitute the legal, valid and binding agreements of the Authority, enforceable against the Authority in accordance with their respective terms; except as the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and except as such enforceability may be subject to the exercise of judicial discretion in accordance with principles of equity.
- (d) No Conflicts. The execution and delivery of this Agreement and the Assignment Agreement, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Authority is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Authority, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially adversely affect the consummation of the transactions contemplated hereby and by the Assignment Agreement, or the financial condition, assets, properties or operations of the Authority, including but not limited to the

performance of the Authority's obligations under this Agreement and the Assignment Agreement.

- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Authority, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Agreement or of the Assignment Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.
- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the Authority after reasonable investigation, threatened against or affecting the Authority or the assets, properties or operations of the Authority which, if determined adversely to the Authority or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement or the Assignment Agreement, or upon the financial condition, assets, properties or operations of the Authority, and the Authority is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially adversely affect the consummation of the transactions contemplated by this Agreement or the Assignment Agreement or the financial conditions, assets, properties or operations of the Authority, including but not limited to the performance of the Authority's obligations under this Agreement and under the Assignment Agreement.

#### **Section 1.04. Written Certificates.**

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

(b) Reliance. Any such certificate made or given by a County Representative may be based, insofar as it relates to legal or accounting matters, upon a certificate or opinion of or representation by counsel or an accountant, unless such County Representative knows, or in the exercise of reasonable care should have known, that the certificate, opinion or representation with respect to the matters upon which such certificate or statement may be based, as aforesaid, is erroneous. Any such certificate or opinion made or given by counsel or an accountant may be based, insofar as it relates to factual matters (with respect to which information is in the possession of the County, as

the case may be) upon a certificate or opinion of or representation by an County Representative, unless such counsel or accountant knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation with respect to the matters upon which such person's certificate or opinion or representation may be based is erroneous. The same County Representative, or the same counsel or accountant, as the case may be, need not certify to all of the matters required to be certified under any provision of this Agreement, but different officers, counsel or accountants may certify to different matters, respectively.

**Section 1.05. Exhibits.** The Exhibits attached hereto are, by this reference, made a part of this Agreement.



## ARTICLE II

### DEPOSITS; CONSTRUCTION OF PROJECT

**Section 2.01. Deposit of Moneys.** Under the Assignment Agreement, in consideration of the assignment to the Assignee of the Installment Payments and certain other rights of the Authority under this Agreement, the Assignee has provided \$10,120,000 to the Authority, which shall be applied on the Closing Date as follows:

(a) ~~\$128,456.52~~ ~~\$125,025.00~~ shall be applied by the Assignee for the payment of Delivery Costs by direct wire transfer to the parties entitled thereto, as set forth in a written certificate of the County.

(b) \$9,991,543.48, constituting the remainder of such funds, shall be transferred by the Assignee to the County for deposit in the Project Fund established under Section 2.02 below.

**Section 2.02. Project Fund.** The County shall establish, maintain and hold a separate fund designated as the "Project Fund" into which the County shall deposit the amounts received from the Assignee under Section 2.01(b). The County shall disburse amounts in the Project Fund from time to time to pay Project Costs (or to reimburse the County for payment of Project Costs). Except as otherwise provided herein, moneys in the Project Fund shall be used solely for the payment of the Project Costs. The County shall maintain accurate records showing all disbursements from the Project Fund. The County shall invest proceeds in the Project Fund in investments authorized by California law and the County's investment policy.

**Section 2.03. Appointment of County as Agent.** The Authority hereby appoints the County as its agent to carry out all phases of the acquisition, construction and installation of the Project under and in accordance with the provisions hereof. The County hereby accepts such appointment and assumes all rights, liabilities, duties and responsibilities of the Authority regarding the acquisition, construction and installation of the Project. As agent of the Authority hereunder, the County shall enter into, administer and enforce all purchase orders or other contracts relating to the Project.

**Section 2.04. Construction of Project.** The County hereby agrees with due diligence to supervise and provide for, or cause to be supervised and provided for, the acquisition and construction of the Project in accordance with the plans and specifications, purchase orders, construction contracts and other documents relating thereto and approved by the County under all applicable requirements of law. All contracts for, and all work relating to, the acquisition and construction of the Project are subject to all applicable provisions of law relating to the acquisition and construction of public works by the County.

The County expects that the acquisition and construction of the Project will be completed by \_\_\_\_\_ 20\_\_ . The failure of the County to complete the Project by such date will not constitute an Event of Default hereunder or a grounds for termination hereof, nor result in the diminution, abatement or extinguishment of the obligations of the County to pay the Installment Payments when due hereunder.

**Section 2.05. Plans and Specifications; Modification of Project Description** . The County has the right to specify the exact scope, nature and identification of the Project and the respective components thereof. Before any payment is made for the Project or any component thereof from amounts on deposit in the Project Fund, the County shall prepare detailed plans and specifications relating thereto. The County may from time to time amend any the plans and specifications, and thereby change or modify the description of the Project or any component thereof. Without limiting the generality of the foregoing, the County shall have the right in its sole discretion to modify the description of the Project for the purpose of including improvements to the Solid Waste System in addition to those described in Exhibit A.

**Section 2.06. Project Completion; Closing of Project Fund** . Following the completion of the Project, the County shall transfer any amounts remaining on deposit in the Project Fund to the Installment Payment Fund established under Section 3.05 below, to be applied as a credit towards the interest component of the Installment Payments next coming due and payable, and the County shall thereupon close the Project Fund.

## ARTICLE III

### PROJECT SALE AND TITLE; INSTALLMENT PAYMENTS; NET REVENUES

**Section 3.01. Sale.** The County hereby sells the Project to the Authority, and the Authority, subject to the terms and conditions hereof, hereby sells the Project back to the County.

**Section 3.02. Title.** The County and the Authority agree that title to the Project, and each component thereof, shall be deemed conveyed by the Authority to and vested in the County. The Authority and the County will execute, deliver and cause to be recorded any and all documents reasonably required to vest in the County all of the Authority's rights in and title to the Project.

**Section 3.03. Assignment by the Authority.** The Authority's right, title and interest in this Agreement, including the right to receive and enforce payment of the Installment Payments to be made by the County under this Agreement, have been assigned to the Assignee, subject to certain exceptions, pursuant to the Assignment Agreement.

