



AGENDA

NOTICE AND CALL OF SPECIAL MEETING OF THE LAKEPORT CITY COUNCIL

(ALSO MEETS AS THE CITY OF LAKEPORT MUNICIPAL SEWER DISTRICT, THE LAKEPORT INDUSTRIAL DEVELOPMENT AUTHORITY, THE MUNICIPAL FINANCING AGENCY OF LAKEPORT and THE SUCCESSOR AGENCY TO THE LAKEPORT REDEVELOPMENT AGENCY)

Monday, December 4, 2017

5:05 p.m.

City Council Chambers, 225 Park Street, Lakeport, California 95453

TO THE MEMBERS OF THE CITY COUNCIL OF THE CITY OF LAKEPORT:

NOTICE IS HEREBY GIVEN that a Special Meeting of the Lakeport City Council is hereby called to be held on **Monday, December 4, 2017, at 5:05 p.m.** in the Council Chambers located at 225 Park Street, Lakeport, California, for the purpose of discussing and acting on the following:

CLOSED SESSION:

5:05 P.M.

1. CONFERENCE WITH LABOR NEGOTIATOR (Gov. Code § 54957.6):
Name of City Negotiator to Attend Closed Session:
Margaret Long and Administrative Services Director Kelly Buendia;
Employee Organization: Lakeport Employees Association (LEA).
2. Conference with Legal Counsel; Anticipated Litigation (Gov. Code § 54956.9(d)(2) & (d)(3)) A point has been reached where, in the opinion of the City Council on the advice of its legal counsel, based on the below-described existing facts and circumstances, there is a significant exposure to litigation against the City:

Statement made at an open meeting of City (Gov. Code § 54956.9(e)(4)): Name of Person: Paul B. Albritton.

Nature of Specific Matter: Appeal of Verizon Wireless Application UP 14- 04, AR 14-12, CE 14-24.

Number of potential cases: one (1)

3. Public Employee Performance Evaluation (Gov. Code § 54957) Title: City Manager

I. COMMERCIAL

CANNABIS ORDINANCE:

General discussion on proposed ordinance to permit and regulate commercial cannabis activities within the City of Lakeport. No action is being requested at this meeting.

**II. WASTEWATER
ENTERPRISE REVENUE
BONDS:**

1. Sitting as the City of Lakeport City Council:

Adopt (i) Resolution No. ____ (2017) adopting the USDA RUS Bulletin 1780-27 Loan Resolution, and (ii) Resolution No. ____ (2017) Approving a Trust Agreement, Installment Sale Agreement and Grant agreement and Certain Other Documents in Connection with the Authorization, Preparation, Sale and Delivery of Municipal Financing Agency of Lakeport, Series 2017 Wastewater Enterprise Revenue Bonds, and Authorizing and Directing Certain Actions with Respect thereto, and

2. Sitting as the Board of Directors of the Municipal Financing Agency of Lakeport:

Adopt Resolution No. JPA-__ (2017) Approving a Trust Agreement, Installment Sale Agreement, Assignment Agreement and Certain Other Documents in Connection with the Authorization, Preparation, Sale and Delivery of Municipal Financing Agency of Lakeport, Series 2017 Wastewater Enterprise Revenue Bonds, and Authorizing and Directing Certain Actions with Respect thereto.

III. NEW CLASSIFICATION:

1. Approve a new classification for a Police Detective with a salary range 43.6 earning \$4,708 to \$6,012 per month, and
2. Reclassify one Police Officer position from the 2017/18 budget to Police Detective.

IV. PURCHASE AGREEMENT:

Authorize the City Manager to sign the associated purchase order and purchase agreement for a 2017 Hamm Model HD-14-VV double drum vibratory roller

Dated: November 30, 2017

Hilary Britton, Deputy City Clerk



CITY OF LAKEPORT

City Council ☒
City of Lakeport Municipal Sewer District ☐
Lakeport Redevelopment Successor Agency ☐
Lakeport Industrial Development Agency ☐
Municipal Financing Agency of Lakeport ☐

STAFF REPORT

RE: Proposed Commercial Cannabis Ordinance Adding Chapter 5.34 And Amending Chapters 17.08, 17.10, 17.11 And 17.13 to the Lakeport Municipal Code Discussion

MEETING DATE: 12/04/2017

SUBMITTED BY: Kevin M. Ingram, Community Development Director

PURPOSE OF REPORT: ☐ Information only ☒ Discussion ☐ Action Item

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

General discussion on proposed ordinance to permit and regulate commercial cannabis activities within the City of Lakeport. No action is being requested at this meeting.

BACKGROUND/DISCUSSION:

In response to the adoption of AUMA and MAUCRSA, commonly referred to as Proposition 64 and SB 94 respectfully, the City Council provided direction to staff earlier this year to look at potential revisions to the Lakeport Municipal Code as it pertains to commercial cannabis: cultivation, retail sales, processing/manufacturing and licensing/taxation.

Under SB 94, the State developed a regulatory structure for licensing the various uses associated with commercial cannabis. Local jurisdictions may pass their own regulations providing additional elements of local control. However, in accordance with SB 94 these local regulations must be in place by January 1, 2018. The City of Lakeport formed a Cannabis Working Group to draft an ordinance for the possible permitting and regulating of commercial cannabis activities. The Lakeport Planning Commission over the course of several public meetings reviewed and amended this draft Ordinance and on November 8, 2017 made a formal recommendation to the City Council to consider its adoption.

On November 21, 2017 the City Council introduced a proposed ordinance adding Chapter 5.34 to the Lakeport Municipal Code which outlines permitting procedures and regulations for commercial cannabis activities. Additionally, the proposed ordinance would also amend the Service Commercial (C-3), Industrial (I), Major Retail (C-2) and Professional Office (PO) zoning districts within Title 17 of the Lakeport Municipal Code permitting specific commercial cannabis activities with the approval of a Use Permit. The City Council set the date for a formal public hearing for the Ordinance's consideration for its regular meeting of December 19, 2017. Additionally, the City Council also requested that an additional opportunity for public comment and discussion also be provided for the December 4, 2017 special meeting date.

During its review of the proposed Ordinance on November 21, 2017, the City Council requested some additional information from staff on the following items:

- Retail Sales—whether to allow, appropriate zoning districts, quantity restrictions upon processed cannabis, limitation on total number of permitted retailers, regulations pertaining to retail, etc.

- Analysis of the pros and cons related to the establishment of a Commercial Cannabis zoning overlay district as opposed to utilizing current 600 foot buffer from sensitive receptors outlined in Section 5.34.08.C of draft ordinance.
- Review of crime related statistics concerning retail sales from other communities.

Just prior to the City Council's 1st Reading of the draft Commercial Cannabis Ordinance, California's three state cannabis licensing authorities made available for public review proposed emergency licensing regulations for commercial medicinal and adult-use cannabis. A brief review of these proposed regulations includes some information that the City should consider addressing in our Commercial Cannabis Ordinance. These items include but may not be limited to:

- Addressing the potential for cannabis related special events (e.g. events at the Lake County Fairgrounds).
- Discuss the State's creation of a couple of new cannabis manufacturing licensing classifications.

Additionally, Councilwoman Turner brought to the attention a few areas within the draft Commercial Cannabis Ordinance that require some further clarification or revisions. These areas include:

- Consider removing all references to "dispensary" within the draft ordinance and replacing with "retail".
- Consider using the term "Commercial Cannabis Activities" throughout the ordinance rather than the term "Commercial Cannabis Uses".
- Clarify Section 5.34.08.D. Appears to be missing a word.
- Add the phrase "excluding microbusiness with retail" to Section 5.34.09.A.2(i) to be consistent with State licensing regulations.
- Remove reference to Lake County Agricultural Commissioner in Section 5.34.09.A.2(vi). This was a recommendation of the Planning Commission that should have been included in the draft provided to City Council.
- Amend language in Section 5.34.09.B.1 concerning Commercial Cannabis Manufacturing to be consistent with State definition.
- Consider removing reference to 'testing' regarding microbusinesses within draft ordinance to be consistent with State licensing regulations.

The draft ordinance (Attachment 1) and Commercial Cannabis Zoning Use Matrix (Attachment 3) have been amended removing references to 'Storefront retail with onsite consumption' consistent with City Council direction on November 21, 2017.

OPTIONS:

Solicit additional comments from the public and provide further direction to staff.

FISCAL IMPACT:

☒ None ☐ \$ Budgeted Item? ☐ Yes ☐ No

Budget Adjustment Needed? ☐ Yes ☐ No If yes, amount of appropriation increase: \$

Affected fund(s): ☐ General Fund ☐ Water OM Fund ☐ Sewer OM Fund ☐ Other:

Comments: None

SUGGESTED MOTION:

None

- ☒ **Attachments:**
1. Draft Ordinance
 2. Chapter 5.34, Commercial Cannabis highlighting recommended changes by the Planning Commission and City Attorney
 3. Commercial Cannabis Zoning Use Matrix
 4. Commercial Cannabis Buffer Map

ORDINANCE NO. (2017)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEPORT ADDING
CHAPTER 5.34 AND AMENDING CHAPTERS 17.08, 17.10, 17.11 AND 17.13 OF
THE LAKEPORT MUNICIPAL CODE, REGARDING COMMERCIAL CANNABIS**

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. Section 801 et seq., classifies cannabis as a Schedule 1 Drug; as such, it is unlawful, under federal law, for any person to cultivate, manufacture, distribute, dispense, or possess cannabis, whether for medicinal or recreations purposes; and

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, the Compassionate Use Act (Health and Safety Code Section 11362.5), which was intended to enable persons who are in need of cannabis for medical purposes to obtain and use it under limited, specific circumstances, without being subject to criminal prosecution under certain state statutes; and

WHEREAS, SB 420, the Medical Marijuana Program Act (Health and Safety Code Section 11362.7 et seq.), was enacted in 2004 to expand and clarify the scope of Proposition 215, the Compassionate Use Act; and

WHEREAS, in 2015, the State enacted the Medical Marijuana Regulation and Safety Act (SB 643, AB 266, and AB 243) commonly referred to as MMRSA, instituting a comprehensive state-level licensure and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis. Although MMRSA developed a state-level licensure and regulatory scheme it provided cities and counties the ability to retain local regulator authority over medical cannabis; and

WHEREAS, the Governor signed SB 837 in June of 2016, changing references to the term “marijuana” in MMRSA to “cannabis” and renaming MMRSA the “Medical Cannabis Regulation and Safety Act” (MCRSA); and

WHEREAS, on November 8, 2016, Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) was enacted by the voters to decriminalize and regulate commercial and non-commercial recreations cannabis. AUMA provides that cities and counties retain local regulatory control over commercial recreational cannabis; and

WHEREAS, the Governor signed SB 94 in June of 2017 (Medicinal and Adult-Use Cannabis Regulation and Safety Act or MAUCRSA), which amended Section 11362.2 of the California Health and Safety Code and allows cities and counties to enact and enforce reasonable regulations to reasonably regulate the cultivation, harvest, drying,

processing, transportation, purchase, possession, smoking, ingesting, obtaining and giving away cannabis, including concentrated cannabis and cannabis products; and

WHEREAS, in response to AUMA and MAUCRSA, the Planning Commission, directed City staff through a minute order on September 20, 2017 to bring forward an ordinance amending the Lakeport Municipal Code to permit and regulate commercial cannabis; and

WHEREAS, the City of Lakeport Municipal Code establishes rules and regulations for living and doing business within city limits; and

WHEREAS, the unregulated operations of commercial cannabis businesses in the city limits of Lakeport can adversely affect the health, safety, and well-being of the City, its residents and environment. The development of regulations for commercial cannabis operations, including zoning regulation, is proper and necessary to reduce the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated commercial cannabis operations; and

WHEREAS, the ability to operate a commercial cannabis business as conferred by AUMA and MAUCRSA does not confer the right to create or maintain a public nuisance, the City intends to minimize the risks and complaints regarding fire, odor, crime and pollution caused or threatened by the unregulated operation of commercial cannabis operations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEPORT DOES ORDAIN AS FOLLOW:

SECTION 1. Chapter 5.34 of Title 5 of the Lakeport Municipal Code is hereby adopted to read as follows:

Title 5—Business Taxes, Licenses and Regulations

Chapter 34—Commercial Cannabis

5.34.01 Purpose and Intent

The purpose of these regulations is to ensure that the development of commercial cannabis does not adversely impact adjacent parcels or the surrounding neighborhood and that they are developed in a manner which protects the health, safety, and general welfare of the residents, landowners, and businesses in the city. These regulations shall apply to all commercial cannabis activities in the city.

5.34.02 Definitions

- A. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus

Cannabis that may exist or be discovered, or developed, whether growing or not, including but not limited to the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. Any reference to cannabis or cannabis products shall include medical and nonmedical cannabis and medical and nonmedical cannabis products unless otherwise specified. "Cannabis" does not mean industrial hemp as defined by Health and Safety Code section 11018.5, as may be amended from time to time.

- B. "Cannabis business owner" means any of the following:
1. Each person or entity having an ownership interest in the commercial cannabis business other than a security interest, lien, or encumbrance on property that will be used by the commercial cannabis business;
 2. If the commercial cannabis business is a publicly traded company, the chief executive officer or any person or entity with an aggregate ownership interest of five percent (5%) or more; or
 3. Each person who participates in the direction, control, or management of, or has a financial interest in, the commercial cannabis business.
- C. "Cannabis cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, processing, or trimming of cannabis, including cannabis nurseries.
- D. "Cannabis dispensary" or "cannabis retailer" means a facility, whether fixed or mobile, operated in accordance with state and local laws and regulations, where cannabis and/or cannabis products are offered for retail sale, including a facility that delivers cannabis and/or cannabis products as part of a retail sale.
- E. "Cannabis distribution" means a facility where a person conducts the business of procuring cannabis from licensed cultivators or manufacturers for sale to licensed cannabis dispensaries or cannabis retailers, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes, prior to transport to licensed cannabis dispensaries or cannabis retailers. This facility requires a Type 11 license pursuant to MAUCRSA or a state cannabis license type subsequently established.
- F. "Cannabis manufacturing" means a facility that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a state licensee for these activities.
- G. "Cannabis microbusiness" means a facility that cultivates less than 10,000 square feet of cannabis and acts as a licensed distributor, Level 1 manufacturer, and cannabis retailer. This facility requires a Type 12 license pursuant to MAUCRSA, or a state cannabis license type subsequently established.

- H. "Cannabis nursery" means a state licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- I. "Cannabis products" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- J. "Cannabis testing service" or "cannabis testing laboratory" means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products, including the equipment provided by such laboratory, facility, or entity.
- K. "City manager" means the city manager or the city manager's designee, if any.
- L. "Commercial cannabis uses" means any commercial cannabis activity licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), including but not limited to, cultivation, possession, distribution, laboratory testing, labeling, retail, delivery, sale or manufacturing of cannabis or cannabis products.
- M. "Medical cannabis" or "medicinal cannabis" means cannabis that is intended to be used for medical cannabis purposes in accordance with the Compassionate Use Act (Health and Safety Code section 11362.5), the Medical Marijuana Program Act (Health and Safety Code section 11362.7 et seq.), the Medical Cannabis Regulation and Safety Act ("MCRSA," Business and Professions Code section 19300 et seq.), and MAUCRSA.
- N. "Primary caregiver" shall have the same meaning as set forth in Health and Safety Code section 11362.7, as the same may be amended from time to time.
- O. "Qualifying patient" or "qualified patient" shall have the same meaning as set forth in Health and Safety Code section 11362.7, as the same may be amended from time to time.

5.34.03 Permit Requirement

No cannabis business may engage in any commercial cannabis use in the city without obtaining the appropriate permit to operate within the city. The permit is specific to the location where the commercial cannabis use will occur. Multiple operating locations for the same cannabis business will require separate permits as outlined in sections 5.34.08 and 5.34.09.

5.34.04 Permit Applications

- A. Applications for a commercial cannabis permit and other matters pertaining to this chapter shall be filed with the city manager on an official city application form.
- B. The application shall be filed with all required fees, deposits, information, and materials as specified by this chapter.

- C. The application shall be signed by each cannabis business owner under penalty of perjury, certifying that the information submitted, including all supporting documents, is, to the best of the applicant's knowledge and belief, true, accurate and complete, and by the property owner for purposes of certifying that s/he has reviewed the application, and approves the use of the property for the purposes stated in the application. The signature of both the cannabis business owner and the property owner shall constitute evidence of their express consent to allow any city official or employee to enter upon and inspect the premises upon reasonable notice.
- D. The information required by this section shall be confidential, and shall not be subject to public inspection or disclosure except as may be required by Federal, State or local law. Disclosure of information pursuant to this section shall not be deemed a waiver of confidentiality by the applicant or any individual named in the application. The city shall incur no liability for the inadvertent or negligent disclosure of such information.
- E. Permit applicants are encouraged to contact the city manager before submitting an application to verify materials necessary for completing an application.

5.34.05 Application Review, Appeal, and Suspension

- A. Review of Application. The city manager shall consider the application, and the results from any investigation into the application, as deemed necessary by the police chief.
- B. Disapproval of Application. If the city manager disapproves an application, he or she shall notify the applicant in writing, stating the reasons for the disapproval. Notification of disapproval shall be deemed complete upon deposit by first class mail to the applicant to the address indicated on the application. No permit shall be issued unless a successful appeal of the disapproval is made within the requisite time frame.
- C. Appeal of Disapproval.
 - 1. Within ten (10) days after the city manager serves notice of disapproval, an applicant may appeal the disapproval by notifying the city clerk in writing of the appeal, the reasons for the appeal, and paying any applicable fees.
 - 2. The city clerk shall set a hearing on the appeal and shall fix a date and time certain, within thirty (30) days after the receipt of the applicant's appeal, unless the city and the applicant agree to a longer time, to consider the appeal. In no case will a hearing be continued for more than ninety (90) days from receipt of applicant's appeal. The city clerk shall provide notice of the date, time and place of hearing, at least seven (7) days prior to the date of the hearing.

3. The city council shall hear the applicant's appeal, determine the order of procedure, and rule on all objections to admissibility of evidence. The applicant and the city manager shall each have the right to submit documents, call and examine witnesses, cross-examine witnesses and argue their respective positions. The proceeding shall be informal, the technical rules of evidence shall not apply, and all evidence shall be admissible which is of the kind that reasonably prudent persons rely upon in making decisions.
 4. An appellant's failure to attend a hearing shall constitute an abandonment of the appeal and a failure to exhaust administrative remedies.
 5. The city council shall issue or cause to be issued a written decision within twenty-one (21) days after the close of the hearing. The decision of the city council shall be final.
 6. An appellant may seek judicial review of the city council's decision by filing a petition for review with the superior court, pursuant to Code of Civil Procedure sections 1094.5 and 1094.6, within ninety days after the effective date of the city council's notice of decision.
- D. Grounds for Denial, Revocation or Suspension of Permit. The granting of a permit or a renewal thereof may be denied and an existing permit revoked or suspended if:
1. The cannabis business owner has knowingly made a false statement in the application or in any reports or other documents furnished to the city.
 2. The cannabis business owner has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the cannabis business for which the application is made, which includes but is not limited to:
 - i. A violent felony conviction, as specified in Penal Code section 667.5(c).
 - ii. A serious felony conviction, as specified in Penal Code section 1192.7.
 - iii. A felony conviction involving fraud, deceit or embezzlement.
 - iv. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

- v. A felony conviction for drug trafficking with an enhancement pursuant to Health and Safety Code sections 11370.4 or 11379.8.
3. The cannabis business or a cannabis business owner has been sanctioned by a licensing authority or other city or county for unauthorized commercial cannabis activity.
4. The granting or renewing of the permit would perpetuate or encourage any of the following:
 - i. Distribution of cannabis or cannabis products to minors;
 - ii. Generation of revenue from the sale of cannabis or cannabis products to fund criminal enterprises, gangs or cartels;
 - iii. Diversion of cannabis or cannabis products to jurisdictions outside of the state where cannabis and cannabis products are unlawful under state or local law;
 - iv. Trafficking of other illegal drugs or facilitation of other illegal activity;
 - v. Violence and the use of firearms in the cultivation and distribution of cannabis and cannabis products;
 - vi. The use of public lands in the cultivation of cannabis; or
 - vii. The use of federal property for commercial cannabis activity.
5. For any other reason that would allow the state to deny a license under MAUCRSA.
6. Fails to pay required city fees and taxes.
7. Violates any provision of MAUCRSA, this chapter or any other permits issued by the city for the commercial cannabis use, such as a conditional use permit.
8. Except as provided in subsections (D)(2)(iv) and (v) of this section, an application for a permit shall not be denied if the sole ground for denial is based upon a prior conviction of either section 11350 or section 11357 of the Health and Safety Code. An application for a permit also shall not be denied if the state would be prohibited from denying a license pursuant to either section 26057, subdivision (b)(5), or section 26059 of the Business and Professions Code. Conviction of any controlled substance felony subsequent to permit issuance shall be grounds for revocation of a permit or denial of the renewal of a permit.

E. Suspension and Revocation.

1. If the city manager deems continuation of any commercial cannabis use will cause a significant threat to the health, safety, or welfare of the public, the city manager may suspend the permit and all rights and

privileges thereunder until the city council renders a written decision on the revocation of the permit.

2. The city manager shall give notice to the cannabis business of his or her intent to revoke a permit in the same manner as notice of disapproval and provide the city clerk with a copy of the notice.
3. The appeal rights and hearing for the revocation of the permit shall be set and conducted in the same manner as an appeal of disapproval under section 5.34.05(C). The decision of the city council shall be final.

5.34.06 Permit Issuance

- A. Before issuing any permit the city manager shall determine that all of the following requirements have been met:
 1. The application is complete and all applicable city taxes and fees have been paid.
 2. All land use permits have been approved and all conditions of approval have been met or are in good standing.
 3. There are no outstanding notices of nuisance or other unresolved code compliance issues at the site of the proposed commercial cannabis use or related to the cannabis business owner(s).
- B. By accepting the permit, each permittee agrees to indemnify, defend and hold harmless to the fullest extent permitted by law the city, its officers, agents and employees from and against any and all actual and alleged damages, claims, liabilities, costs (including attorney's fees), suits or other expenses resulting from and arising out of or in connection with permittee's operations, except such liability caused by the sole active negligence or willful misconduct of city, its officers, agents and employees.
- C. The permit shall be valid for one (1) year from the date of issuance.

5.34.07 Transfer of Permit or Modifications to Permit

- B. A permit is nontransferable to another location, and no transfer to another cannabis business owner or modifications to a permitted facility may be made except in accordance with this section.
- C. A request for change in permit ownership shall be submitted to the city manager on a city form at least sixty (60) days prior to the anticipated transfer, together with any applicable fee(s). Requests submitted less than sixty (60) days before the transfer will be processed only in the city's discretion and may be subject to an expedited processing fee. A new owner(s) shall meet all requirements for applicants of an initial permit. The request shall include the following information:

1. Identifying information for the new cannabis business owner(s) and management as required in an initial permit application;
 2. A written certification by the new cannabis business owner(s) as required in an initial permit application;
 3. The specific date on which the transfer is to occur; and
 4. Acknowledgement of full responsibility for complying with the existing permit.
- D. A request to modify the security plan shall be submitted to the city manager on a city form at least thirty (30) days prior to the anticipated change, together with the applicable fee.
- E. A request for change in cannabis business contact information shall be submitted to the city manager on a city form at least thirty (30) days prior to the anticipated change, together with the applicable fee.
- F. A request for change in cannabis business trade or business name shall be submitted to the city manager on a city form at least thirty (30) days prior to the anticipated change, together with the applicable fee.
- G. A permit renewal application and any applicable fees must be submitted to city manager at least sixty (60) days before the expiration of the permit. Failure to submit a renewal application prior to the expiration date of the permit will result in the automatic expiration of the permit on the expiration date. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that the new standards are met. No person shall have any entitlement or vested right to receive a permit under this chapter.

5.34.08 Standard Provisions for all Commercial Cannabis Uses

- A. All commercial cannabis uses shall have all appropriate state licensing required prior to commencement of use.
- B. No permittee shall sell cannabis or cannabis products to persons under 21 years of age; allow any person under 21 years of age on its premises; or employ or retain persons under 21 years of age. No permittee shall sell medicinal cannabis products to persons under 18 years of age unless accompanied by a parent or guardian.
- C. All commercial cannabis uses shall maintain a 600 foot distance from all properties containing schools, pre-schools, licensed day care facilities, and parks.
- D. All commercial cannabis shall obtain and maintain a business license from the city
- E. Commercial cannabis uses shall not be allowed as a home occupation.

- F. All applications shall provide an operations plan containing at a minimum the following items:
1. General project information
 - i. Site plan providing both a graphic and written representation of the applicant's intended development. The plan shall adhere to the general site plan standards contained in section 17.29.030 and shall include all structures, storage and circulation patterns of the site.
 - ii. Written project description containing:
 - a. General project description.
 - b. A statement of present and proposed ownership.
 - c. A complete list of all individuals and entities with a financial interest in the operation.
 - d. A list and description of all uses shown in the provided site plan.
 - iii. Floor plan showing the locations of all proposed uses.
 - iv. Sign plan consistent with the provisions outlined in section 17.52 of this code.
 - v. Agreement to maintain at all times commercial general liability providing coverage on an occurrence basis for bodily injury, including death, of one (1) or more persons, property damage and personal injury with limits of not less than one million dollars (\$1,000,000.00) per occurrence and comprehensive automobile liability (owned, non-owned, hired) providing coverage on an occurrence basis for bodily injury, including death, of one (1) or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000.00). The commercial general liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the city shall be primary, and shall name the city, its officials and employees as additional insured. Failure to maintain insurance as required herein at all times shall be grounds for suspension of the permit immediately, and ultimately, revocation.
 2. Security provisions.
 - i. Operations shall provide adequate security on the premises, including lighting, security cameras, security personnel and alarms, to ensure the safety of persons and to protect the

premises from theft. Security camera footage shall be retained a minimum of 30 days.