The County understands and agrees that the Authority has assigned its right, title and interest (but not its duties or obligations) in this Agreement to the Assignee pursuant to the Assignment Agreement and the County assents to such assignment. The Authority hereby directs the County, and the County hereby agrees, to pay to the Assignee all payments payable by the County pursuant to this Agreement.

**Section 3.04. Term of the Installment Sale Agreement.** The Term of the Installment Sale Agreement shall begin on the Closing Date and the final Installment Payment shall mature on December 1, ~~2042~~2041, unless sooner prepaid.

#### **Section 3.05. Installment Payments.**

(a) Obligation to Pay. There is hereby created the "Installment Payment Fund" to be held by the County. The County agrees to pay to the Authority, its successors and assigns, as the purchase price of the Project, the Installment Payments, consisting of components of principal and interest, on the Installment Payment Dates and in the amounts specified in Exhibit B hereto, provided that amounts previously deposited in the Installment Payment Fund and remaining on deposit therein shall be applied to the payment of Installment Payments next due. The Installment Payments shall be payable solely from Net Revenues as hereinafter provided.

(b) Reduction Upon Partial Prepayment. If the County prepays less than all of the remaining principal components of the Installment Payments pursuant to Sections 4.02 and 4.03 hereof, the amount of such prepayment shall be applied (1) first to any interest owing but unpaid at the time of the prepayment, and (2) second to reduce the principal component of the subsequent remaining Installment Payments in any manner as directed by the County in a Written Certificate and the interest component of each subsequent remaining Installment Payment shall be reduced by the aggregate corresponding amount of interest that would otherwise be payable with respect to the Installment Payments as a result of such prepayment.

(c) Rate on Overdue Payments. If the County fails to make any of the payments required in this Section 3.05 so that there are insufficient moneys on hand in the Installment Payment Fund to pay any Installment Payment in full on an Installment Payment Date, the Installment Payment in default shall continue as an obligation of the County until the amount in default is fully paid and the County agrees to pay the same with interest thereon, to the extent permitted by law, from the date thereof at the Default Rate.

(d) Default Rate. Notwithstanding the foregoing, during any period in which an Event of Default has occurred and is continuing, whether or not the Assignee elects to accelerate the maturity hereof because of such Event of Default, all Installment Payments shall bear interest at the Default Rate.

(e) Taxable Rate; Revised Payment Schedule. From and after an Event of Taxability, following a Determination of Taxability, interest on the unpaid principal balance of the Installment Payments shall be calculated at the Taxable Rate. In such event, the Installment Payment schedule attached Exhibit B hereto shall be updated.

### **Section 3.06. Special Obligation of the County.**

(a) Limitations. The County's obligation to pay the Installment Payments shall be a special obligation limited solely to Net Revenues. Under no circumstances shall the County be required to advance any moneys derived from any source of income other than the Net Revenues and other sources specifically identified herein for the payment of the Installment Payments, nor shall any other funds or property of the County be liable for the payment of the Installment Payments.

(b) Obligations Unconditional. The obligations of the County to make the Installment Payments from Net Revenues and to perform and observe the other agreements contained herein shall be absolute and unconditional and shall not be subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach of the County or the Authority of any obligation to the County or otherwise with respect to the Project, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the County by the Authority.

(c) Obligations Specified. Until such time as all of the Installment Payments are fully paid or prepaid, the County:

(i) will not suspend, abate, or discontinue any payments provided for in Section 3.05 hereof;

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

(iii) will not terminate the Term of the Installment Sale Agreement for any cause, including, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, the taking by eminent domain of title to or temporary use of any or all of the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of California or any political subdivision of either thereof or any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or

obligation arising out of or connected with the Assignment Agreement or this Agreement.

(d) Authority Obligations. Nothing contained in this Section 3.06 shall be construed to release the Authority from the performance of any of the agreements on its part herein contained, and if the Authority fails to perform any such agreements on its part, the County may institute such action against the Authority as the County may deem necessary to compel performance so long as such action does not abrogate the obligations of the County contained in Section 3.06(b) above. The County may, however, at the County's own cost and expense and in the County's own name or in the name of the Authority prosecute or defend any action or proceeding or take any other action involving third persons which the County deems reasonably necessary in order to secure or protect the County's right of possession, occupancy and use hereunder, and in such event the Authority hereby agrees to cooperate fully with the County and to take such action necessary to effect the substitution of the County for the Authority in such action or proceeding if the County so requests.

**Section 3.07. Pledge of Net Revenues; Transfer to Pay Installment Payments; Release from Lien.**

(a) Pledge of Net Revenues. The County hereby agrees that the payment of the Installment Payments shall be secured by a pledge, charge and lien upon Net Revenues on a parity with the pledge that secures all outstanding Parity Obligations, and Net Revenues sufficient to pay the Installment Payments as they become due and payable are hereby pledged, charged, assigned, transferred and set over by the County to the Authority and its assigns for the purpose of securing payment of the Installment Payments. The Net Revenues shall constitute a trust fund for the security and payment of the Installment Payments.

The Installment Payments and all Parity Obligations are equally secured by a pledge, charge and lien upon the Net Revenues and such moneys without priority for series, issue, number or date, and the payment of the interest on and principal of the Installment Payments and all Parity Obligations shall be and are secured by an exclusive pledge, charge and lien upon the Net Revenues and such moneys.

(b) Transfer to Pay Installment Payments. The County has previously established the Solid Waste Fund, which the County shall continue to hold and maintain for the purposes and uses set forth herein. The County shall deposit all Gross Revenues in the Solid Waste Fund immediately on receipt. In addition to withdrawals required to pay principal of and interest on the Parity Obligations, the County shall, on or before each Installment Payment Date, deposit Net Revenues in the Solid Waste Fund and transfer to the Installment Payment Fund the amount indicated in Exhibit B attached hereto as required for the next occurring Installment Payment Date. Notwithstanding Exhibit B attached hereto, the County shall be obligated to make Installment Payments sufficient to pay all principal and interest due with respect to the Installment Payments.