- ii. The plan shall include the name, phone number and email of community relations staff whom may be contacted at any time regarding operational problems associated with the commercial cannabis use.
- iii. A current register of the names of all employees currently employed by the use shall be provided and maintained on site. Employee register and contact information shall be current and up-to-date at all times. Any changes made to the employee register shall be provided to the city manager within thirty (30) days.
- iv. All employees either direct or via contract shall undergo a background check by the city police department. An individual may fail the background check if they have been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the police chief determines that the applicant, owner, or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the police chief shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, owner, licensee to be issued a license based on the evidence found through the review. In determining which offences are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the police chief shall include, but not be limited to, the following:
 - a. A violent felony conviction, as specified in subdivision (c) of section 667.5 of the Penal Code.
 - b. A serious felony conviction, as specified in subdivision (c) of section 1192.7 of the Penal Code.
 - c. A felony conviction involving fraud, deceit, or embezzlement.
 - d. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substances to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

- e. A felony conviction for drug trafficking with enhancements pursuant to section 11370.4 or 11379.8 of the Health and Safety Code.
- f. Any other conviction that may disqualify an applicant/owner or permittee under state law.
- v. Verification that the security provisions for the operation have been reviewed and approved by the city police department prior to the issuance of a development permit.

3. Public health and safety provisions

- i. Facility improvement plan demonstrating that the operation is compliant with all applicable public health and safety provisions of the International Building Code. The facility improvement plan shall be reviewed and approved by the applicable fire agency and city building division prior to the issuance of a development permit.
 - ii. Statement of proposed water usage.
 - iii. Wastewater disposal plan reviewed and approved by the city utilities division prior to the issuance of any development permit. The wastewater disposal plan shall include any specific designs for pre-treatment of waste prior to entering municipal sewer system. No waste containing hazardous materials or other containments shall be permitted to enter the municipal sewer system consistent with Chapter 13.20 of this municipal code concerning "Sewer Use And Pretreatment."
 - iv. Solid waste disposal plan, including the management of cannabis related waste.
 - v. Hazardous waste management plan to be approved by Lake County Health Department.
 - vi. Odor prevention plan that will prevent obnoxious odors or fumes from being emitted beyond the operation limits that are perceptible by a reasonable person. Minimum design specifications should include odor absorbing ventilation and exhaust systems.
- G. All commercial cannabis uses shall submit an annual performance review report demonstrating compliance with required provisions of this section and all specific operating provisions and licensing required at the time of development approval. Failure to submit an annual report or failure to comply with required provisions will result in revocation of the operating permit. The annual performance review report shall include inspection by city.

- H. All permittees shall comply with the state track and trace requirements for cannabis and cannabis products.
- I. The rights and privileges to conduct commercial cannabis uses on a specific parcel do not attach to title to the property and are not conveyed with the lease or sale of the property. Accordingly, a permit may not be sold, assigned, leased or otherwise conveyed or transferred by the person or entity holding the permit to any third party not named on the application without complying with this chapter and any other applicable law.
- J. Except as provided herein, all other cannabis activities are prohibited.

5.34.09 Commercial Cannabis Performance Standards

- A. Commercial Cannabis Cultivation Standards. (Type 1A, 1C, 2A, 3A, 4 & 12)
 - 1. Use type includes:
 - i. Cultivation of cannabis
 - ii. Cannabis nursery including the production of clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, cultivation of cannabis for sale to licensed commercial cannabis cultivators and licensed retail establishments. No retail sales are permitted.
 - iii. Cannabis processing such as drying, curing, grading, or trimming.
 - iv. Accessory uses related to the planting, growing, harvesting, drying, curing, grading, or the trimming of cannabis
 - 2. Specific Provisions:
 - i. All commercial cannabis cultivation operations shall not engage in the retail sale of any product goods or services. Only wholesale activities are permitted.
 - ii. All cultivation activities shall take place indoors, out of sight of the general public. No greenhouses shall be allowed.
 - iii. All cannabis cultivation, that includes processing such as drying, curing, grading, or trimming shall take place indoors.
 - iv. The permittee shall use best management practices to minimize water use with cannabis cultivation. This would include the use of low flow irrigation. The permit shall include a plan for water use associated with the cultivation.
 - v. If manufacturing of cannabis takes place on the site of the cannabis cultivation, compliance with the manufacturing standards of this chapter are also required.

- vi. The applicant shall prepare an integrated management plan to be reviewed and approved by the Lake County Agricultural Commission for all chemical, biological and cultural methods to control or prevent the introduction of pests on the cultivation site.

B. Commercial Cannabis Manufacturing Standards. (Type 6 & 7)

1. Use type includes the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, volatile solvents, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container.
2. Specific Provisions:
 - i. Commercial cannabis manufacturing uses shall not conduct or engage in the retail sale of any product goods or services. Only wholesale activities are permitted.
 - ii. Applicant shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents.
 - iii. All commercial cannabis manufacturing shall take place indoors.
 - iv. The permittee shall use best management practices to minimize water use with cannabis manufacturing.
 - v. The permittee shall provide a list to the public works director of all solvents, gasses and/or chemicals prior to commencement of use. No solvents, gasses and/or chemicals shall be allowed to enter the city's wastewater system.
 - vi. Manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:
 - a. The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
 - b. The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.
 - c. Receives and maintains approval from the local fire official for the closed-loop system, other equipment, the extraction

operation, and the facility and meets the following: the California Fire Code; the National Fire Protection Association (NFPA) standards; International Building Code (IBC); and the International Fire Code (IFC).

C. Commercial Cannabis Testing Standards. (Type 8)

1. Use type includes:

- i. Testing of cannabis and cannabis products.
- ii. Businesses and research institutions engaged in the research of cannabis and cannabis products, or devices used for the use of cannabis and cannabis products.
- iii. Business offices related to cannabis.
- iv. Accessory uses related to the testing of cannabis and cannabis products.

2. Specific Provisions

- i. Commercial cannabis testing operations shall not conduct or engage in the retail sale of any product goods or services.
- ii. The permittee shall use best management practices to minimize water use with cannabis testing.

D. Distribution of Commercial Cannabis (Type 11)

1. Use type includes:

- i. Businesses engaged in the distribution of commercial cannabis, cannabis products, or devices used for the use of cannabis products.
- ii. The procurement, sale, and transport of cannabis and cannabis products between entities licensed under state law.
- iii. Transporting cannabis or cannabis products.
- iv. Conducting quality assurance review to ensure compliance with labeling and packing requirements.
- v. Accessory uses related to the procurement, sale, and transport of cannabis and cannabis products.

2. Specific Provisions:

- i. A distributor permittee shall be bonded and insured at a minimum level established by the licensing authority.
- ii. All cannabis distributor shall display a copy of the inspection receipt issued by the Lake County Sealer of Weights and Measures for all weighing and measuring devices.

- iii. All cannabis and cannabis products held bought, and sold be a cannabis distributor shall be obtained from a legal source and shall have the state issued track and trace information.

E. Commercial Cannabis Retailers Standards. (Type 10 & 12)

1. Use type includes:

- i. Retailer storefront with sales of cannabis, cannabis products or devices.
- ii. Retailer storefront with the delivery of cannabis, cannabis products or devices.
- iii. Retailer delivery of cannabis, cannabis products or devices.
- iv. Storefront retail with onsite consumption **is prohibited.**
- v. Microbusinesses with retail included.

2. Specific Provisions:

- i. No more than two (2) cannabis retailers shall be permitted within the city limits at any one time.
- ii. Cannabis retailers shall not exceed one thousand five hundred square feet (1,500 square feet), exclusive of office space, restrooms and other non-dispensary retail or educational uses.
No dispensary may increase in size without amending the use permit required by title 17. The size limitation shall be included in the operational plan required by 5.34.08(G) of this chapter.
- iii. A commercial cannabis permit for retailer issued in compliance with Section 5.34.04 shall be required for any retailer dispensary operating within the city. Cannabis retailers shall also be subject to permit requirements and regulations established by the state and those established by the city council through resolution or ordinance. Additionally, cannabis retailers must comply with all other applicable building codes and requirements, including accessibility requirements. Permits shall only be issued to cannabis dispensaries coming under state cannabis license Types 10 (Retailers) and 12 (Microbusiness). Commercial cannabis permits for retailers shall be subject to the requirements and limitations set forth in this Chapter and shall be issued according to the following procedure:
 - a. The city council shall, following an open application period and review of applications by the city manager, consider commercial cannabis permit applications for retailers meeting all minimum qualifications at a public hearing. The city council

may approve up to two (2) commercial cannabis permits for two (2) retailers to operate in the city at the same time, with necessary conditions.

- b. If a commercial cannabis permit for a retailer becomes available within twelve (12) months of a previous application period, city staff may first review all minimally qualified applications from the prior application process, and consider them for submittal to the city council prior to opening a new application process. If a new application process is opened, prior applicants may inform city staff in writing that they wish to re-submit their application rather than file a new application.
- c. The city council may adopt by resolution such forms, fees, and procedures as are necessary to implement this chapter with respect to the initial selection, future selection, investigation process, renewal, revocation, and suspension of cannabis dispensary use permits. Such procedures may include a priority ranking system, and appointment of staff review panel for cannabis retailers use permits.
- iv. A cannabis retailer may possess no more than (5) pounds of dried cannabis at any one time in addition to live plants for sale that are in a vegetative (not mature) state.
- v. No exterior signage or symbols shall be displayed which advertises the availability of cannabis using drug-related symbols which are attractive to minors or which is carried out in a manner intended to encourage persons under twenty-one (21) years of age to consume cannabis or cannabis products, nor shall any such signage or symbols be displayed on the interior of the facility in such a way as to be visible from the exterior.
- vi. No cannabis retailer shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages on the same premises. No alcoholic beverages shall be allowed or consumed on the premises.
- vii. No cannabis retailer shall conduct or engage in the commercial sale of any product, good or service unless otherwise approved by the permit. A retailer may sell live starter plants, clones and seeds from qualified nurseries, but shall not cultivate or clone cannabis (unless the retailer holds a microbusiness or cultivation license from the state and such uses are allowed on the same premises under state law). Not more than ten percent (10%) of the retailer

area, up to a maximum of fifty (50) square feet may be devoted to the sale of incidental goods for personal cannabis cultivation and use, but shall not include clothing, posters or other promotional items.

- viii. No cannabis shall be smoked on the premises, unless allowed under a condition of approval. The term “premises” includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings. Onsite consumption of cannabis may be allowed if the cannabis retailer permit explicitly allows it, and if done in accordance with state laws and regulations, as may be amended from time to time, and any conditions placed on the commercial cannabis permit, including those related to ventilation and odor control.
- ix. The following signs, in measurements of not less than eight by ten inches (8x10”), shall be clearly and legibly posted in a conspicuous location inside the retailer where they will be visible to customers in the normal course of a transaction, stating:
 - a. “The sale of cannabis without a state license is illegal.”
 - b. “Smoking cannabis on this property, within twenty feet (20’) of the retailer, or in any public place is illegal under California law.”
 - c. For medical cannabis dispensaries: “No one under the age of eighteen (18) shall be allowed on the premises, unless they are a qualified patient or a primary caregiver.”
 - d. For nonmedical cannabis retailers: “No one under the age of twenty-one (21) shall be allowed on the premises.”
- x. Any commercial cannabis permit issued to microbusiness with a Type 12 state license, or a state cannabis license type subsequently established, that contains a retailer operation, will be subject to the permit procedures and requirements for cannabis retailers under this section 5.34.09(E). Any such permit will count toward the city’s maximum number of retailers. Any commercial cannabis permit issued to a microbusiness with a cultivation, manufacturing, testing and/or distribution component will also be subject to the requirements of section 5.34.09(A), (B), (C) and/or (D) for those operations.
- xi. Except as provided in section 5.34.09(E)(2)(xi) for microbusinesses, commercial cannabis cultivation, manufacturing and testing are prohibited on the same premises.

- xii. Cannabis retailers shall contain no window displays that are visible by normal unaided vision from a public place.
- xiii. All cannabis deliveries shall have all records identifying the originating location and terminus of the cannabis or cannabis products, as well as all corresponding licenses consistent with all applicable state licensing requirements.
- xiv. The operating plan for all cannabis deliveries shall include driver identification and license information for all employees engaged in delivery operations. Vehicle information including license, year, make and model shall also be listed in the operating plan.
- xv. Vehicles used in the delivery of cannabis shall have no signage and shall be un-marked.
- xvi. The sale of ancillary products, including books, herbal supplements, and devices facilitating the consumption of cannabis shall occur in a manner consistent with this section, and in compliance with all state requirements.
- xvii. The maximum retail days and hours of operations shall be Monday through Sunday, 9:00 a.m. through 7:00 p.m.

5.34.10 Fees

The city council shall, by resolution, establish a schedule of fees for commercial cannabis license applications, amendments, renewals and other matters pertaining to this chapter. The schedule of fees may be changed or modified by resolution of the city council. Applicants and permittees also shall pay the amount as prescribed by the Department of Justice of the State of California for the processing of applicant's fingerprints. None of the above fees shall be prorated, or refunded in the event of a denial, suspension or revocation of the permit. Failure to pay the applicable fees is grounds for denial of an application.

5.34.11 Enforcement

- A. Any person violating any provision of this chapter or misrepresenting any material fact in demonstrating compliance with requirements for operating a commercial cannabis use shall be deemed guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or by imprisonment for not more than twelve months, or by both such fine and imprisonment.
- B. Any violation of this chapter is declared to be a public nuisance as defined in section 370 of the Penal Code, section 3480 of the Civil Code and Chapter 8.22 of this municipal code and shall be subject to injunctive relief, revocation of the certificate of occupancy for the property, disgorgement and payment to the city of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The city may also pursue any and all remedies and actions available and

applicable under local and state law for any violation committed by the commercial cannabis owner, its managers, members or any person related or associated with the commercial cannabis use.

- C. Any violation of the terms and conditions of the commercial cannabis use of this chapter shall be grounds for suspension and revocation of the permit.

5.34.12 Liability

The provisions of this chapter shall not be construed to protect the record property owner(s) of a legal parcel associated with any commercial cannabis use, his or her lessees, tenants, and other participants in the operation of a commercial cannabis use, and/or members of collectives and/or cooperatives associated with such use, from prosecution pursuant to any laws that may prohibit the cultivation, sale, and/or possession of controlled substances. Moreover, cultivation, sale, possession, distribution, and use of cannabis remain violations of federal law as of the date of adoption of the ordinance creating this chapter and this chapter is not intended to, and does not, protect any of the above described persons from arrest or prosecution under those federal laws. The record property owner(s) of a legal parcel associated with any commercial cannabis use, his or her lessees, tenants, and other participants in the such use, and/or members of collectives and/or cooperatives associated with such use, assume any and all risk and any and all liability that may arise or result under state and federal criminal laws from operating a commercial cannabis use. Further, to the fullest extent permitted by law, any actions taken under the provisions of this chapter by any public officer or employee of the city or the city itself shall not become a personal liability of such person or the liability of the city.

SECTION 2. Section 17.08.050.J of 17.08, Regulations for the Professional Office District or “PO” District, of the Lakeport Municipal Code is hereby added as follows:

- J. Commercial cannabis testing subject to the regulations set forth in Chapter 5.34.

SECTION 3. Section 17.10.050.N of 17.10, Regulations for the Major Retail or “C-2” District, of the Lakeport Municipal Code is hereby added as follows:

- N. Commercial cannabis consisting of testing and retailers uses not consisting of on-site consumption or microbusinesses subject to the regulations set forth in Chapter 5.34.

SECTION 4. Section 17.11.050.K of 17.11, Regulations for the Service Commercial or “C-3” District, of the Lakeport Municipal Code is hereby added as follows:

- K. Commercial cannabis consisting of cultivation, manufacturing without volatile solvents, testing, distribution and retailers uses subject to the regulations set forth in Chapter 5.34.

SECTION 5. Section 17.13.040.R of 17.07, Regulations for Industrial or “I” Zoning District, of the Lakeport Municipal Code is hereby added as follows:

- R. Commercial cannabis consisting of cultivation, manufacturing with and without volatile solvents, testing, distribution and retailers uses subject to the regulations set forth in Chapter 5.34.

SECTION 6. Severability: Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 7. CEQA. This ordinance is exempt from review under the California Environmental Quality Act (CEQA). Pursuant to section 15061(b)(3) of the CEQA Guidelines, CEQA applies only to projects which have the potential for causing a significant effect on the environment. Additionally, the revision to the Lakeport Municipal Code provides for a discretionary review process for the approval of commercial cannabis related permits and is eligible for the exemption from the CEQA Guidelines provided in Section 26055(h) of the California Business and Professions Code. Furthermore, the ordinance constitutes a regulatory action to assure the protection of the environment and is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines.

SECTION 8. Effective Date. This ordinance shall take effect thirty (30) days after adoption as provided by Government Code section 36937.

SECTION 9. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting the entire text.

INTRODUCED and first read at a regular meeting of the City Council on the 21st day of November, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

FINAL PASSAGE AND ADOPTION by the City Council of Lakeport occurred at a meeting thereof held on the 5th day of December 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

STACEY MATTINA, MAYOR

KELLY BUENDIA, City Clerk
City of Lakeport

Title 5—Business Taxes, Licenses and Regulations

Chapter 34—Commercial Cannabis

Planning Commission Recommended
Changes Highlighted in **YELLOW**

City Attorney Recommended
Substantive Changes Highlighted in
BLUE

- 5.34.01 Purpose and Intent
- 5.34.02 Definitions
- 5.34.03 Permit Requirements
- 5.34.04 Permit Applications
- 5.34.05 Review of Applications—Appeal of Disapprovals and Suspensions
- 5.34.06 Permit Issuance
- 5.34.07 Transfer of Permit of Modification to Permit
- 5.34.08 Standard Provisions for all Commercial Cannabis Uses
- 5.34.09 Commercial Cannabis Performance Standards
- 5.34.10 Fees
- 5.34.11 Enforcement
- 5.34.12 Liability

5.34.01 Purpose and Intent

The purpose of these regulations is to ensure that the development of commercial cannabis does not adversely impact adjacent parcels or the surrounding neighborhood and that they are developed in a manner which protects the health, safety, and general welfare of the residents, landowners, and businesses in the city. These regulations shall apply to all commercial cannabis activities in the city.

5.34.02 Definitions

- A. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or be discovered, or developed, whether growing or not, including but not limited to the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. Any reference to cannabis or cannabis products shall include medical and nonmedical cannabis and medical and nonmedical cannabis products unless otherwise specified. “Cannabis” does not mean industrial hemp as defined by Health and Safety Code section 11018.5, as may be amended from time to time.
- B. “Cannabis business owner” means any of the following:
 - 1. Each person or entity having an ownership interest in the commercial cannabis business other than a security interest, lien, or encumbrance on property that will be used by the commercial cannabis business;
 - 2. If the commercial cannabis business is a publicly traded company, the chief executive officer or any person or entity with an aggregate ownership interest of five percent (5%) or more; or

3. Each person who participates in the direction, control, or management of, or has a financial interest in, the commercial cannabis business.
- C. “Cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, processing, or trimming of cannabis, including cannabis nurseries.
- D. “Cannabis dispensary” or “cannabis retailer” means a facility, whether fixed or mobile, operated in accordance with state and local laws and regulations, where cannabis and/or cannabis products are offered for retail sale, including a facility that delivers cannabis and/or cannabis products as part of a retail sale.
- E. “Cannabis distribution” means a facility where a person conducts the business of procuring cannabis from licensed cultivators or manufacturers for sale to licensed cannabis dispensaries or cannabis retailers, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes, prior to transport to licensed cannabis dispensaries or cannabis retailers. This facility requires a Type 11 license pursuant to MAUCRSA or a state cannabis license type subsequently established.
- F. “Cannabis manufacturing” means a facility that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a state licensee for these activities.
- G. “Cannabis microbusiness” means a facility that cultivates less than 10,000 square feet of cannabis and acts as a licensed distributor, Level 1 manufacturer, and cannabis retailer. This facility requires a Type 12 license pursuant to MAUCRSA, or a state cannabis license type subsequently established.
- H. “Cannabis nursery” means a state licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- I. “Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- J. “Cannabis testing service” or “cannabis testing laboratory” means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products, including the equipment provided by such laboratory, facility, or entity.
- K. “City manager” means the city manager or the city manager’s designee, if any.
- L. “Commercial cannabis uses” means any commercial cannabis activity licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), including but not limited to, cultivation, possession, distribution, laboratory testing, labeling, retail, delivery, sale or manufacturing of cannabis or cannabis products.

- M. “Medical cannabis” or “medicinal cannabis” means cannabis that is intended to be used for medical cannabis purposes in accordance with the Compassionate Use Act (Health and Safety Code section 11362.5), the Medical Marijuana Program Act (Health and Safety Code section 11362.7 et seq.), the Medical Cannabis Regulation and Safety Act (“MCRSA,” Business and Professions Code section 19300 et seq.), and MAUCRSA.
- N. “Primary caregiver” shall have the same meaning as set forth in Health and Safety Code section 11362.7, as the same may be amended from time to time.
- O. “Qualifying patient” or “qualified patient” shall have the same meaning as set forth in Health and Safety Code section 11362.7, as the same may be amended from time to time.

5.34.03 Permit Requirement

No cannabis business may engage in any commercial cannabis use in the city without obtaining the appropriate permit to operate within the city. The permit is specific to the location where the commercial cannabis use will occur. Multiple operating locations for the same cannabis business will require separate permits as outlined in sections 5.34.08 and 5.34.09.

5.34.04 Permit Applications

- A. Applications for a commercial cannabis permit and other matters pertaining to this chapter shall be filed with the city manager on an official city application form.
- B. The application shall be filed with all required fees, deposits, information, and materials as specified by this chapter.
- C. The application shall be signed by each cannabis business owner under penalty of perjury, certifying that the information submitted, including all supporting documents, is, to the best of the applicant’s knowledge and belief, true, accurate and complete, and by the property owner for purposes of certifying that s/he has reviewed the application, and approves the use of the property for the purposes stated in the application. The signature of both the cannabis business owner and the property owner shall constitute evidence of their express consent to allow any city official or employee to enter upon and inspect the premises upon reasonable notice.
- D. The information required by this section shall be confidential, and shall not be subject to public inspection or disclosure except as may be required by Federal, State or local law. Disclosure of information pursuant to this section shall not be deemed a waiver of confidentiality by the applicant or any individual named in the application. The city shall incur no liability for the inadvertent or negligent disclosure of such information.
- E. Permit applicants are encouraged to contact the city manager before submitting an application to verify materials necessary for completing an application.

5.34.05 Application Review, Appeal, and Suspension

- A. Review of Application. The city manager shall consider the application, and the results from any investigation into the application, as deemed necessary by the police chief.

- B. Disapproval of Application. If the city manager disapproves an application, he or she shall notify the applicant in writing, stating the reasons for the disapproval. Notification of disapproval shall be deemed complete upon deposit by first class mail to the applicant to the address indicated on the application. No permit shall be issued unless a successful appeal of the disapproval is made within the requisite time frame.
- C. Appeal of Disapproval.
1. Within ten (10) days after the city manager serves notice of disapproval, an applicant may appeal the disapproval by notifying the city clerk in writing of the appeal, the reasons for the appeal, and paying any applicable fees.
 2. The city clerk shall set a hearing on the appeal and shall fix a date and time certain, within thirty (30) days after the receipt of the applicant's appeal, unless the city and the applicant agree to a longer time, to consider the appeal. In no case will a hearing be continued for more than ninety (90) days from receipt of applicant's appeal. The city clerk shall provide notice of the date, time and place of hearing, at least seven (7) days prior to the date of the hearing.
 3. The city council shall hear the applicant's appeal, determine the order of procedure, and rule on all objections to admissibility of evidence. The applicant and the city manager shall each have the right to submit documents, call and examine witnesses, cross-examine witnesses and argue their respective positions. The proceeding shall be informal, the technical rules of evidence shall not apply, and all evidence shall be admissible which is of the kind that reasonably prudent persons rely upon in making decisions.
 4. An appellant's failure to attend a hearing shall constitute an abandonment of the appeal and a failure to exhaust administrative remedies.
 5. The city council shall issue or cause to be issued a written decision within twenty-one (21) days after the close of the hearing. The decision of the city council shall be final.
 6. An appellant may seek judicial review of the city council's decision by filing a petition for review with the superior court, pursuant to Code of Civil Procedure sections 1094.5 and 1094.6, within ninety days after the effective date of the city council's notice of decision.
- D. Grounds for Denial, Revocation or Suspension of Permit. The granting of a permit or a renewal thereof may be denied and an existing permit revoked or suspended if:
1. The cannabis business owner has knowingly made a false statement in the application or in any reports or other documents furnished to the city.
 2. The cannabis business owner has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the cannabis business for which the application is made, which includes but is not limited to:
 - i. A violent felony conviction, as specified in Penal Code section 667.5(c).

- ii. A serious felony conviction, as specified in Penal Code section 1192.7.
 - iii. A felony conviction involving fraud, deceit or embezzlement.
 - iv. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
 - v. A felony conviction for drug trafficking with an enhancement pursuant to Health and Safety Code sections 11370.4 or 11379.8.
- 3. The cannabis business or a cannabis business owner has been sanctioned by a licensing authority or other city or county for unauthorized commercial cannabis activity.
- 4. The granting or renewing of the permit would perpetuate or encourage any of the following:
 - i. Distribution of cannabis or cannabis products to minors;
 - ii. Generation of revenue from the sale of cannabis or cannabis products to fund criminal enterprises, gangs or cartels;
 - iii. Diversion of cannabis or cannabis products to jurisdictions outside of the state where cannabis and cannabis products are unlawful under state or local law;
 - iv. Trafficking of other illegal drugs or facilitation of other illegal activity;
 - v. Violence and the use of firearms in the cultivation and distribution of cannabis and cannabis products;
 - vi. The use of public lands in the cultivation of cannabis; or
 - vii. The use of federal property for commercial cannabis activity.
- 5. For any other reason that would allow the state to deny a license under MAUCRSA.
- 6. Fails to pay required city fees and taxes.
- 7. Violates any provision of MAUCRSA, this chapter or any other permits issued by the city for the commercial cannabis use, such as a conditional use permit.
- 8. Except as provided in subsections (D)(2)(iv) and (v) of this section, an application for a permit shall not be denied if the sole ground for denial is based upon a prior conviction of either section 11350 or section 11357 of the Health and Safety Code. An application for a permit also shall not be denied if the state would be prohibited from denying a license pursuant to either section 26057, subdivision (b)(5), or section 26059 of the Business and Professions Code.