Pursuant to California Government Code Section 5451, the pledge of the Net Revenues by the County for the repayment of the principal of, premium, if any, and interest components of the Installment Payments constitutes a first lien and security interest which immediately attaches to such Net Revenues, and is effective and binding against the County, the Authority, their successors, creditors and all others asserting rights therein

irrespective of whether those parties have notice of the pledge, irrespective of whether such amounts are or may be deemed to be a fixture and without the need for physical delivery, recordation, filing or further act.

(c) No Preference or Priority; Insufficiency of Net Revenues. Payment of the Installment Payments and the principal of and interest on Parity Obligations shall be made without preference or priority. If the amount of Net Revenues on deposit in the Solid Waste Fund are any time insufficient to enable the County to pay when due the Installment Payments, the principal of and interest on Parity Obligations, and amounts required to replenish any reserve fund established for Parity Obligations, such payments will be made on a pro rata basis.

(d) Other Uses Permitted. The County shall manage, conserve and apply the amounts on deposit in the Solid Waste Fund in such a manner that all deposits required to be made under the preceding subsection (b) will be made at the times and in the amounts so required. Subject to the foregoing sentence, so long as no Event of Default has occurred and is continuing, the County may use and apply moneys in the Solid Waste Fund for (i) the payment of any subordinate obligations or any unsecured obligations, (ii) the acquisition and construction of improvements to the Solid Waste System, (iii) the prepayment of any other obligations of the County relating to the Solid Waste System, or (iv) any other lawful purposes of the County relating to the Solid Waste System.

(e) Budget of Installment Payments. The County shall include the payment of the Installment Payments in its annual budgets for each Fiscal Year. Notwithstanding the failure of the County to include the Installment Payments coming due in any Fiscal Year for the budget for such Fiscal Year, the County's obligation to pay the Installment Payments from Net Revenues shall be absolute as provided in Section 3.06.

### **Section 3.08. Rate Covenant .**

(a) Covenant Regarding Gross Revenues. The County shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Solid Waste System during each Fiscal Year that are at least sufficient, after making allowances for contingencies and error in the estimates, to yield Gross Revenues (excluding any amounts transferred from a Rate Stabilization Fund) which are sufficient to pay the following amounts in the following order of priority:

- (i) All Operation and Maintenance Costs estimated by the County to become due and payable in such Fiscal Year;
- (ii) The Installment Payments and the principal of and interest on all outstanding Parity Obligations becoming due and payable during such Fiscal Year, without preference or priority, except to the extent such interest is payable from proceeds of Parity Obligations deposited for such purpose; and
- (iii) All payments required to meet any other obligations of the County that are charges, liens, encumbrances upon, or which are otherwise payable from, the Gross Revenues during such Fiscal Year.

(b) Covenant Regarding Net Revenues. In addition, the County shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Solid Waste System during each Fiscal Year which are sufficient to yield Net Revenues which are at least equal to 150% of the Installment Payments and the principal of and interest on all outstanding Parity Obligations becoming due and payable during such Fiscal Year, without preference or priority, except to the extent such interest is payable from proceeds of Parity Obligations deposited for such purpose.

For purposes of this subsection, the amount of Net Revenues for a Fiscal Year will be computed on the basis that (i) any transfers into the Solid Waste Fund in such Fiscal Year from any Rate Stabilization Fund are included in Gross Revenues for the purpose of calculating Net Revenues, and (ii) any deposits into the Rate Stabilization Fund in such Fiscal Year are deducted from the amount of Gross Revenues for the purpose of calculating Net Revenues to the extent such deposits are made from Gross Revenues received by the County attributable to that Fiscal Year.

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

(d) Cure Period. If the County violates the covenants set forth in subsections (a) or (b) hereof with respect to any Fiscal Year, such violation shall not, in and of itself, be a default under this Agreement and shall not give rise to a declaration of an Event of Default if the following are true:

(i) the Gross Revenues do not decrease below an amount sufficient to pay:

(1) all Operation and Maintenance Costs estimated by the County to become due and payable with respect to that Fiscal Year;

(2) the Installment Payments and the principal of and interest on all outstanding Parity Obligations becoming due and payable with respect to that Fiscal Year, without preference or priority, except to the extent such interest is payable from proceeds of Parity Obligations deposited for such purpose; and

(3) all payments required to meet any other obligations of the County that are charges, liens, encumbrances upon, or which are otherwise payable from, the Gross Revenues with respect to that Fiscal Year; and

(ii) within 120 days after the date such violation is discovered, the County hires an Independent Consultant to review the revenues and expenses of the Solid Waste System and abides by such consultant's recommendations to revise the schedule of rates, fees and charges and to revise any Operation and Maintenance Costs of the Solid Waste System insofar as practicable and to take such other actions as are necessary so as to produce Net Revenues to cure such violation for future compliance.

Notwithstanding the foregoing, if the County does not cure such violation within 12 months after the date such violation is discovered, an Event of Default shall be deemed to have occurred hereunder.

**Section 3.09. Limitations on Future Obligations Secured by Net Revenues.**

(a) No Obligations Superior to Installment Payments. During the Term of this Agreement, the County shall not issue or incur any additional bonds or other obligations payable from Gross Revenues or Net Revenues having any priority over the Installment Payments.

(b) Parity Obligations. The County may issue Parity Obligations in such principal amount as it determines, subject to the following conditions precedent:

- (i) no Event of Default (or no event with respect to which notice has been given and which, once all notice of grace periods have passed, would constitute an Event of Default) has occurred and is continuing.
- (ii) the Net Revenues (excluding any amounts derived from a Rate Stabilization Fund), calculated in accordance with sound accounting principles, as shown by the books of the County for the most recent completed Fiscal Year for which audited financial statements of the County are available, or for any more recent consecutive 12-month period selected by the County, in either case verified by an Independent Accountant or a Financial Consultant or shown in the audited financial statements of the County, plus (at the option of the County) any Additional Revenues, at least equal 150% of the maximum amount of Debt Service on the Installment Payments and all outstanding Parity Obligations for the current or any future Fiscal Year (taking into account the Parity Obligations then proposed to be issued);
- (iii) the Authority may, but is not required to, establish a debt service reserve fund for Parity Obligations, in accordance with the applicable Parity Obligations Document; and
- (iv) the County shall deliver to the Authority and the Assignee a Written Certificate of the County certifying that the conditions precedent to the issuance of such Parity Obligations set forth in this Section have been satisfied.