Conviction of any controlled substance felony subsequent to permit issuance shall be grounds for revocation of a permit or denial of the renewal of a permit.

E. Suspension and Revocation.

1. If the city manager deems continuation of any commercial cannabis use will cause a significant threat to the health, safety, or welfare of the public, the city manager may suspend the permit and all rights and privileges thereunder until the city council renders a written decision on the revocation of the permit.
2. The city manager shall give notice to the cannabis business of his or her intent to revoke a permit in the same manner as notice of disapproval and provide the city clerk with a copy of the notice.
3. The appeal rights and hearing for the revocation of the permit shall be set and conducted in the same manner as an appeal of disapproval under section 5.34.05(C). The decision of the city council shall be final.

5.34.06 Permit Issuance

- A. Before issuing any permit the city manager shall determine that all of the following requirements have been met:
1. The application is complete and all applicable city taxes and fees have been paid.
 2. All land use permits have been approved and all conditions of approval have been met or are in good standing.
 3. There are no outstanding notices of nuisance or other unresolved code compliance issues at the site of the proposed commercial cannabis use or related to the cannabis business owner(s).
- B. By accepting the permit, each permittee agrees to indemnify, defend and hold harmless to the fullest extent permitted by law the city, its officers, agents and employees from and against any and all actual and alleged damages, claims, liabilities, costs (including attorney's fees), suits or other expenses resulting from and arising out of or in connection with permittee's operations, except such liability caused by the sole active negligence or willful misconduct of city, its officers, agents and employees.

C. The permit shall be valid for one (1) year from the date of issuance.

5.34.07 Transfer of Permit or Modifications to Permit

- B. A permit is nontransferable to another location, and no transfer to another cannabis business owner or modifications to a permitted facility may be made except in accordance with this section.
- C. A request for change in permit ownership shall be submitted to the city manager on a city form at least sixty (60) days prior to the anticipated transfer, together with any applicable fee(s). Requests submitted less than sixty (60) days before the transfer will be processed only in the city's discretion and may be subject to an expedited processing

fee. A new owner(s) shall meet all requirements for applicants of an initial permit. The request shall include the following information:

1. Identifying information for the new cannabis business owner(s) and management as required in an initial permit application;
 2. A written certification by the new cannabis business owner(s) as required in an initial permit application;
 3. The specific date on which the transfer is to occur; and
 4. Acknowledgement of full responsibility for complying with the existing permit.
- D. A request to modify the security plan shall be submitted to the city manager on a city form at least thirty (30) days prior to the anticipated change, together with the applicable fee.
- E. A request for change in cannabis business contact information shall be submitted to the city manager on a city form at least thirty (30) days prior to the anticipated change, together with the applicable fee.
- F. A request for change in cannabis business trade or business name shall be submitted to the city manager on a city form at least thirty (30) days prior to the anticipated change, together with the applicable fee.
- G. A permit renewal application and any applicable fees must be submitted to city manager at least sixty (60) days before the expiration of the permit. Failure to submit a renewal application prior to the expiration date of the permit will result in the automatic expiration of the permit on the expiration date. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that the new standards are met. No person shall have any entitlement or vested right to receive a permit under this chapter.

5.34.08 Standard Provisions for all Commercial Cannabis Uses

- A. All commercial cannabis uses shall have all appropriate state licensing required prior to commencement of use.
- B. No permittee shall sell cannabis or cannabis products to persons under 21 years of age; allow any person under 21 years of age on its premises; or employ or retain persons under 21 years of age. No permittee shall sell medicinal cannabis products to persons under 18 years of age unless accompanied by a parent or guardian. (Alternative language suggested by City Attorney-- No permittee shall sell medicinal cannabis products to a person under 18 years of age, unless that person possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card and is accompanied by a parent or guardian.
- ~~C. No cannabis or cannabis product shall be smoked, ingested, or otherwise consumed on the property.~~

- D. All commercial cannabis uses shall maintain a 600 foot distance from all properties containing schools, pre-schools, licensed day care facilities, and parks.
- E. All commercial cannabis shall obtain and maintain a business license from the city
- F. Commercial cannabis uses shall not be allowed as a home occupation.
- G. All applications shall provide an operations plan containing at a minimum the following items:

- 1. General project information

- i. Site plan providing both a graphic and written representation of the applicant's intended development. The plan shall adhere to the general site plan standards contained in section 17.29.030 and shall include all structures, storage and circulation patterns of the site.
 - ii. Written project description containing:
 - a. General project description.
 - b. A statement of present and proposed ownership.
 - c. A complete list of all individuals and entities with a financial interest in the operation.
 - d. A list and description of all uses shown in the provided site plan.
 - iii. Floor plan showing the locations of all proposed uses.
 - iv. Sign plan consistent with the provisions outlined in section 17.52 of this code.
 - v. Agreement to maintain at all times commercial general liability providing coverage on an occurrence basis for bodily injury, including death, of one (1) or more persons, property damage and personal injury with limits of not less than one million dollars (\$1,000,000.00) per occurrence and comprehensive automobile liability (owned, non-owned, hired) providing coverage on an occurrence basis for bodily injury, including death, of one (1) or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000.00). The commercial general liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the city shall be primary, and shall name the city, its officials and employees as additional insured. Failure to maintain insurance as required herein at all times shall be grounds for suspension of the permit immediately, and ultimately, revocation.

- 2. Security provisions.

- i. Operations shall provide adequate security on the premises, including lighting, security cameras, security personnel and alarms, to ensure the

safety of persons and to protect the premises from theft. Security camera footage shall be retained a minimum of 30 days.

- ii. The plan shall include the name, phone number and email of community relations staff whom may be contacted at any time regarding operational problems associated with the commercial cannabis use.
- iii. A current register of the names of all employees currently employed by the use shall be provided and maintained on site. Employee register and contact information shall be current and up-to-date at all times. Any changes made to the employee register shall be provided to the city manager within thirty (30) days.
- iv. All employees either direct or via contract shall undergo a background check by the city police department. An individual may fail the background check if they have been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the police chief determines that the applicant, owner, or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the police chief shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, owner, licensee to be issued a license based on the evidence found through the review. In determining which offences are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the police chief shall include, but not be limited to, the following:
 - a. A violent felony conviction, as specified in subdivision (c) of section 667.5 of the Penal Code.
 - b. A serious felony conviction, as specified in subdivision (c) of section 1192.7 of the Penal Code.
 - c. A felony conviction involving fraud, deceit, or embezzlement.
 - d. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substances to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
 - e. A felony conviction for drug trafficking with enhancements pursuant to section 11370.4 or 11379.8 of the Health and Safety Code.
 - f. Any other conviction that may disqualify an applicant/owner or permittee under state law.

- v. Verification that the security provisions for the operation have been reviewed and approved by the city police department prior to the issuance of a development permit.
- 3. Public health and safety provisions
 - i. Facility improvement plan demonstrating that the operation is compliant with all applicable public health and safety provisions of the International Building Code. The facility improvement plan shall be reviewed and approved by the applicable fire agency and city building division prior to the issuance of a development permit.
 - ii. Statement of proposed water usage.
 - iii. Wastewater disposal plan reviewed and approved by the city utilities division prior to the issuance of any development permit. The wastewater disposal plan shall include any specific designs for pre-treatment of waste prior to entering municipal sewer system. No waste containing hazardous materials or other containments shall be permitted to enter the municipal sewer system consistent with Chapter 13.20 of this municipal code concerning "Sewer Use And Pretreatment."
 - iv. Solid waste disposal plan, including the management of cannabis related waste.
 - v. Hazardous waste management plan to be approved by Lake County Health Department.
 - vi. Odor prevention plan that will prevent obnoxious odors or fumes from being emitted beyond the operation limits that are perceptible by a reasonable person. Minimum design specifications should include odor absorbing ventilation and exhaust systems.
- H. All commercial cannabis uses shall submit an annual performance review report demonstrating compliance with required provisions of this section and all specific operating provisions and licensing required at the time of development approval. Failure to submit an annual report or failure to comply with required provisions will result in revocation of the operating permit. The annual performance review report shall include inspection by city.
- I. All permittees shall comply with the state track and trace requirements for cannabis and cannabis products.
- J. The rights and privileges to conduct commercial cannabis uses on a specific parcel do not attach to title to the property and are not conveyed with the lease or sale of the property. Accordingly, a permit may not be sold, assigned, leased or otherwise conveyed or transferred by the person or entity holding the permit to any third party not named on the application without complying with this chapter and any other applicable law.

K. Except as provided herein, all other cannabis activities are prohibited.

5.34.09 Commercial Cannabis Performance Standards

A. Commercial Cannabis Cultivation Standards. (Type 1A, 1C, 2A, 3A, 4 & 12)

1. Use type includes:

- i. Cultivation of cannabis
- ii. Cannabis nursery including the production of clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, cultivation of cannabis for sale to licensed commercial cannabis cultivators and licensed retail establishments. No retail sales are permitted.
- iii. Cannabis processing such as drying, curing, grading, or trimming.
- iv. Accessory uses related to the planting, growing, harvesting, drying, curing, grading, or the trimming of cannabis

2. Specific Provisions:

- i. All commercial cannabis cultivation operations shall not engage in the retail sale of any product goods or services. Only wholesale activities are permitted.
- ii. All cultivation activities shall take place indoors, out of sight of the general public. No greenhouses shall be allowed.
- iii. All cannabis cultivation, that includes processing such as drying, curing, grading, or trimming shall take place indoors.
- iv. The permittee shall use best management practices to minimize water use with cannabis cultivation. This would include the use of low flow irrigation. The permit shall include a plan for water use associated with the cultivation.
- v. If manufacturing of cannabis takes place on the site of the cannabis cultivation, compliance with the manufacturing standards of this chapter are also required.
- vi. The applicant shall prepare an integrated management plan to be reviewed and approved by the Lake County Agricultural Commission for all chemical, biological and cultural methods to control or prevent the introduction of pests on the cultivation site.

B. Commercial Cannabis Manufacturing Standards. (Type 6 & 7)

1. Use type includes the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, volatile solvents, or by a combination of extraction and chemical synthesis at a fixed location that

packages or repackages cannabis or cannabis products or labels or re-labels its container.

2. Specific Provisions:

- i. Commercial cannabis manufacturing uses shall not conduct or engage in the retail sale of any product goods or services. Only wholesale activities are permitted.
- ii. Applicant shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents.
- iii. All commercial cannabis manufacturing shall take place indoors.
- iv. The permittee shall use best management practices to minimize water use with cannabis manufacturing.
- v. The permittee shall provide a list to the public works director of all solvents, gasses and/or chemicals prior to commencement of use. No solvents, gasses and/or chemicals shall be allowed to enter the city's wastewater system.
- vi. Manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:
 - a. The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
 - b. The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.
 - ~~c. A licensed engineer certifies that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices.~~
 - d. Receives and maintains approval from the local fire official for the closed-loop system, other equipment, the extraction operation, and the facility and meets the following: the California Fire Code; the National Fire Protection Association (NFPA) standards; International Building Code (IBC); and the International Fire Code (IFC).

C. Commercial Cannabis Testing Standards. (Type 8)

1. Use type includes:

- i. Testing of cannabis and cannabis products.

- ii. Businesses and research institutions engaged in the research of cannabis and cannabis products, or devices used for the use of cannabis and cannabis products.
- iii. Business offices related to cannabis.
- iv. Accessory uses related to the testing of cannabis and cannabis products.

2. Specific Provisions

- i. Commercial cannabis testing operations shall not conduct or engage in the retail sale of any product goods or services.
- ii. The permittee shall use best management practices to minimize water use with cannabis testing.

D. Distribution of Commercial Cannabis (Type 11)

1. Use type includes:

- i. Businesses engaged in the distribution of commercial cannabis, cannabis products, or devices used for the use of cannabis products.
- ii. The procurement, sale, and transport of cannabis and cannabis products between entities licensed under state law.
- iii. Transporting cannabis or cannabis products.
- iv. Conducting quality assurance review to ensure compliance with labeling and packing requirements.
- v. Accessory uses related to the procurement, sale, and transport of cannabis and cannabis products.

2. Specific Provisions:

- i. A distributor permittee shall be bonded and insured at a minimum level established by the licensing authority.
- ii. All cannabis distributor shall display a copy of the inspection receipt issued by the Lake County Sealer of Weights and Measures for all weighing and measuring devices.
- iii. All cannabis and cannabis products held bought, and sold be a cannabis distributor shall be obtained from a legal source and shall have the state issued track and trace information.

E. Commercial Cannabis Retailers Standards. (Type 10 & 12)

1. Use type includes:

- i. Retailer storefront with sales of cannabis, cannabis products or devices.
- ii. Retailer storefront with the delivery of cannabis, cannabis products or devices.

- iii. Retailer delivery of cannabis, cannabis products or devices.
- iv. Storefront retail with onsite consumption.
- v. Microbusinesses with retail included.

2. Specific Provisions:

- i. No more than two (2) cannabis retailers shall be permitted within the city limits at any one time.
- ii. Cannabis retailers shall not exceed one thousand five hundred square feet (1,500 square feet), exclusive of office space, restrooms and other non-dispensary retail or educational uses.

No dispensary may increase in size without amending the use permit required by title 17. The size limitation shall be included in the operational plan required by 5.34.08(G) of this chapter.

- iii. A commercial cannabis permit for retailer issued in compliance with Section 5.34.04 shall be required for any retailer dispensary operating within the city. Cannabis retailers shall also be subject to permit requirements and regulations established by the state and those established by the city council through resolution or ordinance. Additionally, cannabis retailers must comply with all other applicable building codes and requirements, including accessibility requirements. Permits shall only be issued to cannabis dispensaries coming under state cannabis license Types 10 (Retailers) and 12 (Microbusiness). Commercial cannabis permits for retailers shall be subject to the requirements and limitations set forth in this Chapter and shall be issued according to the following procedure:
 - a. The city council shall, following an open application period and review of applications by the city manager, consider commercial cannabis permit applications for retailers meeting all minimum qualifications at a public hearing. The city council may approve up to two (2) commercial cannabis permits for two (2) retailers to operate in the city at the same time, with necessary conditions.
 - b. If a commercial cannabis permit for a retailer becomes available within twelve (12) months of a previous application period, city staff may first review all minimally qualified applications from the prior application process, and consider them for submittal to the city council prior to opening a new application process. If a new application process is opened, prior applicants may inform city staff in writing that they wish to re-submit their application rather than file a new application.
 - c. The city council may adopt by resolution such forms, fees, and procedures as are necessary to implement this chapter with respect to the initial selection, future selection, investigation process, renewal,

revocation, and suspension of cannabis dispensary use permits. Such procedures may include a priority ranking system, and appointment of staff review panel for cannabis retailers use permits.

~~iv. In addition to the general requirements of section 5.34.08(G), a cannabis retailer shall submit, as a part of their operating plan, a physician's written recommendation in compliance with state law for medical cannabis sales, as well as photo identification for any person entering the site.~~

v. A cannabis retailer may possess no more than (5) pounds of dried cannabis at any one time in addition to live plants for sale that are in a vegetative (not mature) state.

vi. No exterior signage or symbols shall be displayed which advertises the availability of cannabis using drug-related symbols which are attractive to minors or which is carried out in a manner intended to encourage persons under twenty-one (21) years of age to consume cannabis or cannabis products, nor shall any such signage or symbols be displayed on the interior of the facility in such a way as to be visible from the exterior.

vii. No cannabis retailer shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages on the same premises. No alcoholic beverages shall be allowed or consumed on the premises.

viii. No cannabis retailer shall conduct or engage in the commercial sale of any product, good or service unless otherwise approved by the permit. A retailer may sell live starter plants, clones and seeds from qualified nurseries, but shall not cultivate or clone cannabis (unless the retailer holds a microbusiness or cultivation license from the state and such uses are allowed on the same premises under state law). Not more than ten percent (10%) of the retailer area, up to a maximum of fifty (50) square feet may be devoted to the sale of incidental goods for personal cannabis cultivation and use, but shall not include clothing, posters or other promotional items.

ix. No cannabis shall be smoked on the premises, unless allowed under a condition of approval. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings. Onsite consumption of cannabis may be allowed if the cannabis retailer permit explicitly allows it, and if done in accordance with state laws and regulations, as may be amended from time to time, and any conditions placed on the commercial cannabis permit, including those related to ventilation and odor control.

x. The following signs, in measurements of not less than eight by ten inches (8x10"), shall be clearly and legibly posted in a conspicuous location

inside the retailer where they will be visible to customers in the normal course of a transaction, stating:

- a. "The sale of cannabis without a state license is illegal."
- b. "Smoking cannabis on this property, within twenty feet (20') of the retailer, or in any public place is illegal under California law."
- c. For medical cannabis dispensaries: "No one under the age of eighteen (18) shall be allowed on the premises, unless they are a qualified patient or a primary caregiver."
- d. For nonmedical cannabis retailers: "No one under the age of twenty-one (21) shall be allowed on the premises."

xi. Any commercial cannabis permit issued to microbusiness with a Type 12 state license, or a state cannabis license type subsequently established, that contains a retailer operation, will be subject to the permit procedures and requirements for cannabis retailers under this section 5.34.09(E). Any such permit will count toward the city's maximum number of retailers. Any commercial cannabis permit issued to a microbusiness with a cultivation, manufacturing, testing and/or distribution component will also be subject to the requirements of section 5.34.09(A), (B), (C) and/or (D) for those operations.

xii. Except as provided in section 5.34.09(E)(2)(xi) for microbusinesses, commercial cannabis cultivation, manufacturing and testing are prohibited on the same premises.

xiii. Cannabis retailers shall contain no window displays that are visible by normal unaided vision from a public place.

xiv. All cannabis deliveries shall have all records identifying the originating location and terminus of the cannabis or cannabis products, as well as all corresponding licenses consistent with all applicable state licensing requirements.

xv. The operating plan for all cannabis deliveries shall include driver identification and license information for all employees engaged in delivery operations. Vehicle information including license, year, make and model shall also be listed in the operating plan.

xvi. Vehicles used in the delivery of cannabis shall have no signage and shall be un-marked.

xvii. The sale of ancillary products, including books, herbal supplements, and devices facilitating the consumption of cannabis shall occur in a manner consistent with this section, and in compliance with all state requirements.

- xviii. The maximum retail days and hours of operations shall be Monday through Sunday, 9:00 a.m. through 7:00 p.m.

5.34.10 Fees

The city council shall, by resolution, establish a schedule of fees for commercial cannabis license applications, amendments, renewals and other matters pertaining to this chapter. The schedule of fees may be changed or modified by resolution of the city council. Applicants and permittees also shall pay the amount as prescribed by the Department of Justice of the State of California for the processing of applicant's fingerprints. None of the above fees shall be prorated, or refunded in the event of a denial, suspension or revocation of the permit. Failure to pay the applicable fees is grounds for denial of an application.

5.34.11 Enforcement

- A. Any person violating any provision of this chapter or misrepresenting any material fact in demonstrating compliance with requirements for operating a commercial cannabis use shall be deemed guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or by imprisonment for not more than twelve months, or by both such fine and imprisonment.
- B. Any violation of this chapter is declared to be a public nuisance as defined in section 370 of the Penal Code, section 3480 of the Civil Code and Chapter 8.22 of this municipal code and shall be subject to injunctive relief, revocation of the certificate of occupancy for the property, disgorgement and payment to the city of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The city may also pursue any and all remedies and actions available and applicable under local and state law for any violation committed by the commercial cannabis owner, its managers, members or any person related or associated with the commercial cannabis use.
- C. Any violation of the terms and conditions of the commercial cannabis use of this chapter shall be grounds for suspension and revocation of the permit.

5.34.12 Liability

The provisions of this chapter shall not be construed to protect the record property owner(s) of a legal parcel associated with any commercial cannabis use, his or her lessees, tenants, and other participants in the operation of a commercial cannabis use, and/or members of collectives and/or cooperatives associated with such use, from prosecution pursuant to any laws that may prohibit the cultivation, sale, and/or possession of controlled substances. Moreover, cultivation, sale, possession, distribution, and use of cannabis remain violations of federal law as of the date of adoption of the ordinance creating this chapter and this chapter is not intended to, and does not, protect any of the above described persons from arrest or prosecution under those federal laws. The record property owner(s) of a legal parcel associated with any commercial cannabis use, his or her lessees, tenants, and other participants in the such use, and/or members of collectives and/or cooperatives associated with such use, assume any and all risk and any and all liability that may arise or result under state and federal criminal

laws from operating a commercial cannabis use. Further, to the fullest extent permitted by law, any actions taken under the provisions of this chapter by any public officer or employee of the city or the city itself shall not become a personal liability of such person or the liability of the city.

City of Lakeport Cannabis Regulation Matrix

Permit Type	State License Type(s)	R-1	R-2	R-3	R-5	PO	C-1	C-2	C-3	I
Personal/Medicinal Cultivation		P	P	P	P					
Commercial Cultivation	1A, 1C, 2A, 3A & 4								UP	UP
Manufacturing (no volatile solvents)	6								UP	UP
Manufacturing (volatile solvents)	7									UP
Testing	8					UP		UP	UP	UP
Distribution	11								UP	UP
Retailers (general)	10							UP	UP	UP
Retailers with on-site consumption	10								UP	UP
Retailers, microbusiness	12								UP	UP

State License Types:

Type 1 - Cultivation specialty outdoor, up to 5,000 sq. ft. of canopy or 50 Plants

Type 1A - Cultivation; Specialty indoor. Up to 5,000 sq. ft.

Type 1B - Cultivation; Specialty mixed light. Using exclusively artificial lighting

Type 1C - Specialty Cottage, Combo natural / artificial light, 2,500 sq. ft. or less canopy/ 25 plants

Type 2 - Cultivation: outdoor up to 5,000 sq. ft.

Type 2A - Cultivation; Indoor 5,001- 10,000 sq. ft.

Type 2B - Cultivation; mixed light 5,001- 10,000 sq. ft.

Type 3 - Cultivation; Outdoor 10,001 sq. ft. -1 Acre

Type 3A - Cultivation: Indoor 10,001 - 22,000 sq. ft.

Type 3B - Cultivation; Mixed light 10,001 - 22,000 sq. ft.

Type 4 - Cultivation; Nursery, Indoor only

Type 6 - Manufacturer 1 for products not using volatile solvents

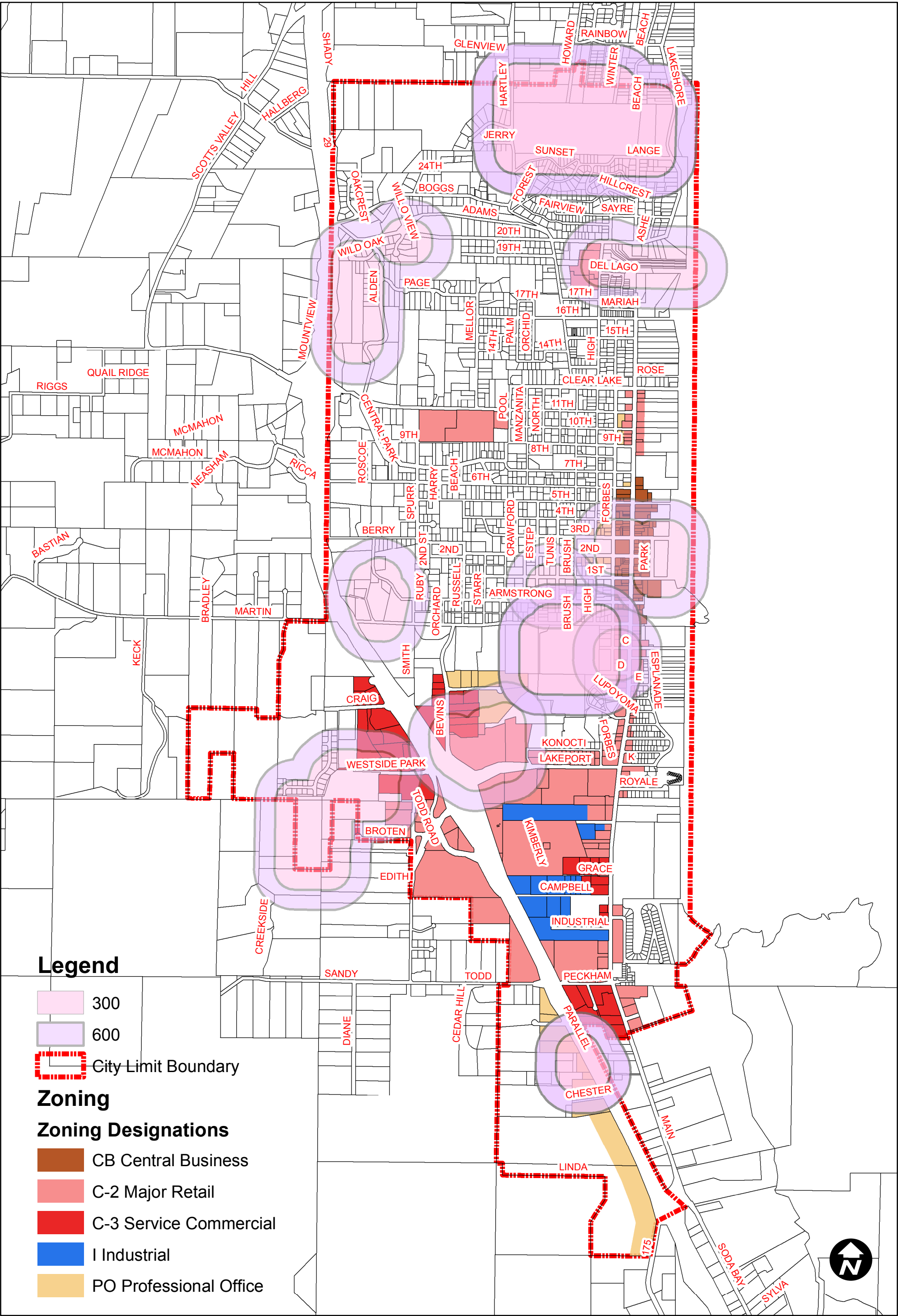
Type 7 - Manufacturer 2 for products using volatile solvents

Type 8 - Testing

Type 10 - Retailer

Type 11 - Distribution

Type 12 - Microbusiness



Projected coordinate system name: NAD 1983 State Plane California II FIPS 0402 Feet
Geographic coordinate system name: GCS North American 1983

**Current Draft Ordinance Buffers--Commercial Cannabis Use Areas
(Schools, Pre-schools/Large Family Daycares, Parks)**



CITY OF LAKEPORT

City Council ☒
City of Lakeport Municipal Sewer District ☐
Lakeport Redevelopment Successor Agency ☐
Lakeport Industrial Development Agency ☐
Municipal Financing Agency of Lakeport ☒

STAFF REPORT

RE: Discussion / Action Regarding Authorization, Preparation, Sale and Delivery of Municipal Financing Agency of Lakeport Series 2017 Wastewater Enterprise Revenue Bonds

MEETING DATE: 12/4/2017

SUBMITTED BY: Nick Walker, Finance Director

PURPOSE OF REPORT: ☐ Information only ☐ Discussion ☒ Action Item

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to Adopt (i) Resolution No. [REDACTED] (2017) adopting the USDA RUS Bulletin 1780-27 Loan Resolution, and (ii) Resolution No. [REDACTED] (2017) Approving a Trust Agreement, Installment Sale Agreement and Grant agreement and Certain Other Documents in Connection with the Authorization, Preparation, Sale and Delivery of Municipal Financing Agency of Lakeport, Series 2017 Wastewater Enterprise Revenue Bonds, and Authorizing and Directing Certain Actions with Respect thereto.

The Agency Board is being asked to Adopt Resolution No. JPA-__ (2017) Approving a Trust Agreement, Installment Sale Agreement, Assignment Agreement and Certain Other Documents in Connection with the Authorization, Preparation, Sale and Delivery of Municipal Financing Agency of Lakeport, Series 2017 Wastewater Enterprise Revenue Bonds, and Authorizing and Directing Certain Actions with Respect thereto.

BACKGROUND/DISCUSSION:

The City's Wastewater System has experienced ongoing sewer system overflows, inflow and infiltration problems, as well as groundwater contamination, and storage capacity violations. In 2008 the City updated its Master Sewer Plan (MSP), and, as a result, a number of near-term, intermediate, and long-term improvements were recommended in order to correct the Wastewater System collection and treatment deficiencies. The City contracted with PACE Engineering to prepare a Preliminary Engineering Report (PER), to identify project specific Wastewater System improvements, and to determine costs associated with those improvements, and to develop funding alternatives.

Based upon the PER, in May of 2013 the United States Department of Agriculture (USDA) Rural Development issued a Letter of Conditions (LOC) to fund the City's Wastewater System Improvement Project (the "Project"), that includes a not-to-exceed \$3,433,000 loan and a \$740,000 grant component. In 2013 the City awarded the work of the Project to Pace Engineering. The work of the Project is now complete, and all components of the Project have been accepted by the City.

The take-out financing for the Project will come from a combination grant and loan from USDA, including a not-to-exceed \$3,433,000 loan component (the "Loan Component") and a \$740,000 grant component (the "Grant Component").

This type of financing requires the use of the newly formed Municipal Financing Agency of Lakeport (the "Agency") to enter into certain agreements (described below) with the City. The Agency will then issue its Municipal Financing Agency of Lakeport, Series 2017 Wastewater Enterprise Revenue Bonds, in the aggregate principal amount of the Loan Component (the "Bonds"), the repayment of which will come from net revenues of the wastewater enterprise fund.

SUMMARY OF FINANCING DOCUMENTS:

The subject resolutions essentially authorize and approve the form of all the base legal documents (the "Financing Documents") necessary to provide for the successful issuance of the Bonds. The adoption of each Resolution is a legal prerequisite to allow for the completion of the appropriate documentation necessary for the USDA/Bonds finalization. The accompanying Financing Documents comprise a financing structure that is considered standard for California cities to legally incur debt secured by wastewater enterprise fund revenues, and is acceptable to USDA, as the purchaser of the Bonds. In using this financing structure, an installment sale arrangement must be established with a third-party governmental entity. The newly-formed Agency is being used to serve this purpose for this financing transaction.

The Financing Documents are being presented to both the City Council and Agency Board as "form-only documents." The actual final forms cannot be produced at this time because some of the exact amounts, dates, and other information will not be known until the actual sale date. The subject resolutions authorize and direct certain City and Agency officers and staff to finalize the Financing Documents as and when appropriate, and to do all things necessary to provide for the issuance of the Bonds, which is expected to occur early December 2017. If the final terms for any reason should fall outside the parameters established by the City and the Agency, staff will return for further direction before finalizing the transaction, although we presently have no reason to believe that this will occur.

The Financing Documents can be succinctly summarized as follows: The Agency sells the Bonds directly to USDA and uses the proceeds of the Bonds, along with the Grant Component proceeds, to reimburse the City for Project costs. Pursuant to the Installment Sale Agreement the City is "purchasing" the Project from the Agency in exchange for making the semi-annual Installment Payments which are assigned to the "Trust Administrator" (which role is being served by the City Finance Director), who then makes corresponding semi-annual debt service payments directly to USDA. The Bonds are to be issued as limited debt obligations, and therefore it is only City's wastewater enterprise fund that is being exposed to repayment risk. The proposed Bonds are structured to be tax-exempt and are pre-payable at any time without penalty.

The draft Financing Documents, and a brief description of each, is as follows:

Installment Sale Agreement: This agreement provides for the sale of the Project to the Agency, and then back to the City in exchange for the City's promise to make future semi-annual Installment Payments to the Agency, which semi-annual payments are commensurate with the debt service on the Bonds. In addition to making the Installment Payments, the City covenants to acquire and construct the Project in accordance with proper plans and specifications, and then to maintain the Project throughout the term of the Installment Sale Agreement, pay taxes, if any, and to maintain various forms of insurance.

Trust Agreement: This document provides for execution and delivery of the Bonds to USDA in exchange for proceeds in the par amount thereof, and further establishes the covenants and specifics of the Bonds, including (i) the application of proceeds to pay for the reimbursement, acquisition and construction costs of the proposed Project (as well as payment of the costs of issuance for the Bonds), (ii) the establishment of a reserve fund, (iii) the Trust Administrator's duties, (iv) repayment mechanisms, (v) default and remedies provisions, and (vi) the Bond Owners (i.e., USDA) rights and remedies.

Assignment Agreement: This document provides the terms and conditions under which the Agency assigns the City's Installment Payments to the Trust Administrator, for ultimate payment to USDA.

Purchase Offer: The City will sell the Bonds to USDA pursuant to the terms of the Purchase Offer. The Purchase Offer states the conditions under which USDA will purchase the Bonds and requires the City to deliver all the duly authorized and executed documents and opinions at closing. The City also covenants that there is no

material litigation against the City which would impair its ability to make Installment Payments or affect the Bonds. The sale is scheduled in accordance with the parameters described above.

FINANCIAL CONSIDERATIONS:

The attached Resolutions establish the legal and financial framework for the issuance of the Bonds for purposes reimbursing the City for Project costs. Pursuant to the Installment Sale Agreement, the City promises the owners of the Bonds (i.e., USDA) to annually budget and appropriate from the Wastewater Enterprise Fund sufficient funds to make all Installment Payments pursuant to the Installment Sale Agreement. Annual payments and reserve requirements are expected to average approximately \$127,000 per year for 40 years. The interest rate is 2.125%.

OPTIONS:

1. Approve the recommendation as presented.
2. Do not approve but provide direction to staff.

FISCAL IMPACT:

☐ None ☒ \$ Budgeted Item? ☒ Yes ☐ No

Budget Adjustment Needed? ☒ Yes ☐ No If yes, amount of appropriation increase: \$

Affected fund(s): ☐ General Fund ☐ Water OM Fund ☒ Sewer OM Fund ☐ Other:

Comments:

SUGGESTED MOTIONS:

There are two suggested motions:

1. Sitting as the Lakeport City Council:

Move to adopt (i) Resolution No. [REDACTED] (2017) adopting the USDA RUS Bulletin 1780-27 Loan Resolution, and (ii) Resolution No. [REDACTED] (2017) Approving a Trust Agreement, Installment Sale Agreement and Grant agreement and Certain Other Documents in Connection with the Authorization, Preparation, Sale and Delivery of Municipal Financing Agency of Lakeport, Series 2017 Wastewater Enterprise Revenue Bonds, and Authorizing and Directing Certain Actions with Respect thereto.

2. Sitting as the Board of Directors of the Municipal Financing Agency of Lakeport:

Move to adopt Resolution No. JPA-[REDACTED] (2017) Approving a Trust Agreement, Installment Sale Agreement, Assignment Agreement and Certain Other Documents in Connection with the Authorization, Preparation, Sale and Delivery of Municipal Financing Agency of Lakeport, Series 2017 Wastewater Enterprise Revenue Bonds, and Authorizing and Directing Certain Actions with Respect thereto.

☒ **Attachments:**

1. Resolution No. [REDACTED] (2017);
2. Resolution No. [REDACTED] (2017);
3. Resolution No. JPA-[REDACTED] (2017);
4. Installment Sale Agreement;
5. Trust Agreement;
6. Assignment Agreement;
7. Grant Agreement; and
8. Purchase Offer
9. USDA Form Loan Resolution 1780-27

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKEPORT
APPROVING, AUTHORIZING AND DIRECTING EXECUTION OF A TRUST
AGREEMENT, INSTALLMENT SALE AGREEMENT AND GRANT AGREEMENT
AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO**

WHEREAS, the City of Lakeport (the “City”), working together with the Municipal Financing Agency of Lakeport, a California joint powers authority duly organized and existing under and by virtue of the laws of the State of California (the “Agency”), have agreed to enter into certain contractual relations for the purpose, among other things, of providing financing for public capital improvements of the City; and

WHEREAS, for the purpose of providing financing for the proposed new wastewater facilities (the “Facilities”), all as more particularly described in Exhibit A to the hereinafter approved Installment Sale Agreement (the “Project”), the City is hereby requesting the Agency to issue its City of Lakeport, Series 2017 Wastewater Enterprise Revenue Bonds, in the aggregate principal amount of not to exceed \$3,500,000 (the “Bonds”), all pursuant to and secured by an Trust Agreement (the “Trust Agreement”), dated as of December 1, 2017, by and among the City, the Agency and the Finance Director of the City of Lakeport, as trust administrator (the “Trustee Administrator”); and

WHEREAS, the City proposes to purchase the Project from the Agency pursuant to a certain Installment Sale Agreement (the “Installment Sale Agreement”), dated as of December 1, 2017, by and between the Agency and the City, whereby the City will make prescribed installment payments (the “Installment Payments”) from the wastewater enterprise fund, commensurate with the debt service scheduled for the repayment of the Bonds; and

WHEREAS, to further implement the foregoing, the Agency and the Trustee Administrator propose to execute and enter into an Assignment Agreement (the “Assignment Agreement”), dated as of December 1, 2017, whereby the Agency will assign to the Trustee Administrator all of its rights and entitlements under the Installment Sale Agreement, including but not limited to the entitlement to receive the Installment Payments from the City; and

WHEREAS, the City and Agency propose to sell the Bonds to the United States of America, Acting Through Rural Utility Service, United States Department of Agriculture, California (hereafter referred to as “USDA”), pursuant to USDA’s Purchase Offer (the “Purchase Offer”), all on the terms and conditions herein set forth and as provided in the Trust Agreement and Installment Sale Agreement; and

WHEREAS, the USDA has awarded a grant, in accordance with the corresponding Grant Agreement (the “Grant Agreement”), which will provide financial assistance for the Project;

WHEREAS, the City Council desires to designate the Bonds as a “Qualified Tax-Exempt Obligation” for purposes of Paragraph (3) of Section 265(b) of the Code; and

WHEREAS, the City, with the aid of its staff, has reviewed the Trust Agreement, the Installment Sale Agreement, the Assignment Agreement and the Purchase Offer, the forms of which are on file with the

City Clerk, and the City Council wishes at this time to approve the foregoing in the public interests of the City; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of such financing authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such financing for the Project in the manner and upon the terms herein provided; and

WHEREAS, the City Council wishes at this time to authorize all proceedings relating to the Project and the issuance of the Bonds and the execution and delivery of all agreements and documents relating thereto; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lakeport hereby orders and determines as follows:

Section 1. Recitals and Findings. The City Council hereby specifically finds and declares that each of the statements, findings and determinations of the City set forth in the recitals set forth above and in the preambles of the documents approved herein are true and correct and that the financing of the Project will result in significant public benefits for the residents of the City. The City Council hereby further finds and determines that the total installment payments to be paid under the Installment Sale Agreement does not exceed the fair market value of the Project as set forth in the Installment Sale Agreement.

Section 2. Authorized Representatives. The Mayor, Mayor Pro Tem, City Manager, Finance Director and City Clerk or Acting City Clerk, and any other person authorized by the City Council to act on behalf of the City shall each be an "Authorized Representative" of the City for the purposes of structuring and providing for the issuance of the Bonds, and are hereby authorized, jointly and severally, for and in the name of and on behalf of the City, to execute and deliver any and all documents and certificates that may be required to be executed in connection with the sale of the Bonds (including the investment of proceeds of the Bonds), and to do any and all things and take any and all actions which may be necessary or advisable, in their discretion, to effectuate the actions which the City has approved in this Resolution.

Section 3. Approval of the Issuance of the Bonds; Significant Public Benefits. The City Council hereby approves the issuance of the Bonds by the Agency in a principal amount of not to exceed \$3,500,000, all as above described. The City Council hereby finds and determines that the issuance and sale of the Bonds by the Agency to USDA will result in savings in effective interest rates, underwriting costs and issuance costs and thereby result in significant public benefits to the City and Agency.

Section 4. Appointment of Trustee Administrator. The Finance Director is hereby appointed to act as Trustee Administrator under the Trust Agreement unless and until replaced in accordance with the provisions of the Trust Agreement.

Section 5. Approval of Installment Sale Agreement. The City Council hereby authorizes and approves the purchase of the Project by the City pursuant to the Installment Sale Agreement. The City Council hereby approves the Installment Sale Agreement in substantially the form on file with the City Clerk together

with any additions thereto or changes therein (including, but not limited to, the final amount of the sale price for the Project and the final debt service payment schedule) deemed necessary or advisable by an Authorized Representative of the City. Any Authorized Representative of the City is hereby authorized and directed to execute, and the City Clerk is hereby authorized and directed to attest and affix the seal of the City to, the final form of the Installment Sale Agreement for and in the name and on behalf of the City and the execution thereof shall be conclusive evidence of the City Council's approval of any such additions and changes. The City Council hereby authorizes the delivery and performance of the Installment Sale Agreement.

Section 6. Approval of Trust Agreement. The City Council hereby approves the Trust Agreement in substantially the form on file with the City Clerk and consents to such revisions, amendments and completions as shall be approved by an Authorized Representative of the City. Any Authorized Representative of the City is hereby authorized and directed to execute, and the City Clerk is hereby authorized and directed to attest and affix the seal of the City to, the final form of the Trust Agreement for and in the name and on behalf of the City and the execution thereof shall be conclusive evidence of the City Council's approval of any such additions and changes. The City Council hereby authorizes the delivery and performance of the Trust Agreement.

Section 7. Approval of Assignment Agreement. The form of the Assignment Agreement presented to this meeting and on file with the City Clerk, is hereby approved. Each of the Authorized Representatives is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Agency the Assignment Agreement in substantially said form, with such changes therein as the Authorized Representative or Representatives executing the Assignment Agreement may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of the Authorized Representatives.

Section 8. Approval of Grant Agreement. The form of the Grant Agreement presented to this meeting and on file with the City Clerk, is hereby approved. Each of the Authorized Representatives is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the USDA the Grant Agreement in substantially said form, with such changes therein as the Authorized Representative or Representatives executing the Grant Agreement may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof by one or more of the Authorized Representatives.

Section 9. Qualified Tax-Exempt Obligation. The City Council hereby designates the Installment Sale Agreement and the Bonds for purposes of Paragraph (3) of Section 265(b) of the Code as a "Qualified Tax-Exempt Obligation" and covenants that the Installment Sale Agreement and the Bonds do not constitute a private activity bond as defined in Section 141 of the Code and that the aggregate face amount of all tax-exempt obligations issued by the City (including all subordinate entities of the City and all entities which may issue obligations on behalf of the City) during the calendar year 2017 is not reasonably expected to exceed \$10,000,000, excluding, however, private activity bonds, as defined in Section 141 of the Code (other than qualified 501(c)(3) bonds as defined in Section 145 of the Code) and current refunding obligations having a principal amount not in excess of the refunded obligation.

Section 10. Official Actions. Each Authorized Representative is hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary

or advisable in order to consummate any of the transactions contemplated by the documents approved pursuant to this Resolution.

Section 11. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

The foregoing Resolution was adopted at a regular meeting of the City Council of the City of Lakeport held on the on the 4th day of December, 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED

STACEY MATTINA, MAYOR

ATTEST

KELLY BUENDIA, CITY CLERK

RESOLUTION NO. ____ (2017)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKEPORT
APPROVING AND ADOPTING USDA RUS BULLETIN 1780-27 LOAN
RESOLUTION PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR
THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING,
CONSTRUCTION, ENLARGING, IMPROVING AND/OR EXTENDING THE CITY
OF LAKEPORT 2017 WASTEWATER SYSTEM IMPROVEMENT PROJECT**

WHEREAS, the City of Lakeport (the “City”), working together with the Municipal Financing Agency of Lakeport, a California joint powers authority duly organized and existing under and by virtue of the laws of the State of California (the “Agency”), have agreed to enter into certain contractual relations for the purpose, among other things, of providing financing for public capital improvements of the City; and

WHEREAS, in May 2013 the United States Department of Agriculture (USDA) Rural Development issued a Letter of Conditions to fund the City’s 2017 Wastewater System Improvement Project (the “Project”), that includes a not-to-exceed \$3,433,000 loan and a \$740,000 grant component; and

WHEREAS, as part of the Letter of Conditions, the USDA requires that the City Council to adopt a RUS Bulletin 1780-27 Loan Resolution Authorizing and Providing for the Incurrence of Indebtedness for the Purpose of Providing for a portion of the Cost of Acquiring, Construction, Enlarging, Improving and/or Extending the City of Lakeport 2017 Wastewater System Improvement Project (the “USDA Loan Resolution No. 1780-27”).

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lakeport hereby orders and determines as follows:

Section 1. Recitals and Findings. The City Council hereby specifically finds and declares that each of the statements, findings and determinations of the City set forth in the recitals set forth above and in the preambles of the USDA Loan Resolution No. 1780-27 approved herein are true and correct.

Section 2. Authorized Representatives. The Mayor, Mayor Pro Tem, City Manager, Finance Director and City Clerk or Deputy City Clerk, and any other person authorized by the City Council to act on behalf of the City shall each be an “Authorized Representative” of the City for the purposes of USDA Loan Resolution No. 1780-27, and are hereby authorized, jointly and severally, for and in the name of and on behalf of the City, to execute and deliver any and all documents and certificates that may be required, and to do any and all things and take any and all actions which may be necessary or advisable, in their discretion, to effectuate the actions which the City has approved in this Resolution and USDA Loan Resolution No. 1780-27.

Section 3. Approval and Adoption of USDA Loan Resolution No. 1780-27. The City Council hereby approves and adopts USDA Loan Resolution No. 1780-27, attached hereto and made a part hereof, on behalf of the City of Lakeport.

Section 4. Approval and Adoption of USDA Grant Agreement. The City Council hereby approves and adopts USDA Grant Agreement (RUS Bulletin No. 1780-12), attached hereto and made a part hereof, on behalf of the City of Lakeport.

Section 5. Official Actions. Each Authorized Representative is hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate any of the transactions contemplated by the documents approved pursuant to this Resolution and USDA Loan Resolution No. 1780-27.

Section 6. Effective Date. This Resolution and USDA Loan Resolution No. 1780-27 shall take effect from and after the date of their passage and adoption.

The foregoing Resolution and USDA Loan Resolution No. 1780-27 were adopted at a regular meeting of the City Council of the City of Lakeport held on the on the 4th day of December, 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED

STACEY MATTINA, MAYOR

ATTEST

KELLY BUENDIA, CITY CLERK

RESOLUTION NO. JPA-__ (2017)

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MUNICIPAL FINANCING AGENCY OF LAKEPORT APPROVING A TRUST AGREEMENT, INSTALLMENT SALE AGREEMENT, ASSIGNMENT AGREEMENT AND CERTAIN OTHER DOCUMENTS IN CONNECTION WITH THE AUTHORIZATION, PREPARATION, SALE AND DELIVERY OF MUNICIPAL FINANCING AGENCY OF LAKEPORT, SERIES 2017 WASTEWATER ENTERPRISE REVENUE BONDS, AND AUTHORIZING AND DIRECTING CERTAIN ACTIONS WITH RESPECT THERETO

WHEREAS, the Municipal Financing Agency of Lakeport (the “Agency”), a joint exercise of powers authority organized and existing under the laws of the State of California, was formed pursuant to the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the “Act”), and is authorized pursuant to Article 4 of the Act (the “Bond Law”) to borrow money for the purpose of, among other things, making loans, buying securities, purchasing facilities, and providing for installment sale arrangements to assist the City of Lakeport (the “City”) further its public purposes; and

WHEREAS, the City has requested the assistance of the Agency to cause Series 2017 Wastewater Enterprise Revenue Bonds (the “Bonds”) to be delivered to the United States of America, Acting Through Rural Utility Service, United States Department of Agriculture, California (hereafter referred to as “USDA”) in the aggregate principal amount of not to exceed \$3,500,000 for the purpose of providing permanent long-term financing for the acquisition and construction of certain new wastewater system facilities commonly referred to as the City of Lakeport Wastewater System Improvement Project (the “Project”); and

WHEREAS, the Bonds will be issued pursuant to and secured by a Trust Agreement (the “Trust Agreement”), dated as of December 1, 2017, by and among the City, the Agency and the Finance Director of the City, as trust administrator (the “Trust Administrator”); and

WHEREAS, the Bonds will be sold to USDA pursuant to (i) Resolution No. [REDACTED] (2017) (Adopting USDA RUS Bulletin 1780-27 Loan Resolution) adopted by the City Council of the City (the “City Council”) on December 4, 2017, (ii) Resolution No. [REDACTED] (2017), adopted by the City Council on December 4, 2017; (iii) this resolution (collectively, the “Resolutions”), and (iv) USDA’s written offer to purchase the Bonds from the Agency pursuant to the terms and conditions of the Trust Agreement (the “Purchase Offer”); and

WHEREAS, the City proposes to purchase the Project, from the Agency pursuant to a certain Installment Sale Agreement (the “Installment Sale Agreement”), dated as of December 1, 2017, by and between the City and the Agency; and

WHEREAS, the City will make installment payments pursuant to the Installment Sale Agreement (the “Installment Payments”) from the Net Revenues (as defined therein) of the Wastewater System in order to purchase the Project from the Agency; and

WHEREAS, to implement the foregoing, the Agency and the Trust Administrator propose to execute and enter into an Assignment Agreement (the “Assignment Agreement”), dated as of December 1, 2017, whereby the Agency will assign to the Trust Administrator all of its rights and entitlements under the Installment Sale

Agreement, including but not limited to the entitlement to receive the Installment Payments from the City; and

WHEREAS, the Agency propose to sell the Bonds to USDA pursuant to USDA's Purchase Offer (the "Purchase Offer"), all on the terms and conditions herein set forth and as provided in the Trust Agreement and Installment Sale Agreement; and

WHEREAS, the Agency, with the aid of its staff, has reviewed the Purchase Offer, the Trust Agreement, the Installment Sale Agreement and the Assignment Agreement, the forms of which are on file with the Secretary of the Board of Directors of the Agency (the "Secretary"), and the Board of Directors of the Agency (the "Board") wishes at this time to approve the foregoing in the public interests of the Agency; and

WHEREAS, the Agency desires to designate the Bonds for purposes of Paragraph (3) of Section 265(b) of the Code as a "Qualified Tax-Exempt Obligation;" and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of such financing authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Agency is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such financing for the Project in the manner and upon the terms herein provided; and

NOW, THEREFORE, IT IS HEREBY DETERMINED AND RESOLVED BY THE BOARD OF DIRECTORS OF THE MUNICIPAL FINANCING AGENCY OF LAKEPORT AS FOLLOWS:

Section 1. Recitals and Findings. The Board hereby specifically finds and declares that each of the statements, findings and determinations of the Agency set forth in the recitals set forth above and in the preambles of the documents approved herein are true and correct. The Board hereby further finds and determines that the total payments to be paid under the Installment Sale Agreement does not exceed the fair market value of the Project as set forth in the Installment Sale Agreement.

Section 2. Authorized Representatives. The Chairperson, Vice-Chairperson, Executive Director, Treasurer, Secretary, and any other person authorized by the Board to act on behalf of the Agency shall each be an "Authorized Representative" of the Agency for the purposes of structuring and providing for the issuance of the Bonds, and are hereby authorized, jointly and severally, for and in the name of and on behalf of the Agency, to execute and deliver any and all documents and certificates that may be required to be executed in connection with the execution and delivery of the Bonds, and to do any and all things and take any and all actions which may be necessary or advisable, in their discretion, to effectuate the actions which the Board has approved in this Resolution.

Section 3. Bonds. The Board hereby authorizes the preparation, sale and delivery of the Bonds in an aggregate principal amount not to exceed \$3,500,000 in accordance with the terms and provisions of the Trust Agreement.