The foregoing provisions of this section shall not apply to any Parity Obligations issued for the purpose of refunding any then-Outstanding Parity Obligations, if at the time of the incurring of such Parity Obligations, the Authority certifies in writing that the annual debt service with respect to such Parity Obligations will not exceed the annual debt service on the Outstanding Parity Obligations to be refunded.

(c) Subordinate and Unsecured Obligations. Nothing herein limits or affects the ability of the County to issue or incur obligations that are either unsecured or secured



on a basis junior and subordinate to the pledge of and lien upon the Net Revenues established hereunder.

**Section 3.10. Rate Stabilization Fund.**

(a) The County has previously established the Rate Stabilization Fund, which the County shall continue to hold and maintain in accordance with this Section and with the 2019 Installment Sale Agreement, for the purpose of stabilizing the rates and charges imposed by the County with respect to the Solid Waste System.

(b) On or prior to the Closing Date, the County may deposit amounts in the Rate Stabilization Fund from any source of legally available funds, and any amounts so deposited shall not be deducted from Gross Revenues for purposes of the rate covenant calculation under Section 3.08 above.

(c) After the Closing Date, and from time to time, the County may deposit amounts in the Rate Stabilization Fund from Net Revenues that are released from the pledge and lien that secures the Installment Payments and Parity Obligations, as the County may determine. Such deposits for any Fiscal Year may be made until (but not after) 150 days following the end of such Fiscal Year. Any amounts so deposited after the Closing Date shall be deducted from Gross Revenues for purposes of the rate covenant calculation under Section 3.08 above.

(d) The County may, but is not required to, withdraw from any amounts on deposit in a Rate Stabilization Fund and deposit such amounts in the Solid Waste Fund in any Fiscal Year, provided that withdrawal and deposit for any Fiscal Year may be made until (but not after) 150 days following the end of that Fiscal Year. Amounts so transferred from a Rate Stabilization Fund to the Solid Waste Fund shall constitute Gross Revenues for such Fiscal Year (except as otherwise provided herein), and shall be applied for the purposes of the Solid Waste Fund. Amounts on deposit in a Rate Stabilization Fund shall not be pledged to or otherwise secure the Installment Payments or any Parity Obligations. All interest or other earnings on deposits in a Rate Stabilization Fund shall be withdrawn therefrom and accounted for as Gross Revenues in the Solid Waste Fund. The County has the right at any time to withdraw any or all amounts on deposit in a Rate Stabilization Fund and apply such amounts for any lawful purposes of the Solid Waste System.

**Section 3.11. Additional Payments.** In addition to the Installment Payments, the County shall pay, from Net Revenues, when due, all costs and expenses incurred by the Authority to comply with the provisions of the Assignment Agreement and this Agreement.

## ARTICLE IV

### PREPAYMENT OF INSTALLMENT PAYMENTS

**Section 4.01. Prepayment.** The County shall have the right to prepay the Installment Payments, but only in the manner, at the times and in all respects in accordance with the provisions of this Article IV.

**Section 4.02. Optional Prepayment.** Subject to the terms and conditions of this Section 4.02, the Authority hereby grants an option to the County to prepay the Installment Payments in whole or in part, on any Installment Payment Date, at a prepayment price equal to the principal component of the Installment Payments being prepaid, together with accrued interest to the prepayment date, plus a premium equal to a percentage of the principal component of the Installment Payment being prepaid, as set forth in the table below:

Prepayment Date	Premium
June 1, 2022, through December 1, 2023	3%
June 1, 2024, through December 1, 2025	2%
June 1, 2026, through December 1, 2027	1%
June 1, 2028, and any Installment Payment Date thereafter	0%

The County may exercise this option on any date following written notice by the County to the Authority and the Assignee of the exercise of such option at least 30 days prior to the date designated for prepayment.

In order to prepay the Installment Payments, the County shall deposit with the Assignee, no later than the applicable prepayment date, cash in an amount sufficient to pay the prepayment price set forth above.

**Section 4.03. Mandatory Prepayment From Net Proceeds of Insurance or Condemnation.** The County shall be obligated to prepay the Installment Payments in whole or in part on any Installment Payment Date from and to the extent of any Net Proceeds of any insurance or condemnation award theretofore deposited in the Installment Payment Fund for such purpose pursuant to Sections 5.04 or 5.05 hereof.

The County and the Authority hereby agree that such Net Proceeds shall be credited towards the County's obligations under this Section 4.03. Except in the case of such prepayment of the Installment Payments in full, such payment shall be in addition to the Installment Payment required to be paid by the County on such date. Prepayment of Installment Payments pursuant to this Section shall be applied against the final unpaid principal installment of the Installment Payments.

**Section 4.04. Credit for Amounts on Deposit.** If the County elects or is required to prepay the Installment Payments in full under this Article IV, all amounts then on deposit in the Installment Payment Fund shall be credited towards the amounts required to be so prepaid.

**Section 4.05. Security Deposit.** Notwithstanding any other provision of this Agreement, the County may, on any date, secure the payment of Installment Payments by a deposit with the Assignee, of either of the following:

(a) All Installment Payments. In the case of a security deposit relating to all Installment Payments, either (i) an amount which, together with amounts on deposit in the Installment Payment Fund, is sufficient to pay all unpaid Installment Payments, including the principal and interest components thereof, in accordance with the Installment Payment schedule set forth in Exhibit B attached hereto, or (ii) Defeasance Obligations, together with cash, if required, in such amount as will, in the opinion of nationally-recognized bond counsel and of an independent certified public accountant, together with interest to accrue thereon and, if required, all or a portion of moneys or Defeasance Obligations then on deposit in the Installment Payment Fund, be fully sufficient to pay all unpaid Installment Payments on their Installment Payment Date.