Section 4. Bond Documents. The form of the Installment Sale Agreement, the Trust Agreement, Purchase Offer and the Assignment Agreement presented at this meeting are approved. The Chairperson, Vice-Chairperson, Executive Director, Treasurer or Secretary of the Agency, and any other person authorized by the

Board to act on behalf of the Agency, is authorized and directed to execute, deliver or acknowledge said agreements. Such agreements shall be executed or acknowledged, as the case may be, in substantially the forms hereby approved, with such changes, insertions and omissions as may be recommended by the Agency and approved by the officers executing the same, said execution being conclusive evidence of such approval.

Section 5. Appointment of Trust Administrator. The Finance Director is hereby appointed to act as Trust Administrator under the Trust Agreement unless and until replaced in accordance with the provisions of the Trust Agreement.

Section 6. Qualified Tax-Exempt Obligation. The Board hereby designates the Installment Sale Agreement and the Bonds for purposes of Paragraph (3) of Section 265(b) of the Code as a “Qualified Tax-Exempt Obligation” and covenants that the Bonds do not constitute a private activity bond as defined in Section 141 of the Code and that the aggregate face amount of all tax-exempt obligations issued by the Agency (including all subordinate entities of the Agency and all entities which may issue obligations on behalf of the Agency) during the calendar year 2017 is not reasonably expected to exceed \$10,000,000, excluding, however, private activity bonds, as defined in Section 141 of the Code (other than qualified 501(c)(3) bonds as defined in Section 145 of the Code) and current refunding obligations having a principal amount not in excess of the refunded obligation.

Section 7. Other Actions. The Chairperson, Vice-Chairperson, Executive Director, Treasurer or Secretary, and such other officers of the Agency are authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate the sale and delivery of the Bonds, and the delivery of the Purchase Offer, Installment Sale Agreement, Trust Agreement and Assignment Agreement and otherwise effectuate the purposes of this Resolution.

Section 8. Effect. This Resolution shall take effect immediately from and after the date of its passage and adoption.

* * * * *

THE FOREGOING RESOLUTION WAS PASSED AND ADOPTED by the members of the Municipal Financing Agency of Lakeport at its regular meeting held on December 4, 2017, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Stacey Mattina, Chairperson

ATTEST:

Kelly Buendia, Secretary

* * * * *

I hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted by the MUNICIPAL FINANCING AGENCY OF LAKEPORT, a joint exercise of powers authority organized and existing under the laws of the State of California, at a regular meeting of the Board of Directors thereof duly called and held at the office of the Agency on the 4th day of December, 2017.

(SEAL)

Kelly Buendia, Secretary
MUNICIPAL FINANCING AGENCY OF LAKEPORT

INSTALLMENT SALE AGREEMENT

Dated as of December 1, 2017

by and between the

**MUNICIPAL FINANCING AGENCY OF LAKEPORT,
as Seller**

and the

**CITY OF LAKEPORT,
as Purchaser**

Relating to

**\$3,433,000
MUNICIPAL FINANCING AGENCY OF LAKEPORT
(City of Lakeport, California)
SERIES 2017 WASTEWATER ENTERPRISE REVENUE BONDS
(Wastewater System Improvement Project)
BANK QUALIFIED**

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INSTALLMENT SALE AGREEMENT

THIS INSTALLMENT SALE AGREEMENT, dated as of December 1, 2017, by and between the MUNICIPAL FINANCING AGENCY OF LAKEPORT, a California joint powers authority duly organized and existing pursuant to the laws of the State of California, as seller (the “Agency”), and the CITY OF LAKEPORT, a general law city and public agency duly organized and validly existing under the constitution and laws of the State of California, as purchaser (the “City”);

WITNESSETH:

WHEREAS, the City received a Letter of Conditions dated May 29, 2013 (the “Letter of Conditions”), from the United States Department of Agriculture, Rural Development (the “USDA”) establishing certain conditions under which the USDA would loan and grant money to the City to finance the certain repairs and improvements to its wastewater system (the “Wastewater System”), as more particularly described in Exhibit A hereto (the “Project”); and

WHEREAS, the Agency has been formed for the purpose, among others, of assisting municipalities such as the City in the financing of public capital improvements within or of benefit to the City; and

WHEREAS, to that end, the Agency will cause the execution and delivery of Series 2017 Wastewater Enterprise Revenue Bonds in the principal amount of \$3,433,000 (the “Bonds”), and apply the proceeds of the sale thereof to the acquisition and construction of the Project; and

WHEREAS, the Bonds will be issued pursuant to the terms and conditions of a Trust Agreement by and among the Agency, the City and the Finance Director of the City, as the trust administrator named therein (the “Trust Agreement”); and

WHEREAS, the City has determined to purchase the Project from the Agency pursuant to this Installment Sale Agreement; and

WHEREAS, the City will make installment payments pursuant to this Installment Sale Agreement (the “Installment Payments”) from the Net Revenues (as defined herein) of the Wastewater System in order to purchase the Project from the Agency; and

WHEREAS, the Agency will assign its right to receive Installment Payments to the Finance Director of the City of Lakeport, as trust administrator, pursuant to an Assignment Agreement, dated as of December 1, 2017 (the “Assignment Agreement”) for the benefit of the Owners (as defined herein) of the Bonds;

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

GENERAL

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in the Trust Agreement, dated as of December 1, 2017, by and among the Finance Director of the City of Lakeport, as Trust Administrator, the Agency and the City, shall, for all purposes of this Installment Sale Agreement, have the meanings specified therein.

Section 1.02. Representations, Covenants and Warranties. The City and the Agency represent, covenant and warrant to each other as follows:

- (a) Each is validly organized and existing under the laws of the State.
- (b) The laws of the State authorize each to enter into this Installment Sale Agreement and the Trust Agreement and to enter into the transactions contemplated by and to carry out its obligations under each of the aforesaid agreements, and each is duly authorized to execute such agreements.
- (c) The execution and delivery of this Installment Sale Agreement, the Trust Agreement, the fulfillment of or compliance with the terms and conditions hereof or thereof, and the consummation of the transactions contemplated by this Installment Sale Agreement and the Trust Agreement do not conflict with and do not result in a material breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which either is now a party or by which either is bound or constitutes a default under any such agreement or instrument.
- (d) Each has duly executed this Installment Sale Agreement and the Trust Agreement in accordance with the laws of the State.
- (e) The Project has not been the subject of a previous conveyance by the City.
- (f) The City has not issued or incurred any obligations which are currently outstanding having any priority in payment out of the Gross Revenues or the Net Revenues over the payment of the Installment Payments as provided herein.

Section 1.03. Written Certificates.

- (a) **Contents.** Every Written Certificate provided for in this Installment Sale Agreement with respect to compliance with any provision hereof (other than Written Certificates delivered on the Closing Date) shall include (a) a statement that the person making or giving such Written 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 Written 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 Written 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 Written Certificate made or given by a City Representative may be based, insofar as it relates to legal or accounting matters, upon a certificate or opinion of or representation by counsel or an accountant, unless such City Representative knows, or in the exercise of reasonable care should have known, that the certificate, opinion or representation with respect to the matters upon which such Written Certificate may be based, as aforesaid, is erroneous. Any such certificate or opinion made or given by counsel or an accountant may be based, insofar as it relates to factual matters (with respect to which information is in the possession of the City, as the case may be) upon a certificate or opinion of or representation by a City Representative, unless such counsel or accountant knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation with respect to the matters upon which such person's certificate or opinion or representation may be based is erroneous. The same City Representative, or the same counsel or accountant, as the case may be, need not certify to all of the matters required to be certified under any provision of this Installment Sale Agreement, but different officers, counsel or accountants may certify to different matters, respectively.

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

Exhibit A: Project Description
Exhibit B: Installment Payments Schedule

ARTICLE II

DEPOSITS; PAYMENTS; CONSTRUCTION

Section 2.01. Deposit of Moneys. The Agency shall cause to be deposited with the Trust Administrator, the amounts derived, from time to time, as advances of the proceeds of the Bonds (to be an aggregate of \$3,433,000) in the funds as provided in the Trust Agreement.

Section 2.02. Payment of Project Costs and Delivery Costs. Payment of the Project Costs and Delivery Costs shall be made from the moneys deposited with the Trust Administrator in the Bond Proceeds Fund, which moneys shall be disbursed for such purpose in accordance and upon compliance with Sections 3.02 and 3.03, respectively, of the Trust Agreement. The City hereby covenants to pay necessary Project Costs and Delivery Costs in excess of amounts available from Bonds proceeds from any legally available source of funds.

Section 2.03. Unexpended Proceeds. In accordance with Section 3.04 of the Trust Agreement, all excess moneys remaining in the Bond Proceeds Fund and not required for payment of Project Costs shall be transferred to the Installment Payment Fund and applied to the prepayment of Bonds.

Section 2.04. Construction of Project. The Agency hereby appoints the City as its agent to acquire and construct the Project.

ARTICLE III

PROJECT SALE AND TITLE; INSTALLMENT PAYMENTS; NET REVENUES

Section 3.01. Sale. The Agency hereby sells, bargains and conveys the Project to the City, and the City hereby purchases the Project from the Agency upon the terms and conditions set forth in this Installment Sale Agreement.

Section 3.02. Title. The City and the Agency agree that title to the Project, and each component thereof, shall be deemed conveyed to and vested in the City upon the completion of the acquisition, construction and installation thereof. The Agency and its officers shall take all actions necessary to vest in the City all of the Agency's rights in and title to the Project.

Section 3.03. Assignment by the Agency. The Agency's right, title and interest in this Installment Sale Agreement, including the right to receive and enforce payment of the Installment Payments to be made by the City under this Installment Sale Agreement, have been assigned to the Trust Administrator, subject to certain exceptions, pursuant to the Assignment Agreement, to which assignment the City hereby consents. The City understands and agrees that the Agency has assigned its right, title and interest (but not its duties or obligations) in this Installment Sale Agreement to the Trust Administrator pursuant to the Assignment Agreement for the benefit of the Owners of the Bonds. The Agency hereby directs the City, and the City hereby agrees, to pay to the Trust Administrator at the Trust Administrator's Trust Office or at such other place as the Trust Administrator shall direct in writing, all payments payable by the City pursuant to this Installment Sale Agreement.

Section 3.04. Term of the Installment Sale Agreement. The Term of the Installment Sale Agreement shall be as provided in the Trust Agreement.

Section 3.05. Installment Payments.

(a) **Obligation to Pay.** The City agrees to pay to the Agency, 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, except such amounts shall be reduced by moneys on deposit in the Installment Payment Fund and credited to the payment of Installment Payments next due; provided that the amount of the respective Installment Payments shall remain subject to modification to reflect the facts that (a) the corresponding proceeds received from the Government on account of the sequential purchase of the Certificates will be received in installments, with the result that interest installments of the Installment Payments will be less than shown in Exhibit B for the period during which such proceeds are being received from the Government, and (b) the aggregate principal amount of the proceeds received from the United States of America may ultimately be less than the \$3,433,000 Principal Amount of the Bonds, in which case both the principal installments and the interest installments shown in Exhibit B will be modified to correspond to the actual aggregate principal amount received. The Installment Payments shall be payable solely from Net Revenues as hereinafter provided.

(b) **Reduction upon Partial Prepayment.** In the event the City 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 to reduce the principal component of the subsequent remaining Installment Payments in inverse order of maturity, unless otherwise requested by City and agreed to by Original Purchaser in its reasonable discretion, and the interest component of each subsequent remaining Installment Payment shall be reduced by the aggregate corresponding amount of interest which would otherwise be payable with respect to the Bonds redeemed as a result of such prepayment.

(c) **Rate on Overdue Payments.** In the event the City should fail 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 City until the amount in default shall have been fully paid and the City agrees to pay the same with interest thereon, to the extent permitted by law, from the date thereof at the rate of interest payable with respect to the Bonds.

Section 3.06. Special Obligation of the City.

(a) **Limitations.** The City's obligation to pay the Installment Payments shall be a special obligation limited solely to Net Revenues. Under no circumstances shall the City 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 City be liable for the payment of the Installment Payments.

(b) **Obligations Unconditional.** The obligations of the City 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 City, the Agency or the Trust Administrator of any obligation to the City or otherwise with respect to the Project, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the City by the Agency or the Trust Administrator.

(c) **Obligations Specified.** Until such time as all of the Installment Payments shall have been fully paid or prepaid, the City:

(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 Installment Sale 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 or any political subdivision of either thereof or any failure of the Agency or the Trust Administrator to perform and observe any agreement, whether express or implied,

or any duty, liability or obligation arising out of or connected with the Trust Agreement, the Assignment Agreement or this Installment Sale Agreement.

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

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

(a) Pledge of Net Revenues. The City hereby agrees that the payment of the Installment Payments shall be secured by a first pledge, charge and lien upon Net Revenues which pledge, charge and lien are on a parity with any Parity Debt, 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 City to the Agency 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.

(b) Transfer to Pay Installment Payments. In order to provide for the payment of Installment Payments when due, the City shall, on or before each Installment Payment Date, transfer to the Trust Administrator for deposit into 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 City shall be obligated to make Installment Payments sufficient to pay all principal and interest due with respect to the Bonds.

(c) Release from Lien. Following the transfers described in paragraph (b) of this Section 3.07 with respect to Net Revenues allocable to such Fiscal Year in excess of amounts required for the payment of Bonds and Parity Debt, if any issued or incurred in accordance with Section 3.09(b), and for the replenishment of the Reserve Fund in such Fiscal Year shall be released from the lien of this Installment Sale Agreement and shall be available for any lawful purpose of the City.

Section 3.08. Rate Covenant. The City hereby covenants that it shall prescribe, revise and collect such charges for the services and facilities of the Wastewater System which, after allowances for contingencies and error in the estimates, shall produce Gross Revenues sufficient in each Fiscal Year to provide Net Revenues equal to at least 1.25 times (i) the Installment Payments coming due and payable during such Fiscal Year, (ii) all payments required with respect to Parity Debt and (iii) amounts required to replenish the Reserve Fund, as required by Section 6.06 of the Trust Agreement.

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

(a) No Obligations Superior to Installment Payments. In order to protect further the availability of the Net Revenues and the security for the Installment Payments and any Parity Debt, the City hereby agrees that the City shall not, so long as any Bonds are outstanding, issue or incur any obligations payable from Gross Revenues or Net Revenues superior to the Installment Payments or any Parity Debt.

(b) Parity Debt. The City further covenants that, except for obligations issued or incurred to prepay the Installment Payments in full pursuant to Section 4.02 hereof, the City shall not issue or incur any Parity Debt unless:

(i) The City is not in default under the terms of this Installment Sale Agreement;

(ii) Net Revenues, calculated on sound accounting principles, as shown by the books of the City for the latest Fiscal Year or any more recent 12-month period selected by the City ending not more than 60 days prior to the adoption of the resolution pursuant to which instrument such parity debt is issued or incurred, as shown by the books of the City, plus the estimated amount of the increase in the Net Revenues for the first full 12-month period in which the proposed additions to or improvements or extensions of the Wastewater System to be funded by such Parity Debt will be in operation, as shown by an opinion of an independent recognized consulting engineer, equals at least 1.25 times the sum of the average annual Installment Payments, average annual debt service on all outstanding Parity Debt outstanding at the time the additional parity obligations are issued or incurred, and average annual debt service on all additional parity bonds or additional parity obligations proposed to be issued or incurred. Either or both of the following items may be added to such Net Revenues for the purpose of applying the restriction contained in this subsection (b)(ii):

(A) An allowance for revenues from any additions to or improvements or extensions of the Wastewater System to be constructed with the proceeds of such Parity Debt, and also for net revenues from any such additions, improvements or extensions which have been constructed from moneys from any source but which, during all or any part of such Fiscal Year, were not in service, all in an amount equal to 70% of the estimated additional average annual Net Revenues to be derived from such additions, improvements and extensions for the first 36-month period following closing of the proposed Parity Debt, all as shown by the certificates or opinion of a qualified independent consultant employed by the City, may be added to such Net Revenues for the purpose of applying the restriction contained in this subsection (b)(ii).

(B) An allowance for earnings arising from any increase in the charges made for service from the Wastewater System which has become effective prior to the incurring of such additional obligations but which, during all or any part of such Fiscal Year, was not in effect, in an amount equal to 100% of the amount by which the Net Revenues would have been increased if such increase in charges had been

in effect during the whole of such Fiscal Year and any period prior to the incurring of such additional obligations, as shown by the certificates or opinion of a qualified independent engineer employed by the City.

(iii) So long as all of the Outstanding Bonds are held by the Original Purchaser, the prior written consent of such Original Purchaser shall have been obtained.

Section 3.10. Additional Payments. In addition to the Installment Payments, the City shall pay, from Net Revenues, when due all costs and expenses incurred by the Agency to comply with the provisions of the Trust Agreement and this Installment Sale Agreement, including, without limitation all Delivery Costs (to the extent not paid from amounts on deposit in the Bond Proceeds Fund), compensation due to the Trust Administrator for its fees, costs and expenses incurred under the Trust Agreement and the Assignment Agreement and all costs and expenses of attorneys, auditors, engineers and accountants.

Section 3.11. Payments to Reserve Fund. In addition to the Installment Payments, the City shall pay to the Trust Administrator from Net Revenues for deposit in the Reserve Fund (a) on each Installment Payment Date, and for the Term of the Installment Sale Agreement, an amount equal to one-twentieth (1/20th) of the average annual debt service on the Bonds, and (b) such amounts as shall be required to replenish the Reserve Fund in the event of a draw therefrom or a valuation determines that a deficiency exists therein, all in accordance with Section 6.06 of the Trust Agreement; provided, however, that in the event the amount on deposit in the Reserve Fund reaches the Reserve Requirement, the City shall discontinue the aforesaid payments to the Reserve Fund (except to the extent necessary to replenish the Reserve Fund) and any further interest earnings on the Reserve Fund shall be allocated under Section 8.03 of the Trust Agreement.

Section 3.12. Payments to Short-Lived Assets Reserve Fund. In addition to the Installment Payments, the City shall pay to the Trust Administrator from Net Revenues an initial amount of \$34,216 into the Short-Lived Assets Reserve Fund on or before the Closing Date, and shall annually thereafter deposit \$34,216 into the Short-Lived Assets Reserve Fund by not later than June 30 of each year, starting with fiscal year ending June 30, 2018, and continuing for as long as any of the Bonds remain outstanding.

The City may withdraw amounts on deposit in the Short-Lived Assets Reserve Fund from time to time to pay for timely replacement of “short-lived assets” of the Wastewater System, which for purposes of this Section shall mean any component or assets of the Wastewater System, including without limitation pumps, paint and small equipment, that will need to be repaired or replaced over a one to fifteen-year period, the cost of which is not included within the definition of Operation and Maintenance Costs.

Notwithstanding the foregoing, before each June 30 the City shall evaluate the status and condition of short-lived assets of the Wastewater System and, if such evaluation suggests that a lesser or greater deposit is required in order to provide for the timely replacement of any short-lived assets, the City may upon consultation by the City with the Government decrease the amount of the annual deposit into the Short-Lived Assets Reserve Fund if a lesser amount is indicated, but shall increase the amount of the annual deposit in to the Short-Lived Assets Reserve Fund if a greater amount is indicated.

ARTICLE IV

PREPAYMENT OF INSTALLMENT PAYMENTS

Section 4.01. Prepayment. The City 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 Agency hereby grants an option to City to prepay the Installment Payments in full, by paying the total unpaid principal component of the Installment Payments as set forth in Exhibit B or in part, but not in an amount of less than the Denomination Amount or any integral multiple thereof, at any one time. Said option may be exercised on any date following written notice by the City to the Agency and the Trust Administrator of the exercise of such option at least sixty (60) days prior to date designated for prepayment. Such option shall be exercised in the event of prepayment in full, by depositing with the Trust Administrator by the applicable prepayment date cash in an amount sufficient to pay the total unpaid principal component of the Installment Payments as set forth in Exhibit B, together with any Installment Payments then due but unpaid together with accrued interest to the prepayment date, or, in the event of prepayment in part, by depositing with the Trust Administrator by the applicable date of prepayment, an amount divisible by the Denomination Amount equal to the amount desired to be prepaid together with any Installment Payments then due but unpaid together with accrued interest on the amount to be prepaid to the prepayment date.

In the event of prepayment in part, the City or Agency shall revise the Exhibit B Schedule of Installment Payments, which schedule shall take into account such prepayment and shall be and become for all purposes thereafter the “Amended Exhibit B to the Installment Sale Agreement.”

Section 4.03. Mandatory Prepayment from Net Proceeds of Insurance or Condemnation and from Unexpended Proceeds. The City shall be obligated to prepay the Installment Payments in whole or in part on any Installment Payment Date from and to the extent of (a) any Net Proceeds of any insurance or condemnation award theretofore deposited in the Installment Payment Fund for such purpose pursuant to Section 5.07 hereof or pursuant to Section 7.02 of the Trust Agreement; and (b) from any excess monies remaining in the Bond Proceeds Fund and not required for payment of Project or Delivery Costs (“Unexpended Proceeds”). The City and the Agency hereby agree that such Net Proceeds and Unexpended Proceeds shall be credited towards the City’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 City on such date.

Section 4.04. Credit for Amounts on Deposit. In the event the City elects or is required to prepay the Installment Payments in full under this Article IV, such that the Trust Agreement shall be discharged by its terms as a result of such prepayment, all amounts then on deposit in the Installment Payment Fund, the Bond Proceeds Fund or the Reserve Fund shall be credited towards the amounts required to be so prepaid.

Section 4.05. Security Deposit. Notwithstanding any other provision of this Installment Sale Agreement, the City may, on any date, secure the payment of Installment Payments by a deposit with the Trust Administrator, as escrow holder under an escrow deposit and trust agreement as referenced in Section 14.01(d) of the Trust Agreement, of:

(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 and the Reserve 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 and the Reserve Fund, be fully sufficient to pay all unpaid Installment Payments on their Installment Payment Date; or

(b) **Portion of Installment Payments.** in the case of a security deposit relating to a portion of the Installment Payments both (i) a Written Certificate executed by a City 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 and the Reserve Fund, be fully sufficient in the opinion of an independent certified public accountant, to pay the portion of the Installment Payments designated in the aforesaid City Representative's Written Certificate.

(c) **Effect.** In the event of a deposit pursuant to this Section 4.05, all obligations of the City under this Installment Sale Agreement pertaining to the portion of the Installment Payments for which the deposit has been made shall cease and terminate, excepting only the obligation of the City 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 City 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 Installment Sale Agreement; and further provided that any security deposit relating to the Project shall not affect the covenant of the City contained in Section 3.09 hereof in the event such security deposit is insufficient to pay or prepay all Installment Payments relating to the Project when and as the same become due and payable. Upon said deposit, the Agency 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; AND OTHER MATTERS

Section 5.01. Maintenance, Taxes and Assessments, Contests.

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

(b) Taxes and Assessments. The City shall also pay or cause to be paid all taxes and assessments of any type or nature charged to the Agency or the City or levied, assessed or charged against the Wastewater 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 City 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.

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

Section 5.02. Modification of Project. The City shall, at its own expense, have the right to remodel the Project or to 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 Installment Sale 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 City's Equipment. The City 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 City, in which neither the Agency nor the Trust Administrator shall have any interest, and may be modified or removed by the City at any time provided that the City 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 Installment Sale Agreement shall prevent the City 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. Public Liability and Property Damage Insurance.

(a) Insurance Policies. The City shall maintain or cause to be maintained, throughout the Term of the Installment Sale Agreement, insurance policies, including a standard comprehensive general insurance policy or policies in protection of the City, its members, officers, agents and employees. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the construction or operation of the Wastewater System (but only if such insurance is available at reasonable cost on the open market from reputable insurance companies). Such policy or policies shall afford protection in such amounts, with such deductibles, as are usually covered in connection with operations similar to the Wastewater System. Such liability insurance

may be maintained as part of or in conjunction with any other liability insurance coverage carried by the City, and may be maintained in the form of insurance maintained through a nonprofit public benefit corporation created for such purpose or in the form of self-insurance by the City.

(b) **Self-Insurance.** If the City shall maintain self-insurance, it shall supply to the Trust Administrator a statement of sufficiency by an independent insurance consultant or the City's risk manager on an annual basis as described in Section 5.06 hereof.

(c) **Application of Net Proceeds.** The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the insurance proceeds shall have been paid.

Section 5.05. Fire and Extended Coverage Insurance.

(a) **Insurance Policies.** The City shall procure and maintain, or cause to be procured and maintained, throughout the Term of the Installment Sale Agreement, insurance against loss or damage to any above-ground structures, including City-owned equipment and machinery housed therein, constituting any part of the Wastewater System by fire and lightning, with extended coverage insurance but not including earthquake insurance. Such insurance need not include reservoirs, standpipes and elevated tanks. Such insurance shall be in an amount which is not less than 100% of the replacement cost of the Project. Such insurance may be subject to a deductible clause of not to exceed ten percent of said replacement cost for any one loss. Such insurance may be maintained as part of or in conjunction with any other fire and extended coverage insurance carried or required to be carried by the City, and may be maintained in the form of insurance maintained through a nonprofit public benefit corporation created for such purpose or in the form of self-insurance by the City.

(b) **Self-Insurance.** If the City shall maintain self-insurance, it will supply to the Trust Administrator a statement of sufficiency by an independent insurance consultant or the City's risk manager on an annual basis as described in Section 5.06 hereof.

(c) **Application of Net Proceeds.** Net Proceeds of such insurance shall be applied as provided in Section 5.07 hereof.

Section 5.06. Insurance Net Proceeds; Form of Policies. The insurance required by Section 5.05 hereof shall provide that all applicable proceeds thereunder shall be payable to the Trust Administrator for the benefit of the Bonds Owners. The City shall pay or cause to be paid when due the premiums for all insurance policies required by this Installment Sale Agreement. All such policies shall provide that the Agency and the Trust Administrator are named as additional insureds and that the Trust Administrator shall be given thirty (30) days' notice of each expiration, any intended cancellation thereof or reduction of the coverage provided thereby. The Trust Administrator shall not be responsible for the sufficiency of any insurance herein required or for the obtaining of such insurance and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the City. The City shall cause to be delivered to the Trust Administrator annually, no later than the end of each Fiscal Year, a Written Certificate signed by a City Representative stating that the City is in compliance with Sections 5.04 and 5.05 of this Agreement. The Trust Administrator may conclusively rely on such Written Certificates.

Section 5.07. Application of Net Proceeds.

(a) **From Insurance Award.** The Net Proceeds of any insurance award resulting from any damage to or destruction of the Project by fire or other casualty shall be deposited in the Insurance and Condemnation Fund by the Trust Administrator promptly upon receipt thereof and, if the City Representative notifies the Trust Administrator in writing of the City's determination that the replacement, repair, restoration, modification or improvement of the Project is not economically feasible or in the best interest of the City, then such Net Proceeds shall be promptly transferred by the Trust Administrator to the Installment Payment Fund to be applied as provided in Section 4.03 hereof. All Net Proceeds deposited in the Insurance and Condemnation Fund and not so transferred shall be applied to the prompt replacement, repair, restoration, modification or improvement of the Project by the City, upon receipt of a requisition, signed by the City Representative and, so long as all of the Outstanding Bonds are held by the Original Purchaser, the Owner of the Bonds stating with respect to each payment to be made (i) the requisition number, (ii) the name and address of the person, firm or corporation to whom payment is due, (iii) the amount to be paid and (iv) that each obligation mentioned therein has been properly incurred, is a proper charge against the Insurance and Condemnation Fund, has not been the basis of any previous withdrawal, and specifying in reasonable detail the nature of the obligation. Any balance of the Net Proceeds remaining after such work has been completed shall be transferred to the Installment Payment Fund. The City covenants that it will commence such replacement, repair, restoration, modification or improvement or indicate that such replacement, repair, restoration, modification or improvement is not economically feasible within 180 days of receipt of such Net Proceeds.

(b) **From Eminent Domain Award.** The Net Proceeds of any eminent domain award shall be deposited in the Insurance and Condemnation Fund to be held and applied by the Trust Administrator pursuant to Section 7.02 of the Trust Agreement.

Section 5.08 Advances. If the City shall fail to perform any of its obligations under this Article V, the Agency 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 City shall be obligated to repay all such advances as soon as possible, with interest at the rate of interest with respect to the Bonds from the date of the advance to the date of repayment.

ARTICLE VI**DISCLAIMER OF WARRANTIES; ACCESS; INDEMNITY**

Section 6.01. Disclaimer of Warranties. The Agency 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 City 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 Agency be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Installment Sale Agreement or the Trust Agreement for the existence, furnishing, functioning or City's use of the Project.

Section 6.02. Access to the Project and Records. To the extent permitted by law, the City agrees that the Agency, any Agency Representative, and the Agency's successors or assigns shall have the right at all reasonable times to enter upon and to examine and inspect the Project. The City further agrees that the Agency, any Agency Representative, and the Agency'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 City to perform its obligations hereunder. In addition, the City agrees that the Agency, any Agency Representative, and the Agency's successors or assigns shall have the right at all reasonable times to inspect and examine all books, papers and records of the Agency and the City pertaining to the Project and the Bonds, to make copies thereof and to take non-privileged memoranda therefrom or with respect thereto as may be desired.

Section 6.03. Indemnity. The City shall and hereby agrees to indemnify and save the Agency and its successors and assigns 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 City; (b) any breach or default on the part of the City in the performance of any of its obligations under this Installment Sale Agreement; (c) any act or negligence of the City 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 City with respect to the Project; or (e) the construction of the Project or the authorization of payment of the Project Costs or Delivery Costs by the City or the Agency. No indemnification is made under this Section 6.03, or elsewhere in this Installment Sale Agreement for willful misconduct, negligence, or breach of duty under this Installment Sale Agreement by the Agency, 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 Installment Sale Agreement and the terms "events of default" and "default" shall mean, whenever they are used in this Installment Sale Agreement, any one or more of the following events:

(a) Failure by the City 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 City to observe and perform any covenant, condition or agreement on its part to be observed or performed in this Installment Sale Agreement or the Trust Agreement, other than as referred to in clause (a) of this Section 7.01, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Agency, the Trust Administrator or the Owners of not less than twenty-five percent (25%) in aggregate principal amount of Bonds then Outstanding; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Agency, the Trust Administrator or such Owners, as applicable, shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the City within the applicable period and diligently pursued until the default is corrected; or

(c) The filing by the City 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 City 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 City or of the whole or any substantial part of its property; or

(d) An event of default shall have occurred and be continuing with respect to any Parity Debt.

Section 7.02. Remedies on Default. Whenever any event of default referred to in Section 7.01 hereof shall have happened and be continuing, the Agency 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 at the rate or rates specified in the respective Outstanding Bonds 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 City under this Installment Sale Agreement.

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

Section 7.04. Prosecution and Defense of Suits. The City shall promptly, upon request of the Agency or its 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 Agency and its 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 City shall defend, or cause to be defended, against every suit, action or proceeding at any time brought against the Agency or its 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 Agency or its assignee under this Installment Sale Agreement or the Trust Agreement; provided, that the Agency and

its assignee at their election may appear in and defend any such suit, action or proceeding. The City shall indemnify or cause to be indemnified the Agency and its 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 (3) years following the payment of the last of the Installment Payments.

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

Section 7.06. Application of the Proceeds. The Trust Administrator, as assignee of the Agency, shall apply all amounts received under this Article VII as set forth in Section 13.03 of the Trust Agreement.

Section 7.07. Liability Limited to Net Revenues. Notwithstanding any provision of this Installment Sale Agreement, the City'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. In the event that Net Revenues shall be insufficient at any time to pay an Installment Payment in full, the City shall not be liable to pay or prepay such Installment Payment other than from Net Revenues.

Section 7.08. Trust Administrator and Bond Owners to Exercise Rights. Such rights and remedies as are given to the Agency under this Article VII have been assigned by the Agency to the Trust Administrator under the Assignment Agreement, to which assignment the City hereby consents. Such rights and remedies shall be exercised by the Trust Administrator and the Owners of the Bonds as provided in the Trust Agreement.

Section 7.09. Pro Rata Application of Net Revenues. If, at any time, there is a deficiency in Net Revenues available to pay the Installment Payments, any amounts due with respect to Parity Debt, amounts required to replenish the Reserve Fund or amounts required to replenish any reserve fund established for Parity Debt, available Net Revenues shall be applied on a pro rata basis to the payment of such Installment Payments and to the payment of amounts due with respect to Parity Debt, then to the replenishment of the Reserve Fund and to the replenishment of any reserve fund established for Parity Debt.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Assignment, Sale or Lease by the City.

(a) **Assignment or Sale.** This Installment Sale Agreement may not be assigned by the City, and the Wastewater System may not be sold by the City during the Term of this Installment Sale Agreement.

(b) **Lease.** The City may lease the Project, or any portion thereof, with the consent of the Owner of the Bonds so long as all of the Outstanding Bonds are held by the Original Purchaser thereof, and subject to all of the following conditions:

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

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

(iii) No such lease by the City shall cause the Project to be used for a purpose other than a governmental or proprietary function authorized under the provisions of the Constitution and laws of the State; and

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

Section 8.02. Amendment of Installment Sale Agreement. The City will not alter, modify or cancel or agree or consent to alter, modify or cancel this Installment Sale Agreement, except as permitted by Article X of the Trust Agreement, without the written consent of the Trust Administrator and the Agency,

Section 8.03. Binding Effect. This Installment Sale Agreement shall inure to the benefit of and shall be binding upon the Agency and the City and their respective successors and assigns.

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

Section 8.05. Severability. In the event any provision of this Installment Sale Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.06. Captions. The captions or headings in this Installment Sale 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 Installment Sale Agreement.

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

Section 8.08. Further Assurances and Corrective Instruments. The Agency and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for 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 Installment Sale Agreement.

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

Section 8.10. Notices. All notices, Written 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 City:	City of Lakeport 225 Park Street Lakeport, CA 95453 Attention: City Manager
If to the Agency:	City of Lakeport 225 Park Street Lakeport, CA 95453 Attention: Executive Director
If to the Trust Administrator:	Finance Director City of Lakeport 225 Park Street Lakeport, CA 95453 Attention: Finance Director
If to the Government:	Rural Development, United States Department of Agriculture 777 Sonoma Ave "E" St Annex Santa Rosa, CA 95404 Attention: Area Specialist <u>And</u> Rural Development, United States Department of Agriculture 430 G Street Suite 4169 Davis, CA 95616 Attention: Community Programs Specialist

The Agency, the City, the Trust Administrator and the Government, by notice given hereunder, may designate different addresses to which subsequent notices, Written Certificates or other communications will be sent.

Section 8.11. Execution in Counterparts. This Installment Sale 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 Agency has caused this Installment Sale Agreement to be executed in its corporate name by its duly authorized officer and sealed with its corporate seal; and the City has caused this Installment Sale Agreement to be executed in its name by its duly authorized officers, as of the date first above written.

MUNICIPAL FINANCING AGENCY OF
LAKEPORT, *as Seller*

By _____
Executive Director

CITY OF LAKEPORT, *as Purchaser*

By _____
City Manager

Attest

By _____
City Clerk

EXHIBIT A

DESCRIPTION OF THE PROJECT

The Project to be acquired and constructed with the proceeds of the Bonds, is general described as follows:

The acquisition and improvement of/to the Wastewater System, as more specifically described in the Preliminary Engineering Report prepared by or on behalf of the City, as submitted to the Government in connection with the application of the City to Government for the financing of a portion of the cost and expense of said improvements (subject to such modifications to the subject improvement project as may be approved by Government during the course of construction), as well as any necessary lands, rights of way and other real or personal property useful in connection therewith, together with all additions, extensions, expansions, improvements and betterments thereto and equipments thereof, together with such other or additional Wastewater System improvements as may be agreed to between the Government and the City.

EXHIBIT B**SCHEDULE OF INSTALLMENT PAYMENTS**

Installment Payment Date	Principal	Interest Rate	Interest	Installment Payments
04/1/2018			\$23,303.87	\$23,303.87
10/1/2018	\$68,000	2.125%	36,475.63	104,475.63
04/1/2019			35,753.13	35,753.13
10/1/2019	56,000	2.125%	35,753.13	91,753.13
04/1/2020			35,158.13	35,158.13
10/1/2020	58,000	2.125%	35,158.13	93,158.13
04/1/2021			34,541.88	34,541.88
10/1/2021	59,000	2.125%	34,541.88	93,541.88
04/1/2022			33,915.00	33,915.00
10/1/2022	60,000	2.125%	33,915.00	93,915.00
04/1/2023			33,277.50	33,277.50
10/1/2023	61,000	2.125%	33,277.50	94,277.50
04/1/2024			32,629.38	32,629.38
10/1/2024	63,000	2.125%	32,629.38	95,629.38
04/1/2025			31,960.00	31,960.00
10/1/2025	64,000	2.125%	31,960.00	95,960.00
04/1/2026			31,280.00	31,280.00
10/1/2026	65,000	2.125%	31,280.00	96,280.00
04/1/2027			30,589.38	30,589.38
10/1/2027	67,000	2.125%	30,589.38	97,589.38
04/1/2028			29,877.50	29,877.50
10/1/2028	68,000	2.125%	29,877.50	97,877.50
04/1/2029			29,155.00	29,155.00
10/1/2029	69,000	2.125%	29,155.00	98,155.00
04/1/2030			28,421.88	28,421.88
10/1/2030	71,000	2.125%	28,421.88	99,421.88
04/1/2031			27,667.50	27,667.50
10/1/2031	72,000	2.125%	27,667.50	99,667.50
04/1/2032			26,902.50	26,902.50
10/1/2032	74,000	2.125%	26,902.50	100,902.50
04/1/2033			26,116.25	26,116.25
10/1/2033	76,000	2.125%	26,116.25	102,116.25
04/1/2034			25,308.75	25,308.75
10/1/2034	77,000	2.125%	25,308.75	102,308.75
04/1/2035			24,490.63	24,490.63
10/1/2035	79,000	2.125%	24,490.63	103,490.63
04/1/2036			23,651.25	23,651.25
10/1/2036	80,000	2.125%	23,651.25	103,651.25

ATTACHMENT 4

04/1/2037			22,801.25	22,801.25
10/1/2037	82,000	2.125%	22,801.25	104,801.25
04/1/2038			21,930.00	21,930.00
10/1/2038	84,000	2.125%	21,930.00	105,930.00
04/1/2039			21,037.50	21,037.50
10/1/2039	86,000	2.125%	21,037.50	107,037.50
04/1/2040			20,123.75	20,123.75
10/1/2040	88,000	2.125%	20,123.75	108,123.75
04/1/2041			19,188.75	19,188.75
10/1/2041	89,000	2.125%	19,188.75	108,188.75
04/1/2042			18,243.13	18,243.13
10/1/2042	91,000	2.125%	18,243.13	109,243.13
04/1/2043			17,276.25	17,276.25
10/1/2043	93,000	2.125%	17,276.25	110,276.25
04/1/2044			16,288.13	16,288.13
10/1/2044	95,000	2.125%	16,288.13	111,288.13
04/1/2045			15,278.75	15,278.75
10/1/2045	97,000	2.125%	15,278.75	112,278.75
04/1/2046			14,248.13	14,248.13
10/1/2046	99,000	2.125%	14,248.13	113,248.13
04/1/2047			13,196.25	13,196.25
10/1/2047	101,000	2.125%	13,196.25	114,196.25
04/1/2048			12,123.13	12,123.13
10/1/2048	104,000	2.125%	12,123.13	116,123.13
04/1/2049			11,018.13	11,018.13
10/1/2049	106,000	2.125%	11,018.13	117,018.13
04/1/2050			9,891.88	9,891.88
10/1/2050	108,000	2.125%	9,891.88	117,891.88
04/1/2051			8,744.38	8,744.38
10/1/2051	110,000	2.125%	8,744.38	118,744.38
04/1/2052			7,575.63	7,575.63
10/1/2052	113,000	2.125%	7,575.63	120,575.63
04/1/2053			6,375.00	6,375.00
10/1/2053	115,000	2.125%	6,375.00	121,375.00
04/1/2054			5,153.13	5,153.13
10/1/2054	117,000	2.125%	5,153.13	122,153.13
04/1/2055			3,910.00	3,910.00
10/1/2055	120,000	2.125%	3,910.00	123,910.00
04/1/2056			2,635.00	2,635.00
10/1/2056	123,000	2.125%	2,635.00	125,635.00
04/1/2057			1,328.13	1,328.13
10/1/2057	125,000	2.125%	1,328.13	126,328.13
Totals	\$3,433,000		\$1,677,903.42	\$5,110,903.42

TRUST AGREEMENT

by and among the

CITY OF LAKEPORT

and the

MUNICIPAL FINANCING AGENCY OF LAKEPORT

and the

**FINANCE DIRECTOR OF THE CITY OF LAKEPORT,
as Trust Administrator**

Dated as of December 1, 2017

Relating to

**\$3,433,000
MUNICIPAL FINANCING AGENCY OF LAKEPORT
(City of Lakeport, California)
SERIES 2017 WASTEWATER ENTERPRISE REVENUE BONDS
(Wastewater System Improvement Project)
BANK QUALIFIED**

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TRUST AGREEMENT

THIS TRUST AGREEMENT, dated as of December 1, 2017, is by and among the MUNICIPAL FINANCING AGENCY OF LAKEPORT, a California joint powers authority duly organized and existing pursuant to the laws of the State of California (the “Agency”), the CITY OF LAKEPORT, a general law city and public agency duly organized and validly existing under the laws of the State of California (the “City”), and THE FINANCE DIRECTOR OF THE CITY OF LAKEPORT, as Trust Administrator (the “Trust Administrator”);

WITNESSETH:

WHEREAS, the Agency is a joint exercise of powers authority duly organized and existing under and pursuant to that certain Joint Exercise of Powers Agreement, dated as of November 17, 2015, by and between the City and the Lakeport Industrial Development Authority (the “Authority”), and under the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the California Government Code (the “Act”), and is authorized pursuant to Article 4 (commencing with Section 6584) of the Act (the “Bond Law”) to borrow money for the purpose, among other things, of financing and refinancing public capital improvements of the City and the Authority; and

WHEREAS, the City and the Agency propose to undertake the acquisition and financing of certain capital improvements (the “Project”) to the City’s municipal wastewater system (interchangeably, the “Enterprise,” “Wastewater Enterprise” or “Wastewater System”); and

WHEREAS, to help finance the Project, the City has agreed to purchase the Project from the Agency pursuant to, and in accordance with the terms set forth in an Installment Sale Agreement, dated as of December 1, 2017, by and between the City and the Agency (the “Installment Sale Agreement”); and

WHEREAS, concurrently with the execution of this Trust Agreement, it is contemplated that the Trust Administrator will authenticate and deliver the Municipal Financing Agency of Lakeport, Series 2017 Wastewater Enterprise Revenue Bonds (Wastewater System Improvement Project), in the aggregate principal amount of \$3,433,000 (the “Bonds”) pursuant to the terms and conditions of this Trust Agreement, evidencing a direct, undivided fractional interest in certain Installment Payments to be made by the City, pursuant to the terms and conditions of the Installment Sale Agreement (the “Installment Payments”); and

WHEREAS, all rights to receive the Installment Payments will be assigned without recourse by the Agency to the Trust Administrator, for the benefit of the Owners of the Bonds, pursuant to an Assignment Agreement, dated as of December 1, 2017, by and between the Trust Administrator and the Agency (the “Assignment Agreement”); and

WHEREAS, in consideration of such assignment, concurrently with the execution of this Trust Agreement, the Trust Administrator will authenticate and deliver the Bonds to the United States of America, acting through Rural Utilities Service, United States Department of Agriculture (interchangeably, the “USDA” or “Government”), as the initial purchasers thereof; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Trust Agreement

do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Trust Agreement; and

WHEREAS, the City has determined that all acts and proceedings required by law necessary to make the Bonds, when executed, authenticated and delivered by the Trust Administrator and duly issued, the valid, binding and legal special obligations of the City, and to constitute this Trust Agreement a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Trust Agreement have been in all respects duly authorized; and

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

ARTICLE I DEFINITIONS; AUTHORIZATION; EXHIBITS

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Trust Agreement, have the meanings herein specified. In addition, all terms defined in the Installment Sale Agreement and not otherwise defined herein shall have the respective meanings specified in the Installment Sale Agreement.

“Act” means Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the California Government Code.

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

“Agency” means the Municipal Financing Agency of Lakeport, a California joint powers authority duly organized and existing under the laws of the State of California.

“Agency Board” means the governing board of the Agency.

“Agency Representative” means the Chairperson, Vice-Chairperson, Executive Director, Treasurer and Secretary of the Agency, or any other person authorized by resolution of the Agency Board to act on behalf of the Agency under or with respect to this Trust Agreement.

“Assignment Agreement” means the Assignment Agreement, dated as of December 1, 2017, by and between the Agency and the Trust Administrator, together with any amendments or supplements thereto.

“Bond Counsel” means (a) The Weist Law Firm, and (b) any other attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to municipal obligations, the interest on which is excludable from gross income pursuant to Section 103 of the Tax Code.

“Bond Law” means Article 4 (commencing with Section 6584) of the Act.

“Bonds” means the \$3,433,000 Municipal Financing Agency of Lakeport, Series 2017 Wastewater Enterprise Revenue Bonds (Wastewater System Improvement Project), Bank Qualified, dated the Closing Date, authorized, executed and delivered pursuant to this Trust Agreement, the Act and the Bond Law.

“Business Day” means any day other than (i) a Saturday or a Sunday or (ii) a day on which the City offices are authorized or obligated by law or executive order to be closed.

“Bond Maturity Date” means October 1, 2057, which is the date on which the final principal component of the Installment Payments evidenced and represented thereby shall become due and payable.

“Bond Register” means the Bond Register relating to the Bonds maintained by the Trust Administrator in accordance with Section 2.12 of this Trust Agreement.

“City” means the City of Lakeport, California.

“City Manager” means the person who is the City’s acting or interim City Manager or his or her deputy or assistant.

“City Representative” means the Mayor, Mayor Pro Tem, City Manager, Finance Director and City Clerk or Acting City Clerk, or any other official of the City authorized by the Council to act for, and on behalf of, the City.

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

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

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

“County” means the County of Lake, California.

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

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

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

“Denomination Amount” means the minimum denomination of each Bond which is One Hundred Dollars (\$100).

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

“Fair Market Value” means for purposes of valuing the Permitted Investments, the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Tax Code) and, otherwise, the term “fair market value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, (iii) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the City and related parties do not own more than a ten percent (10%) beneficial interest if the return paid by such fund is without regard to the source of investment. The Trust Administrator shall have no duty in connection with the determination of Fair Market Value other than to follow the investment directions of a City Representative in any written directions of a City Representative.

“Federal Securities” means direct general obligations 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.

“Finance Director” means the person who is the City’s acting or interim Finance Director or his or her deputy or assistant.

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

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

“Gross Revenues” means all gross charges received for, and all other gross income and receipts received or receivable by the City from, the ownership or operation of the Wastewater System or otherwise arising from the Wastewater System, including but not limited to connection charges and investment earnings on such charges, income and receipts. Gross Revenues shall not include (i) customers’ wastewater related deposits or any other wastewater related deposits subject to refund until such deposits have become the property of the City, (ii) the proceeds of any ad valorem property taxes, (iii) grants that are designated by the grantor for a specific wastewater purpose and are therefore not available for other purposes, (iv) any specific charges levied for the express purpose of reimbursing others for all or a portion of the cost of the acquisition or construction of specific wastewater facilities, and (v) the proceeds of any special assessments or special

taxes levied upon real property within any improvement district served by the City for the purpose of paying special assessment bonds or special tax obligations of the City relating to the Wastewater System.

“Independent Certified Public Accountant” means any firm of certified public accountants appointed by the City that is independent according to the Statement of Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

“Independent Counsel” means an attorney or a firm of attorneys duly admitted to the practice of law before the highest court of the state in which he or such firm maintains an office and who is not an employee of the Agency, the Trust Administrator or the City.

“Independent Engineer” means any registered engineer or firm of engineers generally recognized to be well-qualified in engineering matters relating to wastewater systems similar to the Wastewater System, appointed and paid by the City, and who or each of whom:

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

“Independent Financial Consultant” means a financial consultant qualified in the field of municipal finance, appointed and paid by the City, and who:

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

“Installment Payment” means any payment required to be paid by the City to the Agency pursuant to Section 3.05 of the Installment Sale Agreement.

“Installment Payment Date” means each Interest Payment Date.

“Installment Payment Fund” means the fund designated “City of Lakeport Project Installment Payment Fund” established and held by the Trust Administrator pursuant to Article III of this Trust Agreement.

“Installment Sale Agreement” means the Installment Sale Agreement, dated as of December 1, 2017, by and between the Agency and the City, and any duly authorized and executed amendment or supplement thereto.

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

“Interest Fund” means the fund by that name established in Section 5.04 herein.

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

“Interest Rate” means the rate of interest to be paid on the Bond which is 2.125% per annum.

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

“Net Revenues” means Gross Revenues less Operation and Maintenance Expenses.

“Operation and Maintenance Expenses” means the reasonable and necessary costs paid or incurred by the City for maintaining and operating the Wastewater System, determined in accordance with Generally Accepted Accounting Principles, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the Wastewater System in good repair and working order, and including all administrative costs of the City that are charged directly or apportioned to the operation of the Wastewater System, such as salaries and wages of employees, overhead, taxes (if any) and insurance premiums (including payments required to be paid into any self-insurance funds), and including all other reasonable and necessary costs of the City or charges required to be paid by it to comply with the terms hereof or of any resolution authorizing the execution of any Parity Debt, such as compensation, reimbursement and indemnification of the Trust Administrator and fees and expenses of Independent Certified Public Accountants; but excluding in all cases (i) payment of Parity Debt and Subordinate Debt, (ii) costs of capital additions, replacements, betterments, extensions or improvements which under Generally Accepted Accounting Principles are chargeable to a capital account, and (iii) depreciation, replacement and obsolescence charges or reserves therefor and amortization of intangibles.

“Original Purchaser” means the Government as the first purchaser of the Bonds (evidenced by a single fully registered Bond) upon their delivery by the Trust Administrator on the Closing Date.

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

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

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

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

“**Owner**” or “**Bond Owner**” or “**Registered Owner**,” or any similar term, means the person or entity in whose name a Bond shall be registered.

“**Parity Debt**” means (i) the 2007 Bonds, (ii) the Bonds issued hereunder, and (iii) any other indebtedness or other obligation (including bonds, leases and installment sale agreements) hereafter issued or incurred in accordance with Section 3.09(b) of the Installment Sale Agreement and secured by a pledge of and lien on Net Revenues equally and ratably with the Installment Payments.

“**Permitted Investments**” means any of the following which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein, provided that the same are of appropriate maturity and acquired at Fair Market Value:

(i) Federal Securities and any investment fund, including money market funds or other investment policy arrangement which purchases and holds exclusively Federal Securities;

(ii) Obligations issued by federal land banks or federal home loan banks; or obligations, participations, or other instruments issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or obligations, participations, or other instruments issued by a federal agency or a United States government-sponsored enterprise;

(iii) Investments in repurchase agreements under the terms of which the underlying collateral is transferred to the possession of the Trust Administrator of any securities authorized by paragraphs (i) and (ii) above which have a fair market value (valued at cost) at least equal to 103% of the amount invested in the repurchase agreement and are free of third party claims;

(iv) Nonnegotiable certificates of deposit issued by a nationally chartered bank, a bank chartered by the State of California or a foreign banking corporation, authorized pursuant to Section 1756 of the California Financial Code to transact business in the State of California by accepting deposits, or a State of California or federal savings and loan association, provided that such certificates of deposit are fully collateralized in the manner required for collateralization of trust funds; and

(v) Any investment agreement, guarantee or other investment vehicle or security issued by, secured by or otherwise representing the general obligations of a financial institution whose long-term unsecured, uninsured and unguaranteed obligation or claims-paying ability is rated AA or better by any Rating Agency at the time of its issuance, provided that: (a) the agreement is not subordinated to any other obligations of such financial institution; and (b) if the financial institution fails to maintain a rating of AA or better (without regard to gradations), the City and/or the Agency shall have the right to demand collateral in the form of securities authorized by paragraphs (i) and (ii) above pledged to secure the investment agreement. Such collateral shall be pledged through the Trust Administrator and shall have a fair market value (valued at cost) of at least 103% of the value of funds remaining in the investment agreement. Further, the City and/or the Agency shall have the right to withdraw all funds without penalty should the financial institution fail to provide collateral as required under this paragraph;

(vi) Investments otherwise defined in Section 53601 of the California Government Code, as amended from time to time; provided that the Trust Administrator shall not be obligated to invest in any form of investment pursuant to this subparagraph (vi) except upon receipt of a certificate of an City Representative that any directed investment to be made pursuant to this subparagraph (vi) meets this definition as set forth in this subparagraph (vi).