(b) Portion of Installment Payments. In the case of a security deposit relating to a portion of the Installment Payments both (i) a certificate executed by an County Representative designating the portion of the Installment Payments to which the deposit pertains, and (ii) cash or Defeasance Obligations, in such amount as will, together with interest to be received thereon, if any, and an allocable portion of amounts on deposit in the Installment Payment Fund, be fully sufficient in the opinion of an independent certified public accountant, to pay the portion of the Installment Payments designated in such County Representative's certificate.

(c) Effect. In the event of a deposit pursuant to this Section 4.05, all obligations of the County under this Agreement pertaining to the portion of the Project for which the deposit has been made shall cease and terminate, excepting only the obligation of the County to make, or cause to be made, all Installment Payments, or the portion of Installment Payments to which the deposit pertains, from the deposit made by County pursuant to this Section 4.05. Such deposit shall be deemed to be and shall constitute a special fund for the payment of Installment Payments in accordance with the provisions of this Agreement; and further provided that any security deposit relating to the Project shall not affect the rate covenants of the County contained in Section 3.07 hereof if such security deposit is insufficient to pay or prepay all Installment Payments as they become due and payable. Upon such deposit, the Authority will execute or cause to be executed any and all documents as may be necessary to release the security provided hereby to the extent of such deposit.

## ARTICLE V

### MAINTENANCE; TAXES; INSURANCE; BOOKS AND ACCOUNTS TAX COVENANTS

#### **Section 5.01. Maintenance, Taxes and Assessments, Contests.**

(a) Operation. The County covenants to operate the Solid Waste System in an efficient and economical manner and operate, maintain and preserve the Solid Waste System in good repair and working order in accordance with customary standards and practices applicable to similar facilities

(b) Taxes and Assessments. The County shall also pay or cause to be paid all taxes and assessments of any type or nature charged to the Authority or the County or levied, assessed or charged against the Solid Waste System or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the County shall be obligated to pay only such installments as are required to be paid during the Term of the Installment Sale Agreement as and when the same become due. The County shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate, or other similar tax payable by the Authority, its successors or assigns, unless such tax is made in lieu of or as a substitute for any real estate or other tax upon property.

(c) Contest. The County may, at the County's expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Authority shall notify the County that, in the opinion of counsel to the County, by nonpayment of any such items, or the Project or any part thereof will be subject to loss or forfeiture, in which event the County shall promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority.

**Section 5.02. Modification of Project.** The County may, at its own expense, remodel the Project or make additions, modifications and improvements thereto. All such additions, modifications and improvements shall thereafter comprise part of the Project and be subject to the provisions of this Agreement. Such additions, modifications and improvements shall not in any way damage the Project or cause it to be used for purposes other than those authorized under the provisions of state and federal law; and the Project, upon completion of any additions, modifications and improvements made pursuant to this Section 5.02, shall be of a value which is not substantially less than the value of the Project immediately prior to the making of such additions, modifications and improvements.

**Section 5.03. Installation of County's Equipment.** The County may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Project. All such items shall remain the sole property of the County, in which neither the Authority nor the Assignee shall have any interest, and may be modified or removed by the County at any time provided that the County

shall repair and restore any and all damage to the Project resulting from the installation, modification or removal of any such items. Nothing in this Agreement shall prevent the County from purchasing items to be installed pursuant to this Section 5.03 under a conditional sale or lease purchase contract, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof.

#### **Section 5.04. Sale or Eminent Domain.**

(a) Except as provided herein, the County covenants that the Solid Waste System will not be encumbered, sold, leased, pledged, any charge placed thereon, or otherwise disposed of, as a whole or substantially as a whole if such encumbrance, sale, lease, pledge, charge or other disposition would materially impair the ability of the County to pay the Installment Payments or the principal of or interest on Parity Obligations, or would materially adversely affect its ability to comply with the terms of this Agreement or the Parity Obligations Documents. The County shall not enter into any agreement which impairs the operation of the Solid Waste System or any part of it necessary to secure adequate Net Revenues to pay the Installment Payments or Parity Obligations, or which otherwise would impair the rights of the Authority or the Assignee with respect to the Net Revenues. If any substantial part of the Solid Waste System is sold, the payment therefor shall either (a) be used for the acquisition or construction of improvements and extensions or replacement facilities or (b) be applied to prepay the Installment Payments under Section 4.03 or prepay or redeem any Parity Obligations in accordance with the provisions of the related Parity Obligations Documents.

(b) Any amounts received as awards as a result of the taking of all or any part of the Solid Waste System by the lawful exercise of eminent domain shall either (a) be used for the acquisition or construction of improvements and extension of the Solid Waste System, or (b) be applied to prepay the Installment Payments under Section 4.03 or prepay or redeem any Parity Obligations in accordance with the provisions of the related Parity Obligations Documents.

#### **Section 5.05. Insurance.**

(a) The County shall at all times maintain with responsible insurers all such insurance on the Solid Waste System as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to the Solid Waste System; *provided, however*, that the County shall not be required to maintain earthquake insurance with respect to the Solid Waste System or any component thereof. All amounts collected from insurance against accident to or destruction of any portion of the Solid Waste System will be used, at the option of the County, either (a) to repair or rebuild such damaged or destroyed portion of the Solid Waste System, or (b) to prepay the Installment Payments under Section 4.03 or prepay or redeem any Parity Obligations in accordance with the provisions of the related Parity Obligations Documents.

(b) The County shall also maintain, with responsible insurers, worker's compensation insurance and insurance against public liability and property damage to the extent reasonably necessary to protect the County, the Authority, and the Assignee.

(c) Any policy of insurance required under this Section may be maintained as part of or in conjunction with any other insurance coverage carried by the County, and may be maintained in whole or in part in the form of self-insurance by the County or in the

form of the participation by the County in a joint powers agency or other program providing pooled insurance.

**Section 5.06 Advances.** If the County fails to perform any of its obligations under this Article V, the Authority may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and the County shall be obligated to repay all such advances as soon as possible, with interest at the rate of interest with respect to the Installment Payments from the date of the advance to the date of repayment.

**Section 5.07 Books and Accounts.** The County shall keep proper books of records and accounts of the Solid Waste System, separate from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the Solid Waste System. Said books shall, upon prior request, be subject to the reasonable inspection of the Authority and the Assignee.