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

“Principal Amount” means the aggregate authorized principal amount of the Bond which is \$3,433,000.

“Principal Component Payment” means each principal portion of each Installment Payment made pursuant to Section 2.03 hereof.

“Principal Fund” means the fund by that name established in Section 5.04 herein.

“Principal Payment Date” means October 1 of each year, commencing with October 1, 2018, and ending on October 1, 2057.

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

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

“Project Costs” means the costs of the acquisition, construction, rehabilitation, equipping, improvement, reimbursement or financing and refinancing of improvements to, or part of, the Wastewater System constituting the Project.

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

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

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

“Reserve Installment Payments” means the amount required to be paid by the City to the Trust Administrator from Net Revenues pursuant to Section 3.11 of the Installment sale Agreement, and which shall be applied to the Reserve Fund as set forth in Sections 6.01 through 6.06 herein.

“Reserve Requirement” means, for the purpose of determining the maximum size of the Reserve Fund, the least of: (a) 10% of the Principal Amount of the Bond; (b) 125% of average annual Debt Service; or (c) maximum annual Debt Service.

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

“Short-Lived Assets Reserve Fund” means the fund by that name established and maintained pursuant to Section 6.07 herein.

“State” means the State of California.

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

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

“Term of the Installment Sale Agreement” means the time during which the Installment Sale Agreement is in effect which begins on the Closing Date and ends on October 1, 2057, unless sooner terminated pursuant to the terms of the Installment Sale Agreement.

“Trust Administrator” means the Finance Director of the City, or any successor thereto, acting as Trust Administrator pursuant to this Trust Agreement.

“Trust Agreement” means this Trust Agreement, dated as of December 1, 2017, by and among the Trust Administrator, the Agency and the City, together with any amendments or supplements thereto permitted to be made thereunder.

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

“2007 Bonds” means the City of Lakeport’s share of the Series 2007A Wastewater Revenue Bonds, originally issued by the California Statewide Communities Development Authority on January 3, 2008.

“Wastewater System” means the whole and each and every part of the wastewater system of the City serving the City and its residents and other customers served thereby, whether within or without the City, for the collection, treatment and disposal of wastewater, including but not limited to all buildings, facilities, properties, lands, rights, entitlements and other property useful in connection therewith, together with all extensions thereof and improvements thereto at any time acquired, constructed or installed by or on behalf of the City.

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

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

Section 1.03. Content of Written Certificates.

(a) **Contents.** Every Written Certificate provided for in this Trust Agreement with respect to compliance with any provision hereof, except Written Certificates delivered on the Closing Date and the certificate of destruction pursuant to Section 14.07, shall include (a) a statement that the person making or giving such Written 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 Written Certificate is based; (c) a statement that, in the opinion of such person, he has made or caused to be made such examination or investigation as is necessary to enable him to express an informed opinion with respect to the subject matter referred to in the instrument to which his signature is affixed; (d) a statement of the assumptions upon which such Written 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 Written Certificate made or given by a City Representative may be based, insofar as it relates to legal or accounting matters, upon a certificate or opinion of or representation by counsel or an accountant, unless such City Representative knows, or in the exercise of reasonable care should have known, that the certificate, opinion or representation with respect to the matters upon which such Written Certificate may be based, as aforesaid, is erroneous. Any such certificate or opinion made or given by counsel or an accountant may be based, insofar as it relates to factual matters (with respect to which information is in the possession of the City, as the case may be) upon a certificate or opinion of or representation by a City Representative, unless such counsel or accountant knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation with respect to the matters upon which such person's certificate or opinion or representation may be based, as aforesaid, is erroneous. The same City Representative, or the same counsel or accountant, as the case may be, need not certify to all of the matters required to be certified under any provision of this Trust Agreement, but different officers, counsel or accountants may certify to different matters, respectively.

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

- Exhibit A: Form of Series 2017 Wastewater Enterprise Revenue Bond
- Exhibit B: Form of Disbursement Requisition from Bond Proceeds Fund

ARTICLE II THE WASTEWATER ENTERPRISE REVENUE BONDS

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

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

Section 2.03. Principal; Interest; Maturity. The Bond shall mature on October 1 in the years and in the principal amounts as shown below (each, a “Principal Component Payment”). Interest with respect thereto shall be computed at the Interest Rate of 2.125% per annum, calculated on the basis of a 365-day year, with one-half of the annual interest payable on each Interest Payment Date. The annual Principal Component Payments are as follows:

<u>Maturity Date</u>	<u>Principal</u>	<u>Annual Interest Rate</u>	<u>Maturity Date</u>	<u>Principal</u>	<u>Annual Interest Rate</u>
10/01/2018	\$68,000	2.125%	10/01/2038	\$84,000	2.125%
10/01/2019	56,000	2.125%	10/01/2039	86,000	2.125%
10/01/2020	58,000	2.125%	10/01/2040	88,000	2.125%
10/01/2021	59,000	2.125%	10/01/2041	89,000	2.125%
10/01/2022	60,000	2.125%	10/01/2042	91,000	2.125%
10/01/2023	61,000	2.125%	10/01/2043	93,000	2.125%
10/01/2024	63,000	2.125%	10/01/2044	95,000	2.125%
10/01/2025	64,000	2.125%	10/01/2045	97,000	2.125%
10/01/2026	65,000	2.125%	10/01/2046	99,000	2.125%
10/01/2027	67,000	2.125%	10/01/2047	101,000	2.125%
10/01/2028	68,000	2.125%	10/01/2048	104,000	2.125%
10/01/2029	69,000	2.125%	10/01/2049	106,000	2.125%
10/01/2030	71,000	2.125%	10/01/2050	108,000	2.125%
10/01/2031	72,000	2.125%	10/01/2051	110,000	2.125%
10/01/2032	74,000	2.125%	10/01/2052	113,000	2.125%
10/01/2033	76,000	2.125%	10/01/2053	115,000	2.125%
10/01/2034	77,000	2.125%	10/01/2054	117,000	2.125%
10/01/2035	79,000	2.125%	10/01/2055	120,000	2.125%
10/01/2036	80,000	2.125%	10/01/2056	123,000	2.125%
10/01/2037	82,000	2.125%	10/01/2057	125,000	2.125%

Section 2.04. Interest. The interest evidenced and represented by the Bond shall be payable on April 1 and October 1 of each year (each, an “Interest Payment Date”), commencing on April 1, 2018 and continuing to and including the Bond Maturity Date or upon prepayment prior thereto, and shall evidence and represent the sum of the portions of the Installment Payments designated as interest components (each, an “Interest Component Payment”) coming due on the Interest Payment Dates during the interest period immediately preceding each of the Interest Payment Dates. Interest shall be calculated with respect to the Original Purchaser’s aggregate payments for the single Bond from the respective date(s) of advances thereof, as such payments and dates thereof are endorsed on the single Bond and computed on the basis of a 365-day year, actual days elapsed. Each Interest Component Payment shall be computed by multiplying the portion of Installment Payments designated as principal with respect to such Bond by the rate of interest applicable to such Bond.

Interest on any Bond shall be payable from the Interest Payment Date next preceding the date of execution thereof, unless (i) such Bond is executed on an Interest Payment Date, in which event interest shall

be payable from such Interest Payment Date, or (ii) such Bond is executed after the close of business on the fifteenth (15th) day of the month immediately preceding the following Interest Payment Date and prior to such Interest Payment Date, in which event interest shall be payable from such Interest Payment Date, or (iii) such Bond is executed on or before March 15, 2018, in which event interest shall be payable from the date of delivery thereof; provided, however, that if at the time of execution of any Bond, interest with respect thereto is in default, interest with respect thereto shall be payable from the Interest Payment Date to which interest has previously been paid or made available for payment. Payment of interest with respect to any Bond shall be made to the person appearing on the Bond Register of the Trust Administrator as the Owner thereof as of the fifteenth (15th) day of the month preceding such Interest Payment Date, such interest to be paid as specified in Section 2.09 hereof.

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

Section 2.06. Execution. The Bonds shall be executed by and in the name of the Trust Administrator, at the written direction of either the City or the Agency, by the manual signature of an authorized signatory of the Trust Administrator.

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

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

(b) **Exchange of Bonds.** Any Bond may be exchanged at the Trust Office, for a like aggregate principal amount of Bonds of other authorized denominations of the same maturity. The Trust Administrator may require the payment by the Bond Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

Section 2.08. Bond Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the Trust Administrator, at the expense of the Owner of said Bond, shall execute and deliver a new Bond of like maturity and principal amount in authorized denominations in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trust Administrator of the Bond so mutilated. Every mutilated Bond so surrendered to the Trust Administrator shall be canceled by it and destroyed in accordance with Section 14.07 hereof, and the Trust Administrator shall deliver a certificate of destruction to the City. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trust Administrator and, if such evidence is satisfactory to the Trust Administrator and if an indemnity satisfactory to the Trust Administrator and the Agency shall be given, the Trust Administrator, at the expense of the Bond Owner, shall execute and deliver a new Bond of like tenor and maturity and numbered as the Trust Administrator shall determine in lieu of and in substitution for the Bond so lost, destroyed or stolen. The Trust Administrator may require payment of an appropriate fee for each new Bond delivered under this Section 2.08 and of the expenses which may be incurred by the Trust Administrator in carrying out the duties under this Section 2.08. Any Bond delivered under the provisions of this Section 2.08 in lieu of any Bond alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits of this Trust Agreement with all other Bond secured by this Trust Agreement. The Trust Administrator shall not be required to treat both the original Bond and any substitute Bond as being Outstanding for the purpose of determining the principal amount of Bond which may be executed and delivered hereunder or for the purpose of determining any percentage of Bond Outstanding hereunder; the Trust Administrator shall consider only the substitute Bond as Outstanding for such purpose. Notwithstanding any other provision of this Section 2.08, in lieu of delivering a new Bond which has been mutilated, lost, destroyed or stolen, and which has matured, the Trust Administrator may make payment with respect to such Bond upon receipt of indemnity satisfactory to the Trust Administrator.

Section 2.09. Payment. Except as otherwise provided herein, payment of interest due with respect to any Bond on any Interest Payment Date shall be made to the person appearing on the Bond Register as the Owner thereof as of the Regular Record Date immediately preceding such Interest Payment Date, such interest to be paid by check mailed on the Interest Payment Date by first class mail to such Owner at his address as it appears on the Bond Register as of such Regular Record Date. The principal and prepayment price with respect to a Bond at maturity or upon prior prepayment shall be payable by check denominated in lawful money of the United States of America upon surrender of the Bond at the Trust Office. If the Government is the Owner of the single, fully-registered Bond, surrender shall not be required for payment, except for final payment, and payment of principal shall be made on each Principal Payment Date and payment of interest shall be made on each Interest Payment Date to the Registered Owner, unless otherwise requested by the Registered Owner, by the Pre-Authorized Debit (PAD) payment process (i.e., the City's payments shall be electronically debited from the Installment Payment Fund on each Interest Payment Date in accordance with the PAD process established by Form SF-5510 and Form RD 3550-28, both entitled "Authorization Agreement for Pre-Authorized Payments").

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

the holding and ownership of Bonds shall be sufficient for any purpose of this Trust Agreement (except as otherwise herein provided), if made in the following manner:

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

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

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

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

Section 2.12. CUSIP Numbers. The Trust Administrator, the City and the Agency shall not be liable for any defect or inaccuracy in any CUSIP number that appears on any Bond or in any prepayment notice. The Trust Administrator may, in its discretion, include in any prepayment notice a statement to the effect that any CUSIP numbers on the Bond have been assigned by an independent service and are included in such notice solely for the convenience of the Owners and that neither the Trust Administrator, the City nor the Agency shall be liable for any inaccuracies in such numbers. CUSIP numbers shall not be required if the Government is the Original Purchaser of a single, fully registered Bond.

ARTICLE III APPLICATION OF BOND PROCEEDS; PREPAYMENT OF 2013 NOTES

Section 3.01. Bond Proceeds Fund. The Trust Administrator shall establish the Bond Proceeds Fund and shall keep such fund separate and apart from all other funds and moneys held by the Trust Administrator; and shall administer such fund and account as provided herein.

Section 3.02. Payment of Project Costs.

(a) Except as provided in Section 3.03, amounts in the Bond Proceeds Fund shall be disbursed for Project Costs in accordance with the Refunding Instructions.

(b) The Trust Administrator shall be responsible for the safekeeping and investment (in accordance with Section 8.02 hereof) of the moneys held in the Bond Proceeds Fund and the payment thereof in accordance with this Section 3.02 and Section 3.03.

Section 3.03. Payment of Delivery Costs.

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

(b) The Trust Administrator shall disburse moneys in the Bond Proceeds Fund to pay the Delivery Costs only upon a receipt of a sequentially numbered requisition, with bills, invoices or statements attached, signed by a City Representative (and, if required, by the Government as the Bond Owner) setting forth the amounts to be disbursed for payment or reimbursement of Delivery Costs and the name and address of the person or persons to whom said amounts are to be disbursed, stating that the amounts to be disbursed are for Delivery Costs properly chargeable to the Bond Proceeds Fund as Delivery Costs.

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

ARTICLE IV PREPAYMENT OF BONDS

Section 4.01. Prepayment.

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

(b) **Prepayment from Net Proceeds of Insurance and Condemnation and from Unexpended Proceeds.** The Bonds are subject to prepayment in whole on any date and in part on

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

(c) Optional Prepayment. In addition, the Bonds are subject to prepayment in whole or in part at any time, at the principal amount with respect thereto, without premium, and with accrued interest to the date fixed for prepayment from the proceeds of optional prepayments made by the City pursuant to the Installment Sale Agreement.

Section 4.02. Selection of Bonds for Prepayment. Whenever provision is made in this Trust Agreement for the prepayment of Bonds and less than all Outstanding Bonds are called for prepayment, the Trust Administrator shall select Bonds for prepayment in inverse order of maturity, unless otherwise requested by City and agreed to by Original Purchaser in its reasonable discretion. The Trust Administrator shall promptly notify the City and the Agency in writing of the Bonds so selected for prepayment, and the City or the Agency shall immediately thereafter revise Exhibit B of the Installment Sale Agreement to reflect such prepayment and shall be and become for all purposes thereafter the “Amended Exhibit B to the Installment Sale Agreement.”

Section 4.03. Notice of Prepayment.

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

(b) Contents. All notices of prepayment shall be dated and shall state: (i) the prepayment date, (ii) the prepayment price, (iii) if less than all Outstanding Bonds are to be prepaid, the identification (and, in the case of partial prepayment, the respective principal amounts) of the Bonds to be prepaid, (iv) that on the prepayment date the prepayment price will become due and payable with respect to each such Bond or portion thereof called for prepayment, and that interest with respect thereto shall cease to accrue from and after said date, (v) the place where such Bonds are to be surrendered for payment of the prepayment price, which place of payment shall be the Trust Office.

(c) Deposit. Prior to the mailing of any prepayment notice (other than a prepayment notice relating to Bonds that are to be refunded with the proceeds of refunding bonds or other refunding obligations), the City shall deposit, or cause to be deposited, with the Trust Administrator an amount of money sufficient to pay the prepayment price of all the Bonds or portions of Bonds which are to be prepaid on the applicable prepayment date. In the case of a prepayment notice relating to Bonds that are to be refunded, the City shall deposit, or cause to be deposited, with the Trust Administrator on or prior to the applicable prepayment date, an amount of money sufficient to pay

the prepayment price of all the Bonds or portions of Bonds which are to be prepaid on such prepayment date.

(d) Prepayment. Notice of prepayment having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the prepayment date, become due and payable at the prepayment price therein specified, and from and after such date (unless the City shall default in the payment of the prepayment price) interest with respect to such Bonds or portions of Bonds shall cease to be payable. Upon surrender of such Bonds for prepayment in accordance with said notice, such Bonds shall be paid by the Trust Administrator at the prepayment price. Installments of interest due on or prior to the prepayment date shall be payable as herein provided for payment of interest. Upon surrender for any partial prepayment of any Bond, there shall be executed and delivered for the Owner a new Bond or Bonds of the same maturity in the amount of the unprepaid principal. All Bonds which have been prepaid shall be canceled by the Trust Administrator, shall not be reissued and shall be destroyed pursuant to Section 14.07. If the Government is the Owner, prepayment shall be endorsed on the single, fully registered Bond registered to the Government.

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

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

Section 4.05. Effect of Notice of Prepayment. After notice has been given and the moneys for the prepayment, including interest to the applicable Interest Payment Date and premium, if any, having been set aside in the Installment Payment Fund, the Bond to be redeemed shall become due and payable on the Interest Payment Date, and, upon presentation and surrender thereof at the Trust Office specified in such notice, such Bond shall be paid at the unpaid principal amount with respect thereto, and any unpaid and accrued interest to the Interest Payment Date.

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

Section 4.06. Purchase of Bonds. In lieu of prepayment of Bonds as provided in this Article IV, amounts held by the Trust Administrator for such prepayment may also be used on any Interest Payment Date,

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

ARTICLE V INSTALLMENT PAYMENTS; INSTALLMENT PAYMENT FUND

Section 5.01. Assignment of Rights in Installment Sale Agreement. The Agency has, pursuant to the Assignment Agreement, transferred, assigned and set over to the Trust Administrator all of its rights, title and interest in the Installment Sale Agreement (excepting only its rights under Sections 5.08, 6.03 and 7.04 thereof), including but not limited to all of the Agency's rights to receive and collect all of the Installment Payments, any Prepayment and all other amounts required to be deposited in the Installment Payment Fund pursuant to the Installment Sale Agreement or pursuant hereto.

All Installment Payments, any Prepayment and such other amounts which the Agency may at any time be entitled, shall be paid directly to the Trust Administrator and, in the event of the receipt or collection of Installment Payments by the Agency, such payments shall be deemed to be held or to have been collected or received by the Agency as agent of the Trust Administrator.

Section 5.02. Establishment of Installment Payment Fund. The Trust Administrator shall establish the Installment Payment Fund. All moneys at any time deposited by the Trust Administrator in the Installment Payment Fund shall be held by the Trust Administrator in trust for the benefit of the Owners of the Bonds. So long as any Bonds are Outstanding, neither the City nor the Agency shall have any beneficial right or interest in the Installment Payment Fund or the moneys deposited therein, except only as provided in this Trust Agreement, and such moneys shall be used and applied by the Trust Administrator as hereinafter set forth.

Section 5.03. Deposits. There shall be deposited in the Installment Payment Fund all Installment Payments, Reserve Installment Payments and Prepayments received by the Trust Administrator, including any moneys received by the Trust Administrator for deposit therein pursuant to Sections 4.01, 5.05, 6.02, hereof or Article IV of the Installment Sale Agreement, and any other moneys required to be deposited therein pursuant to the Installment Sale Agreement or pursuant to this Trust Agreement.

Section 5.04. Application of Moneys in the Installment Payment Fund. All amounts in the Installment Payment Fund shall be used and withdrawn by the Trust Administrator for deposit in the following respective funds (each of which is hereby created and each of which the Trust Administrator or the City hereby covenants and agrees to cause to be maintained so long as any Bonds are Outstanding) at the following times and in the following order of priority (the Trust Administrator shall not withdraw from the Installment Payment Fund an amount in excess of the debt service scheduled to be paid by the Installment Payments

deposited therein) and the moneys in each of such funds shall be applied, used and withdrawn only for the purposes and uses hereinafter authorized.

(a) ***Interest Fund.*** The Trust Administrator shall transfer from the Installment Payment Fund and deposit in the Interest Fund for receipt before April 1 and October 1 of each year, beginning on April 1, 2018, an amount of money from the Installment Payment Fund which is equal to the aggregate amount of the interest becoming due and payable on all Outstanding Bonds on such Interest Payment Date. No deposit need be made into the Interest Fund if the amount contained therein is at least equal to the amount of the interest becoming due and payable on all Outstanding Bonds on such Interest Payment Date. All money in the Interest Fund shall be used and withdrawn by the Trust Administrator solely for the purpose of paying the interest on the Outstanding Bonds; provided that any earnings on deposit in the Interest Fund after payment of interest on Bonds on an Interest Payment Date shall be transferred to the Installment Payment Fund.

(b) ***Principal Fund.*** The Trust Administrator shall deposit in the Principal Fund before October 1 of each year, an amount of money from the Installment Payment Fund equal to the Principal Component Payment payable on such Principal Payment Date. All money in the Principal Fund shall be used by the Trust Administrator to pay or purchase the Bonds in accordance with Article IV hereof; provided that any earnings on deposit in the Principal Fund after payment of Principal Component Payment of the Bonds on a Principal Payment Date shall be transferred to the Installment Payment Fund.

(c) ***Reserve Fund.*** All moneys at any time on deposit in the Reserve Fund shall be held by the Trust Administrator in trust for the benefit of the Owners of the Bonds, and applied solely as provided in Article IV herein.

(d) ***Short-Lived Assets Reserve Fund.*** All moneys at any time on deposit in the Short-Lived Assets Reserve Fund shall be held by the Trust Administrator, and applied solely as provided in Article VI herein.

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

ARTICLE VI RESERVE FUNDS

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

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

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

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

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

Section 6.06. Replenishment of Reserve Fund. The City shall maintain or cause to be maintained in the Reserve Fund an amount equal to the amounts required to be deposited therein pursuant to Section 3.11 of the Installment Sale Agreement, and thereafter the amount of the Reserve Requirement. If, on any date of computation, amounts on hand in the Reserve Fund are less than such required amounts because of a transfer therefrom made in accordance with Section 6.04 hereof, the City shall pay to the Trust Administrator, within one (1) year from the date of such deficiency if caused by a deficiency in Net Revenues, an amount necessary to bring the amounts on deposit in the Reserve Fund to the amount required to be maintained therein; provided, however, that the period of time permitted herein for the replenishment of the Reserve Fund by the City shall not affect any other provision of this Trust Agreement.

Section 6.07. Establishment and Application of Short-Lived Assets Reserve Fund. The Trust Administrator shall establish and maintain a separate “Short-Lived Assets Reserve Fund” as a special reserve fund for repair and/or replacement of short-lived assets of the Wastewater System, and shall keep such fund separate and apart from all other funds and moneys held by the Trust Administrator.

In accordance with Section 3.12 of the Installment Sale Agreement, the Trust Administrator shall deposit an initial amount of \$34,216 into the Short-Lived Assets Reserve Fund on or before the Closing Date, and shall annually thereafter deposit \$34,216 into the Short-Lived Assets Reserve Fund by not later than June 30 of each year, starting with fiscal year ending June 30, 2018, and continuing for as long as any of the Bonds remain outstanding.

The City may withdraw amounts on deposit in the Short-Lived Assets Reserve Fund from time to time to pay for timely replacement of “short-lived assets” of the Wastewater System, which for purposes of this Section shall mean any component or assets of the Wastewater System, including, without limitation,

pumps, paint and small equipment, that will need to be repaired or replaced over a one to fifteen-year period, the cost of which is not included within the definition of Operation and Maintenance Costs.

Notwithstanding the foregoing, before each June 30 the City shall evaluate the status and condition of short-lived assets of the Wastewater System and, if such evaluation suggests that a lesser or greater deposit is required in order to provide for the timely replacement of any short-lived assets, the City may upon consultation by the City with the Government decrease the amount of the annual deposit into the Short-Lived Assets Reserve Fund if a lesser amount is indicated, but shall increase the amount of the annual deposit in to the Short-Lived Assets Reserve Fund if a greater amount is indicated.

Upon the redemption in full of all outstanding Bonds, the City shall close the Short-Lived Assets Reserve Fund and the balance therein shall be released to the City and used for any legally permissible purpose of the Wastewater System.

ARTICLE VII INSURANCE AND CONDEMNATION FUND; INSURANCE; EMINENT DOMAIN

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

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

(a) If the City determines that such eminent domain proceedings have not materially affected the operation of the Project, or the ability of the City to meet any of its obligations under the Installment Sale Agreement, and if the City determines that such proceeds are: (i) not needed for repair, replacement or rehabilitation of the Project, upon receipt of a Written Certificate from the City the Trust Administrator shall transfer such proceeds to the Installment Payment Fund to be credited towards the prepayments required to be paid pursuant to Section 4.03 of the Installment Sale Agreement and applied to the prepayment of Bonds in the manner provided in Article IV hereof, or (ii) needed for repair or rehabilitation of the Project, upon receipt of a Written Certificate from the City the Trust Administrator shall pay to the City, or to its order, from said proceeds such amounts as the City may expend for such repair or rehabilitation, upon the filing of requisitions of the City Representative, substantially in the form described in Section 3.02 in connection with the payment of Project Costs.