The County shall cause its books and accounts of the Solid Waste System to be audited annually by an Independent Accountant not more than 270 days ~~nine months~~ after the close of each Fiscal Year, and shall file a copy of such report with the Assignee. Such report may be part of a combined financial audit or report covering all or part of the County's finances.

Additionally, the County shall provide the Assignee with a copy of the County's annual budget, as adopted or amended, or post a copy of such report to the internet site of the County (with notice to the Assignee of such posting), within 30 days of adoption or amendment.

The County shall also provide the Assignee such additional information reasonably requested by the Assignee to the extent permitted by law.

**Section 5.08 Tax Covenants.**

(a) Private Activity Bond Limitation. The County will assure that the proceeds of this Agreement are not so used as to cause the obligations of the County under this Agreement to satisfy the private business tests of section 141(b) of the Code or the private loan financing test of section 141(c) of the Code.

(b) Federal Guarantee Prohibition. The County will not take any action or permit or suffer any action to be taken if the result of such action would be to cause any of the obligations of the County under this Agreement to be "federally guaranteed" within the meaning of section 149(b) of the Code.

(c) Rebate Requirement. The County will take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to this Agreement.

(d) No Arbitrage. The County will not take any action with respect to the proceeds of this Agreement which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of delivery of this Agreement would have caused any of the obligations of the County under this Agreement to be "arbitrage bonds" within the meaning of section 148 of the Code.

(e) Maintenance of Tax-Exemption. The County will take all actions necessary to assure the exclusion of interest with respect to this Agreement from the gross income of the Assignee to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of delivery of this Agreement.

(f) Record Retention. The County will retain its records of all accounting and monitoring it carries out with respect to this Agreement for at least 3 years after Term or earlier prepayment of this Agreement.

(g) Compliance with Tax Certificate. The County will comply with the provisions of the Tax Certificate and the Use of Proceeds Certificate with respect to this Agreement, which are incorporated herein as if fully set forth herein. The covenants of this Section will survive prepayment in full or defeasance of the County's obligations under this Agreement.

### **Section 5.09 Covenants Regarding Solid Waste System.**

(a) Operation of Solid Waste System in in Efficient and Economical Manner. The County shall operate the Solid Waste System in an efficient and economical manner and to operate, maintain and preserve the Solid Waste System in good repair and working order.

(b) Provision of Solid Waste Services; No Abandonment; Loss or Damage. To the extent permitted by law, the County shall use its best efforts and take whatever actions are within the scope of its powers at all times to provide solid waste disposal and processing services within the service area of the Solid Waste System.

The County shall not abandon the Solid Waste System and shall continue to provide solid waste disposal capacity sufficient to enable it to comply with the terms hereof; provided, that, the County may provide such capacity by making available transfer or disposal facilities owned and operated by the County or by making contractual or other arrangements for the use of transfer or disposal facilities (either inside or outside the geographic boundaries of the County) owned or operated by persons other than the County.

In the event of loss or damage to any material portion of the Solid Waste System or the occurrence of any other event that prevents the County from accepting solid waste at the facilities or the Solid Waste System, the County will use its best efforts to take whatever actions are within its powers to provide other facilities or services necessary to provide the solid waste management services necessary to maintain Net Revenues as required under this Agreement.

(c) Flow Control. To the extent permitted by law, the County shall use its best efforts and take whatever actions are within the scope of its powers to ensure that sufficient solid waste is processed and disposed of through the Solid Waste System to generate Net Revenues as required by this Agreement.

(d) Against Competitive Facilities. To the extent permitted by law, the County shall not acquire, purchase, maintain or operate and will not, to the extent permitted by law and within the scope of its powers, permit any other public or private agency, corporation, County or political subdivision or any person whomsoever to acquire,

purchase, maintain or operate any solid waste management system competitive with the Solid Waste System, unless the competitive facilities will not materially adversely affect the ability of the County to fulfill its obligations under this Agreement.

(e) Competitive Tipping Fees. To the extent permitted by law, the County shall use its best efforts and take whatever actions are within the scope of its powers to ensure that the tipping fees charged by the County for the disposal of solid waste remain competitive with the tipping fees charged by other operations similar to the Solid Waste System in the vicinity of the Solid Waste System; provided, however, that in no event shall this covenant be construed to limit or affect the obligation of the County to set rates, charges and tipping fees hereunder.

(f) Further Assurances. The County shall adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Authority of the rights and benefits provided to it herein.

(g) Landfill Capacity. The County shall, at such time as the remaining capacity of the County's landfill is seven years, seek other residual disposal options, including pursuing acquisitions of property for a new landfill and/or contracting with other landfill operators.

(h) Enforcement of Agreements. The County shall diligently enforce all agreements for the delivery of solid waste to the Solid Waste System in effect during the term of this agreement, including without limitation (a) the existing delivery agreements with the cities of Winters, Davis, West Sacramento and Woodland, as they may be amended from time to time, and any replacement agreements therefor (collectively, the "City Delivery Agreements"), (b) the existing delivery agreements with UC Davis, and Atlas Disposal Services, LLC, , as they may be amended from time to time, and (c) the existing franchise agreements with USA Waste of California, Inc. (doing business as Waste Management of Woodland), and Recology Davis, Inc.

(i) Collection of Host Fees Under City Delivery Agreements. So long as the City Delivery Agreements require the County to collect and allocate Host Fees (as that term is defined in the City Delivery Agreements), the County shall not reduce or modify Host Fees such that the amount allocated among the cities and in-County entities (other than the County) is less than 50% of the total Host Fees, or otherwise in a way that causes a termination of any City Delivery Agreement.



## ARTICLE VI

### DISCLAIMER OF WARRANTIES; ACCESS; INDEMNITY

**Section 6.01. Disclaimer of Warranties.** The Authority makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the County for the Project or any item thereof, or any other representation or warranty with respect to the Project or any item thereof. In no event shall the Authority be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Agreement or the Assignment Agreement for the existence, furnishing, functioning or County's use of the Project.

**Section 6.02. Access to the Project and Records.** To the extent permitted by law, the County agrees that the Authority, any Authority Representative, and the Authority's successors or assigns shall have the right at all reasonable times to enter upon and to examine and inspect the Project. The County further agrees that the Authority, any Authority Representative, and the Authority's successors or assigns shall have such rights of access to the Project as may be reasonably necessary to cause the proper maintenance of the Project in the event of failure by the County to perform its obligations hereunder. In addition, the County agrees that the Authority, any Authority Representative, and the Authority's successors or assigns shall have the right at all reasonable times to inspect and examine all books, papers and records of the Authority and the County pertaining to the Project and the Installment Payments, to make copies thereof and to take non-privileged memoranda therefrom or with respect thereto as may be desired.

**Section 6.03. Indemnity.** The County shall and hereby agrees to indemnify and save the Authority and its successors and assigns, including the Assignee, harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of:

- (a) the use, maintenance, condition or management of, or from any work or thing done on the Project by the County;
- (b) any breach or default on the part of the County in the performance of any of its obligations under this Agreement;
- (c) any act or negligence of the County or of any of its agents, contractors, servants, employees or licensees with respect to the Project;
- (d) any act or negligence of any assignee or sublessee of the County with respect to the Project; or

No indemnification is made under this Section 6.03, or elsewhere in this Agreement for (i) willful misconduct, negligence, or breach of duty under this Agreement by the Authority, its officers, agents, employees, successors or assigns, or (ii) willful misconduct, gross negligence, or breach of duty under this Agreement by the Assignee, its officers, agents, employees, successors or assigns.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**Section 7.01. Events of Default Defined.** The following shall be "events of default" under this Agreement and the terms "events of default" and "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) failure by the County to pay any Installment Payment by the Installment Payment Date or failure to make any other payment required to be paid hereunder at the time specified herein; or

(b) failure by the County to observe and perform any covenant, condition or agreement on its part to be observed or performed in this Agreement or the Assignment Agreement, other than as referred to in clause (a) of this Section 7.01, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the County by the Authority or the Assignee; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Authority or the Assignee, as applicable, shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the County within the applicable period and diligently pursued until the default is corrected; provided however, that (i) such cure must occur within 60 days of the initial written notice, and (ii) with respect to a failure to meet the rate covenant set forth in Section 3.08, such cure must occur within 180 days after the County becomes aware that it will not be able to meet such coverage requirement and is taking reasonable steps to cure such default; or

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

(d) an event of default occurs and is continuing with respect to any Parity Obligations; or

(e) any statement, representation or warranty of a material nature made by the District in or pursuant to this Agreement, or its execution, delivery or performance, shall have been false, incorrect, misleading or breached in any material respect on the date when made.

**Section 7.02. Remedies on Default.** Whenever any event of default referred to in Section 7.01 hereof occurs and is continuing, the Authority shall have the right, at its option and without any further demand or notice, to:

(a) declare all principal components of the unpaid Installment Payments, together with accrued interest from the immediately preceding Installment Payment Date

on which payment was made, to be immediately due and payable, whereupon the same shall become due and payable; and

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

**Section 7.03. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Authority is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice, other than such notice as may be required in this Article or by law.

**Section 7.04. Prosecution and Defense of Suits.** The County shall promptly, upon request of the Authority or the Assignee, from time to time take or cause to be taken such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Project whether now existing or hereafter developing and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and, to the extent permitted by law, shall indemnify or cause to be indemnified the Authority and the Assignee for all loss, cost, damage and expense, including attorneys' fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceedings.

To the extent permitted by law, the County shall defend, or cause to be defended, against every suit, action or proceeding at any time brought against the Authority or the Assignee upon any claim arising out of the receipt, application or disbursement of any of the Net Revenues or involving the rights or duties of the Authority or the Assignee under this Agreement or the Assignment Agreement; provided, that the Authority and the Assignee at their election may appear in and defend any such suit, action or proceeding. The County shall indemnify or cause to be indemnified the Authority and the Assignee against any and all liability claimed or asserted by any person, arising out of such receipt, application or disbursement. Notwithstanding any contrary provision hereof, this covenant shall remain in full force and effect, even though all Installment Payments have been fully paid and satisfied, until a date which is three years following the payment of the last of the Installment Payments.

**Section 7.05. No Additional Waiver Implied by One Waiver.** If any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**Section 7.06. Liability Limited to Net Revenues.** Notwithstanding any provision of this Agreement, the County's liability to pay the Installment Payments and other amounts hereunder shall be limited solely to Net Revenues as provided in Sections 3.06 and 3.07 hereof. If Net Revenues are insufficient at any time to pay an Installment Payment in full, the County shall not be liable to pay or prepay such Installment Payment other than from Net Revenues.

## ARTICLE VIII

### MISCELLANEOUS

#### **Section 8.01. Assignment, Sale or Lease by the County.**

(a) Assignment or Sale. This Agreement may not be assigned by the County, and the Solid Waste System may not be sold by the County during the Term of this Agreement.

(b) Lease. The County may lease the Project, or any portion thereof, with the written consent of the Assignee, subject to all of the following conditions:

(i) This Agreement and the obligation of the County to make Installment Payments hereunder shall remain obligations of the County;

(ii) The County shall, within 30 days after the delivery thereof, furnish or cause to be furnished to the Authority and the Trust Administrator a true and complete copy of the documents accomplishing such lease;

(iii) No such lease by the County shall cause the Project to be used for a purpose other than a governmental or proprietary function authorized under California law; and

(iv) No such lease shall cause the interest component of the Installment Payments to become subject to federal or State income taxation.

**Section 8.02. Amendment of Installment Sale Agreement.** The County and the Authority will not alter, modify or cancel or agree or consent to alter, modify or cancel this Agreement without the written consent of the Assignee.

**Section 8.03. Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the Authority and the County and their respective successors and assigns.

**Section 8.04. Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

**Section 8.05. Severability.** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 8.06. Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision, Article or Section of this Agreement.

**Section 8.07. Net Contract.** This Agreement shall be deemed and construed to be a "net contract" and the County hereby agrees that the Installment Payments shall be an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever.

**Section 8.08. Further Assurances and Corrective Instruments.** The Authority and the County agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project hereby sold or intended so to be or for carrying out the expressed intention of this Agreement.

**Section 8.09. Authority and County Representatives.** Whenever under the provisions of this Agreement the approval of the Authority or the County is required, or the Authority or the County is required to take some action at the request of the other, such approval or such request shall be given for the Authority by an Authority Representative and for the County by a County Representative, and any party hereto shall be authorized to rely upon any such approval or request.

**Section 8.10. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received 48 hours after deposit in the United States mail with postage fully prepaid:

If to the County: County of Yolo  
625 Court Street, Room 102  
Woodland, California 95695  
Attention: Chief Financial Officer  
Email: Treasury@yolocounty.org

If to the Authority: Yolo County Public Agencies Financing Authority  
625 Court Street, Room 102  
Woodland, California 95695  
Attention: Chief Financial Officer  
Email: Treasury@yolocounty.org

If to the Assignee: First Foundation Public Finance  
[18101 Von Karman Avenue, Suite 750  
Irvine, CA 92612  
ATTN: Loan Servicing  
Loan #: [ \_\_\_\_\_ ]  
Email: \_\_\_\_\_

The Authority, the County and the Assignee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

**Section 8.11. Waiver of Jury Trial; Agreement for Judicial Reference** To the fullest extent permitted by law, the County hereby waives its right to trial by jury in any action, proceeding and/or hearing on any matter whatsoever arising out of, or in any way connected with, this Agreement or any related documents, or the enforcement of any remedy under any law, statute, or regulation.

To the extent the foregoing waiver of a jury trial is unenforceable under applicable California law, the County agrees to refer, for a complete and final adjudication, any and all issues

of fact or law involved in any litigation or proceeding (including all discovery and law and motion matters, pretrial motions, trial matter and post-trial motions up to and including final judgment), brought to resolve any dispute (whether based on contract, tort or otherwise) between the parties hereto arising out of, in connection with or otherwise related or incidental to this Agreement to a judicial referee who shall be appointed under a general reference pursuant to California Code of Civil Procedure Section 638, which referee's decision will stand as the decision of the court. Such judgment will be entered on the referee's statement of judgment in the same manner as if the action had been tried by the court. The County and the Assignee shall select a single neutral referee, who shall be a retired state or federal judge with at least five years of judicial experience in civil matters; provided that the event the County and the Assignee cannot agree upon a referee, the referee will be appointed by the court.

**Section 8.12. Execution in Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**IN WITNESS**, the Authority has caused this Installment Sale Agreement to be duly executed in its name by its duly authorized officer; and the County has caused this Installment Sale Agreement to be duly executed in its name by its duly authorized officer; all as of the date first above written.

**YOLO COUNTY PUBLIC AGENCIES FINANCING  
AUTHORITY, as Seller**

By \_\_\_\_\_  
Tom Haynes,  
Chair

Attest:

| \_\_\_\_\_  
\_\_\_\_\_, Chad Rinde,  
Secretary

**COUNTY OF YOLO, as Purchaser**

By \_\_\_\_\_  
Tom Haynes,  
Interim Chief Financial Officer

Attest:

\_\_\_\_\_  
Julie Dachtler,  
Senior Deputy Clerk of the Board

:

## EXHIBIT A

### DESCRIPTION OF THE PROJECT

The Project is anticipated to consist of the following improvements to the Solid Waste System:

*Landfill Module 6H.* The design and construction of Waste Management Unit 6H of the Yolo County Central Landfill, consisting of construction of a landfill composite liner system, excavation and placement of earth materials, subgrade preparation, placement of gravel, installation of geotextile, geocomposite, clay liner, HDPE geomembrane, geosynthetic clay liners, installation of piping and other equipment for the leachate collection system.

*Landfill Surface Impoundment Improvement.* The design and reconstruction of an existing liquid waste pond (Waste Management Unit G) and flood protection levee.

*Other.* Any other capital improvements to the Solid Waste System.



**EXHIBIT B**  
**SCHEDULE OF INSTALLMENT PAYMENTS**

(Interest Rate is 2.77% per annum\*)

Payment Date	Principal	Interest	Total Payment
December 1, 2022	\$375,000	\$148,727.46	\$523,727.46
June 1, 2023		134,968.25	134,968.25
December 1, 2023	395,000	134,968.25	529,968.25
June 1, 2024		129,497.50	129,497.50
December 1, 2024	405,000	129,497.50	534,497.50
June 1, 2025		123,888.25	123,888.25
December 1, 2025	420,000	123,888.25	543,888.25
June 1, 2026		118,071.25	118,071.25
December 1, 2026	430,000	118,071.25	548,071.25
June 1, 2027		112,115.75	112,115.75
December 1, 2027	440,000	112,115.75	552,115.75
June 1, 2028		106,021.75	106,021.75
December 1, 2028	455,000	106,021.75	561,021.75
June 1, 2029		99,720.00	99,720.00
December 1, 2029	465,000	99,720.00	564,720.00
June 1, 2030		93,279.75	93,279.75
December 1, 2030	480,000	93,279.75	573,279.75
June 1, 2031		86,631.75	86,631.75
December 1, 2031	495,000	86,631.75	581,631.75
June 1, 2032		79,776.00	79,776.00
December 1, 2032	505,000	79,776.00	584,776.00
June 1, 2033		72,781.75	72,781.75
December 1, 2033	520,000	72,781.75	592,781.75
June 1, 2034		65,579.75	65,579.75
December 1, 2034	535,000	65,579.75	600,579.75
June 1, 2035		58,170.00	58,170.00
December 1, 2035	550,000	58,170.00	608,170.00
June 1, 2036		50,552.50	50,552.50
December 1, 2036	565,000	50,552.50	615,552.50
June 1, 2037		42,727.25	42,727.25
December 1, 2037	585,000	42,727.25	627,727.25
June 1, 2038		34,625.00	34,625.00
December 1, 2038	600,000	34,625.00	634,625.00
June 1, 2039		26,315.00	26,315.00
December 1, 2039	615,000	26,315.00	641,315.00
June 1, 2040		17,797.25	17,797.25
December 1, 2040	635,000	17,797.25	652,797.25
June 1, 2041		9,002.50	9,002.50
December 1, 2041	650,000	9,002.50	659,002.50
Total:	\$10,120,000	\$3,071,769.96	\$13,191,769.96

\* Interest rate subject to increase following an Event of Taxability or an Event of Default.