(b) If (i) less than all of the Project shall have been taken in such eminent domain proceedings, and if the City determines that such eminent domain proceedings have materially

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

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

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

ARTICLE VIII MONEYS IN FUNDS; INVESTMENT

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

Section 8.02. Investments Authorized. Moneys held by the Trust Administrator hereunder shall be invested and reinvested by the Trust Administrator, to the maximum extent practicable, in Permitted Investments. Unless otherwise directed, the Trust Administrator shall invest the affected moneys in Permitted Investments described in paragraph (f) of the definition thereof. A City Representative may, by written order filed with the Trust Administrator, direct investment of moneys held by the Trust Administrator in specific Permitted Investments. Investments purchased with moneys on deposit in the Reserve Fund shall have a term not greater than five years. Investments, if registrable, shall be registered in the name of and held by the Trust Administrator or the Trust Administrator's nominee. Such investments and reinvestments shall be made giving full consideration to the time at which funds are required to be available. The Trust Administrator may act as principal or agent in the making or disposing of any investment. The Trust Administrator shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with this Article VIII. The Trust Administrator shall be entitled to rely conclusively upon the written instructions of a City Representative directing investments as to the fact that each investment is permitted by the laws of the State and constitutes a Permitted Investment hereunder, and the Trust Administrator shall not be required to make further investigation with respect thereto. To the extent that any of the requirements concerning any Permitted Investment embodies a legal conclusion, the Trust Administrator shall be entitled to conclusively rely upon a Written Certificate or certificate from the appropriate party or an opinion of counsel to such party that such requirement has been met.

Section 8.03. Allocation of Earnings. All interest or income received by the Trust Administrator on investment of the Bond Proceeds Fund and Installment Payment Fund shall, as received, be retained in the applicable fund. Amounts retained in the Installment Payment Fund pursuant to this Section 8.03 shall be applied as a credit against the Installment Payment due by the City pursuant to the Installment Sale Agreement on the Installment Payment Date following the date of deposit. All interest or income received by the Trust Administrator on investment of the Reserve Fund shall be retained in the Reserve Fund in the event that amounts on deposit in the Reserve Fund are less than the Reserve Requirement. Pursuant to Section 6.03 hereof, in the event that amounts then on deposit in the Reserve Fund equal or exceed the Reserve Requirement, such excess shall be transferred to the Installment Payment Fund and shall be applied as a credit against the Installment Payment due by the City pursuant to the Installment Sale Agreement on the Installment Payment Date following the date of deposit. Transfers to the Installment Payment Fund from the Reserve Fund shall be made by the Trust Administrator on or prior to each Installment Payment Date.

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

Section 8.05. Acquisition, Disposition and Valuation of Investments.

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

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

ARTICLE IX THE TRUST ADMINISTRATOR

Section 9.01. Appointment of Trust Administrator. The Trust Administrator is hereby appointed by the Agency and the City for the purpose of receiving all moneys required to be deposited with the Trust Administrator hereunder and to allocate, use and apply the same as provided in this Trust Agreement.

(a) **General.** The Trust Administrator is hereby authorized to pay or redeem the Bonds when duly presented for payment at maturity, or on prepayment, and to cancel all Bonds upon payment thereof. The Trust Administrator shall keep accurate records of all funds administered by it and of all Bonds paid and discharged. The Trust Administrator shall be compensated for its services rendered pursuant to the provisions of this Trust Agreement and shall be reimbursed for costs and

expenses, including attorney's fees, incurred in connection therewith, subject to the provisions of any written agreement between the Trust Administrator and the City.

(b) Successor. So long as no Event of Default shall have occurred and be continuing, the City may, with the written consent of the Owners, remove the Trust Administrator initially appointed, and any successor thereto, on thirty (30) days written notice and may appoint a successor or successors thereto; provided that any such successor shall be a bank or trust company which shall be a corporation organized and doing business under the laws of any state, the City or the United States of America, authorized under such laws to exercise corporate trust powers, which shall have (or, in the case of a corporation included in a bank holding company system, the related bank holding company shall have) a combined capital and surplus of at least fifty million dollars (\$50,000,000), and subject to supervision or examination by federal or state authority, so long as any Bonds are Outstanding. If such corporation publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to then for the purpose of this Section 9.01 the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. Any removal of the Trust Administrator shall not be effective until written acceptance of appointment by the successor Trust Administrator.

(c) Resignation. The Trust Administrator may at any time resign by giving written notice to Agency and the City and by providing notice by first class mail, postage prepaid, to the Owners at their addresses as shown on the Bond Register maintained by the Trust Administrator. Said mailing shall be made prior to the proposed effective date of resignation. Upon receiving such notice of resignation, the City, with the written consent of the Owners, shall promptly appoint a successor Trust Administrator by an instrument in writing; *provided, however*, that in the event that the City does not appoint a successor Trust Administrator within thirty (30) days following receipt of such notice of resignation, the Agency may appoint a successor Trust Administrator and in the event that Agency does not appoint such successor Trust Administrator, the resigning Trust Administrator, at the expense of the City, may petition any appropriate court having jurisdiction to appoint a successor Trust Administrator. Any resignation or removal of the Trust Administrator and appointment of a successor Trust Administrator shall become effective upon acceptance of appointment by the successor Trust Administrator and receipt by the Trust Administrator of any fees and expenses due and payable to it.

Section 9.02. Liability of Trust Administrator. The recitals of facts, covenants and agreements herein and in the Bonds contained shall be taken as statements, covenants and agreements of Agency and the City, and the Trust Administrator neither assumes any responsibility for the correctness of the same, nor makes any representations as to the validity or sufficiency of this Trust Agreement or of the Bonds nor shall incur any responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Bonds assigned to or imposed upon the Trust Administrator.

Section 9.03. Merger or Consolidation. Any company into which the Trust Administrator may be merged or converted or with which any of them may be consolidated or any company resulting from any merger, conversion or consolidation to which any of them shall be a party or any company to which the Trust Administrator may sell or transfer all or substantially all of its corporate trust business, provided that such

company shall be eligible under Section 9.01, shall be the successor to the Trust Administrator without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

Section 9.04. Protection and Rights of the Trust Administrator. The following provisions shall apply to the Trust Administrator in the event the Trust Administrator is not then an officer or employee of the City and shall also apply to the Trust Administrator in the event the Trust Administrator is then an officer or employee of the City, but only to the extent that such provisions do not conflict with such Trust Administrator's duties as a City officer or employee.

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

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

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

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

(e) **Owner.** The Trust Administrator may become the Owner of Bonds with the same rights it would have if it were not Trust Administrator; may acquire and dispose of other bonds or evidence of indebtedness of the City with the same rights it would have if it were not the Trust Administrator; and may act as a depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Bonds, whether or not such committee shall represent the Owners of the majority in principal amount of the Bond then Outstanding.

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

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

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

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

(j) Released and Unclaimed Funds. The Trust Administrator shall not be accountable for the use or application by the City or any other party of any funds which the Trust Administrator has released under this Trust Agreement. Subject to applicable escheat laws, any amounts unclaimed two (2) years after the final prepayment or maturity date of the Bond, whichever occurs first, shall be paid by the Trust Administrator to the City, and thereafter, the Owner of any Bond remaining unpaid shall look to the City for the payment of such Bond.

Section 9.05. Appointment of Trust Administrator. In the event that an Event of Default shall occur or if it shall otherwise be necessary for the Trust Administrator to enforce payment of the Installment Payments, Prepayments or any other amount required to be deposited into the Installment Payment Fund or

the Insurance and Condemnation Fund, or to exercise any of the remedies set forth in Article XIII hereof, or if it is determined that the Trust Administrator is unable to perform any of the other duties hereunder, the City, with the written consent of the Government as the Owner, shall appoint a bank or trust company as Trust Administrator hereunder (the "Trust Administrator") to succeed to the duties and responsibilities of the Trust Administrator hereunder, such appointment to be effective immediately upon written notice thereof to the Trust Administrator. Any Trust Administrator appointed in such circumstances shall meet the requirements of Section 9.01(b) hereof. Upon such appointment, the term "Trust Administrator" in this Agreement shall also refer to such Trust Administrator.

ARTICLE X MODIFICATION OR AMENDMENT OF AGREEMENTS

Section 10.01. Amendments Permitted.

(a) **With Consent.** This Trust Agreement and the rights and obligations of the Owners of the Bonds and the Installment Sale Agreement and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental agreement which shall become effective when the written consent of the Owners of at least sixty percent (60%) in aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 10.03, shall have been filed with the Trust Administrator. No such modification or amendment shall (1) extend or have the effect of extending the fixed maturity of any Bond or reducing the interest rate with respect thereto or extending the time of payment of interest, or reducing the amount of principal thereof or reducing any premium payable upon the prepayment thereof, without the express consent of the Owner of such Bond, or (2) reduce or have the effect of reducing the percentage of Bonds required for the affirmative vote or written consent to an amendment or modification of the Installment Sale Agreement, or (3) modify any of the rights or obligations of the Trust Administrator without its written assent thereto. Any such supplemental agreement shall become effective as provided in Section 10.02.

(b) **Without Consent.** This Trust Agreement and the rights and obligations of the Owners of the Bonds and the Installment Sale Agreement and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental agreement, without the consent of any such Owners, but only to the extent permitted by law and only (1) to cure, correct or supplement any ambiguous or defective provision contained herein or therein, or (2) in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable and which shall not, in the opinion of nationally recognized bond counsel, materially adversely affect the interest of the Owners of the Bonds, or (3) if and to the extent specified in an opinion of nationally recognized bond counsel filed with the City, the Agency and the Trust Administrator, to make such additions, deletions or modifications as may be necessary to assure compliance with section 148(f) of the Tax Code or otherwise as may be necessary to assure exclusion from gross income for purposes of federal income taxation of the interest component of Installment Payments. Any such supplemental agreement shall become effective upon its execution and delivery by the parties hereto or thereto as the case may be.

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

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

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

(b) **Effective.** Such supplemental agreement shall not become effective unless there shall be filed with the Trust Administrator the written consent of the Owners of at least sixty percent (60%) in aggregate principal amount of the Bonds then Outstanding (exclusive of Bonds disqualified as provided in Section 10.03) and a notice shall have been mailed as hereinafter provided in this Section 10.02. Each such consent shall be effective only if accompanied by proof of ownership of the Bond for which such consent is given, which proof shall be such as is permitted by Section 2.11. Any such consent shall be binding upon the Owner of the Bond giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trust Administrator within five (5) Business Days of the date when the notice of consent hereinafter in this Section 10.02 provided for has been mailed. Any revocation received by the Trust Administrator later than five (5) Business Days after such notice has been mailed shall be of no force and effect.

(c) **Notice.** After the Owners of the required percentage of Bonds shall have filed their consents to such supplemental agreement, the Trust Administrator shall mail a notice to the Owners of the Bonds in the manner hereinbefore provided in this Section 10.02 for the mailing of such supplemental agreement at the notice of adoption thereof, stating in substance that such supplemental agreement has been consented to by the Owners of the required percentage of Bonds and will be effective as provided in this Section 10.02 (but failure to mail copies of said notice shall not affect the validity of such supplemental agreement or consents thereto). A record, consisting of the papers required by this Section 10.02 to be filed with the Trust Administrator, shall be conclusive proof of the matters therein stated until the contrary is proved. Such supplemental agreement shall be deemed conclusively binding upon the parties hereto and the Owners of all Bonds at the expiration of sixty (60) days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such sixty (60) day period.

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

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

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

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

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

ARTICLE XI COVENANTS

Section 11.01. Compliance with and Enforcement of Installment Sale Agreement. The City and the Agency covenant and agree with the Owners of the Bonds to perform all obligations and duties imposed on them under the Installment Sale Agreement and this Trust Agreement. The City or the Agency, immediately upon receiving or giving any notice or communication or other document in any way relating to or affecting their respective interests in the Project which may or can in any manner affect such interest, will deliver the same, or a copy thereof, to the Trust Administrator. The City will not do or permit anything to be done, or omit or refrain from doing anything, in any case where any such act done or permitted to be done, or any such omission of or refraining from action, would or might be a ground for cancellation or termination of the Installment Sale Agreement by the Agency thereunder.

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

the Project, or any part thereof, to be sold for any taxes, assessments or other charges whatsoever, or to be forfeited therefor.

Section 11.03. Observance of Laws and Regulations. The City will well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it with respect to the Wastewater System by contract, or prescribed by any law of the United States, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the City with respect to the Wastewater System to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 11.04. Prosecution and Defense of Suits. The City shall promptly, upon request of the Trust Administrator or any Bond Owner holding at least 25% in principal amount of the Bonds from time to time, take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Project, whether now existing or hereafter developing and shall, to the extent permitted by law, prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and shall indemnify and save the Trust Administrator and every Bond Owner harmless from all loss, cost, damage and expense, including attorneys' fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceeding.

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

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

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

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

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

Section 11.10. No Arbitrage. The City shall not take, or permit or suffer to be taken by the Trust Administrator or otherwise, any action with respect to the proceeds of the Bonds which, if such action had

been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Bonds or the Installment Sale Agreement to be “arbitrage bonds” within the meaning of section 148 of the Tax Code.

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

Section 11.12. Small Issuer Exemption from Bank Nondeductibility Restriction. The City and Agency hereby designate the Installment Sale Agreement and Bonds for purposes of paragraph (3) of section 265(b) of the Tax Code and represents that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under section 103(a) of the Code) from gross income for federal income tax purposes (excluding (i) private activity bonds, as defined in section 141 of the Code, except certain qualified 501(c)(3) bonds as defined in section 145 of the Code and (ii) current refunding obligations to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation), including the Installment Sale Agreement, has been or will be issued by the City and Agency, including all subordinate entities of the City, during the calendar year 2017.

Section 11.13. Graduation. The City and the Agency covenant to use best efforts to refinance the unpaid balance of the Bonds, in whole or in part, upon the written request of the Government, if at any time it shall appear to the Government that either the City or the Agency is able to refinance the Bonds for savings by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).

ARTICLE XII LIMITATION OF LIABILITY

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

Section 12.02. No Liability of the Agency for Trust Administrator Performance. In the event that a Trust Administrator shall be appointed pursuant to Section 9.05 to perform the duties of Trust Administrator hereunder, neither the City nor the Agency shall have any obligation or liability to the other party or to the Owners of the Bonds with respect to the performance by such Trust Administrator of any duty imposed upon such Trust Administrator under this Trust Agreement.

Section 12.03. Indemnification of Trust Administrator. In the event that a Trust Administrator shall be appointed pursuant to Section 9.05 to perform the duties of Trust Administrator hereunder, the City shall to the extent permitted by law indemnify and save such Trust Administrator, its officers, employees,

directors and agents harmless from and against all claims, losses, costs, expenses, liability and damages, including legal fees and expenses, arising out of:

- (a) the use, maintenance, condition or management of, or from any work or thing done on, the Project by the Agency or the City;
- (b) any breach or default on the part of the Agency or the City in the performance of any of their respective obligations under the Installment Sale Agreement, this Trust Agreement and any other agreement made and entered into for purposes of the Project;
- (c) any act of the Agency or the City or of any of their respective agents, contractors, servants, employees or licensees with respect to the Project;
- (d) any act of any assignee of, or purchaser from the Agency or the City or of any of its or their respective agents, contractors, servants, employees or licensees with respect to the Project;
- (e) the Acquisition and Construction, installation and equipping of the Project or the authorization of payment of Project Costs or Delivery Costs;
- (f) the actions of any other party, including but not limited to (i) the ownership, operation or use of the Project by the Agency or the City, (ii) the Trust Administrator's exercise and performance of its powers and duties hereunder, or (iii) the offering and sale of the Bonds. No indemnification will be made under this Section 12.03 or elsewhere in this Trust Agreement for willful misconduct or negligence under this Trust Agreement by such Trust Administrator, its officers or employees. The City's obligations hereunder shall remain valid and binding notwithstanding maturity and payment of the Bonds or resignation or removal of such Trust Administrator.

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

ARTICLE XIII EVENTS OF DEFAULT AND REMEDIES OF BOND OWNERS

Section 13.01. Assignment of Rights. Pursuant to the Assignment Agreement, the Agency transfers, assigns and sets over to the Trust Administrator all of the Agency's rights under the Installment Sale Agreement (excepting only the Agency's rights under Sections 5.08, 6.03 and 7.04 thereof), including without limitation the Agency's rights to exercise such rights and remedies conferred on the Agency pursuant to the Installment Sale Agreement as may be necessary or convenient (i) to enforce payment of the Installment Payments, Prepayments and any other amounts required to be deposited in the Installment Payment Fund or the Insurance and Condemnation Fund, and (ii) otherwise to exercise the Agency's rights and take any action to protect the interests of the Trust Administrator or the Bond Owners in an Event of Default.

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

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

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

Section 13.03. Application of Funds. All moneys received by the Trust Administrator pursuant to any right given or action taken under the provisions of this Article XIII or of Article VII of the Installment Sale Agreement, shall be applied by the Trust Administrator in the order following upon presentation of the several Bonds and the stamping thereon of the payment if only partially paid or upon the surrender thereof if fully paid:

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

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

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

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

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

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

Section 13.08. Limitation on Bond Owners' Right to Sue. No Owner of any Bond shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Trust Agreement, unless (a) such Owner shall have previously given to the Trust Administrator written notice of the occurrence of an Event of Default hereunder; (b) the Owners of at least a majority in aggregate principal amount of all the Bond then Outstanding shall have made written request upon the Trust Administrator to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trust Administrator reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trust Administrator shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trust Administrator.

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

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

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

ARTICLE XIV MISCELLANEOUS

Section 14.01. Defeasance. If all Outstanding Bonds shall be paid and discharged in any one or more of the following ways:

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

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

(c) **Escrow.** By irrevocably depositing with the Trust Administrator or an escrow agent, in trust, cash or Defeasance Obligations in such amount as an independent nationally recognized certified public accountant shall determine in a written report delivered to the Trust Administrator or escrow agent will, together with the interest to accrue thereon and moneys then on deposit in the Installment Payment Fund and the Reserve Fund, if required, together with the interest to accrue thereon, be fully sufficient to pay and discharge all Bonds (including all principal and interest) at or before their respective maturity dates; or

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

(e) **Effect.** Notwithstanding that any Bonds shall not have been surrendered for payment, all rights hereunder of the Owners of the Bonds and all obligations of the Agency, the Trust Administrator and the City under this Trust Agreement with respect to all Outstanding Bonds shall cease and terminate, except only the obligation of the Trust Administrator to pay or cause to be paid,

from Installment Payments paid by or on behalf of the City from deposits pursuant to paragraphs (b) through (d) of this Section 14.01, to the Owners of the Bonds not so surrendered and paid all sums due with respect thereto, and in the event of deposits pursuant to paragraphs (b) through (d) of this Section 14.01, the Bonds shall continue to represent direct, undivided and fractional interests of the Owners thereof in Installment Payments under the Installment Sale Agreement.

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

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

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

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

If to the City:

City of Lakeport
225 Park Street
Lakeport, CA 95453
Attention: City Manager

If to the Agency:

Municipal Financing Agency of Lakeport
225 Park Street
Lakeport, CA 95453
Attention: Executive Director

If to the Trust Administrator:

Finance Director
City of Lakeport
225 Park Street
Lakeport, CA 95453
Attention: Finance Director

If to the Government:

Rural Development, United States
Department of Agriculture
777 Sonoma Ave "E" St Annex
Santa Rosa, CA 95404
Attention: Area Specialist

And

Rural Development, United States
Department of Agriculture
430 G Street
Suite 4169
Davis, CA 95616
Attention: Community Programs Specialist

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

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

Section 14.06. Destruction of Canceled Bond. Whenever in this Trust Agreement provision is made for the surrender to or cancellation by the Trust Administrator and the delivery to the City of any Bond, the Trust Administrator may, in lieu of such cancellation and delivery, destroy such Bond and deliver a certificate of such destruction to the City.

Section 14.07. Headings. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Trust Agreement. All references herein to "Articles," "Sections," and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Trust Agreement; and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section or subdivision hereof.

Section 14.08. Limitation of Rights to Parties and Bond Owners. Nothing in this Trust Agreement or in the Bonds expressed or implied is intended or shall be construed to give to any person other than the Agency, the City, the Trust Administrator and the Owners of the Bonds, any legal or equitable right, remedy or claim under or in respect of this Trust Agreement or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Agency, the City, the Trust Administrator and the Owners of the Bonds delivered hereunder.

Section 14.09. Waiver of Notice. Whenever in this Trust Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 14.10. Payments Due on Other than Business Day. If the date for making any payment as provided in this Trust Agreement is not a Business Day, such payment must be made on the previous Business Day.

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

Section 14.12. Separability of Invalid Provisions. In case any one or more of the provisions contained in this Trust Agreement or in the Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Trust Agreement, and this Trust Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The parties hereto hereby declare that they would have entered into this Trust Agreement and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the delivery of the Bonds pursuant hereto irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases of this Trust Agreement may be held illegal, invalid or unenforceable.

Section 14.13. Execution in Counterparts. This Trust Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

* * * * *

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

FINANCE DIRECTOR OF THE CITY OF LAKEPORT
as Trust Administrator

By _____
Finance Director

MUNICIPAL FINANCING AGENCY OF LAKEPORT

By _____
Executive Director

CITY OF LAKEPORT, CALIFORNIA

By _____
City Manager

Attest

By _____
City Clerk

EXHIBIT A**FORM OF REVENUE BOND**

No. R-1

\$3,433,000.00

**UNITED STATES OF AMERICA
STATE OF CALIFORNIA****MUNICIPAL FINANCING AGENCY OF LAKEPORT
(City of Lakeport, California)
SERIES 2017 WASTEWATER ENTERPRISE REVENUE BONDS
(Wastewater System Improvement Project)
BANK QUALIFIED**

INTEREST PAYMENT DATES	RATE OF INTEREST	DATED DATE
April 1 and October 1 as described below	2.125%	December 6, 2017

REGISTERED OWNER: UNITED STATES OF AMERICA, ACTING THROUGH RURAL UTILITIES SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE

PRINCIPAL AMOUNT:

THIS IS TO CERTIFY THAT the Registered Owner identified above, or registered assigns, as the registered owner (the "Registered Owner") of this Series 2017 Wastewater Enterprise Revenue Bond (the "Bond") is the owner of a direct, undivided fractional interest in installment payments (the "Installment Payments") payable under the Installment Sale Agreement dated as of December 1, 2017 (the "Installment Sale Agreement") by and between the MUNICIPAL FINANCING AGENCY OF LAKEPORT, a California joint powers authority duly organized and existing pursuant to the laws of the State of California (the "Agency"), and the CITY OF LAKEPORT (the "City"), a general law city and public agency duly organized and validly existing under the laws of the State of California. The Installment Payments and certain other rights and interests under the Installment Sale Agreement have been assigned to the Finance Director of the City, as trust administrator (the "Trust Administrator"), having an office in the location described in the Trust Agreement referred to below.

The Registered Owner of this Bond is entitled to receive, subject to the terms of the Installment Sale Agreement, on the Maturity Dates identified below, or any earlier prepayment date, the Principal Amounts identified below representing a direct, undivided fractional share of the portion of the Installment Payments designated as principal as follows:

<u>Maturity Date</u>	<u>Principal</u>	<u>Annual Interest Rate</u>	<u>Maturity Date</u>	<u>Principal</u>	<u>Annual Interest Rate</u>
10/01/2018	\$68,000	2.125%	10/01/2038	\$84,000	2.125%
10/01/2019	56,000	2.125%	10/01/2039	86,000	2.125%
10/01/2020	58,000	2.125%	10/01/2040	88,000	2.125%
10/01/2021	59,000	2.125%	10/01/2041	89,000	2.125%
10/01/2022	60,000	2.125%	10/01/2042	91,000	2.125%
10/01/2023	61,000	2.125%	10/01/2043	93,000	2.125%
10/01/2024	63,000	2.125%	10/01/2044	95,000	2.125%
10/01/2025	64,000	2.125%	10/01/2045	97,000	2.125%
10/01/2026	65,000	2.125%	10/01/2046	99,000	2.125%
10/01/2027	67,000	2.125%	10/01/2047	101,000	2.125%
10/01/2028	68,000	2.125%	10/01/2048	104,000	2.125%
10/01/2029	69,000	2.125%	10/01/2049	106,000	2.125%
10/01/2030	71,000	2.125%	10/01/2050	108,000	2.125%
10/01/2031	72,000	2.125%	10/01/2051	110,000	2.125%
10/01/2032	74,000	2.125%	10/01/2052	113,000	2.125%
10/01/2033	76,000	2.125%	10/01/2053	115,000	2.125%
10/01/2034	77,000	2.125%	10/01/2054	117,000	2.125%
10/01/2035	79,000	2.125%	10/01/2055	120,000	2.125%
10/01/2036	80,000	2.125%	10/01/2056	123,000	2.125%
10/01/2037	82,000	2.125%	10/01/2057	125,000	2.125%

and to receive on April 1, 2018, and semiannually thereafter on October 1 and April 1 of each year (each an “Interest Payment Date”) until payment in full of said principal the Registered Owner’s direct, undivided fractional share of the Installment Payments designated as interest coming due during the interest period immediately preceding each of the Interest Payment Dates. Interest represented hereby shall be payable at the above stated Rate of Interest from the Dated Date identified above. The Registered Owner’s share of the portion of the Installment Payments designated as interest is the result of the multiplication of the share of the portion of the Installment Payments designated as principal as shown and endorsed on the attached Certificate of Advances of Payment from the United States of America, by the Rate of Interest per annum identified above, calculated on the basis of a 365-day year, actual days elapsed.

Principal represented hereby is payable in lawful money of the United States of America upon surrender hereof at the Office of the Trust Administrator, and interest represented hereby is payable by check or draft mailed by first class mail by the Trust Administrator on each Interest Payment Date to the Registered Owner at such Owner’s address as it appears on the bond register of the Trust Administrator as of the preceding Record Date; provided, however, that so long as the United States of America remains the Registered Owner of the Bonds, payment of principal shall be made on each Principal Payment Date and payment of interest shall be made on each Interest Payment Date to the Registered Owner, unless otherwise requested by the Registered Owner, by the Pre-Authorized Debit (PAD) payment process (i.e., the City’s payments shall be electronically debited from the Installment Payment Fund on each Interest Payment Date in accordance with the PAD process established by Form SF-5510 and Form RD 3550-28, both entitled “Authorization Agreement for Pre-Authorized Payments”).

This Bond has been executed and delivered by the Trust Administrator pursuant to the terms of a Trust Agreement by and among the Trust Administrator, the Agency and the City, dated as of December 1, 2017 (the "Trust Agreement"). The City has certified that it is authorized to enter into the Installment Sale Agreement and this Trust Agreement under the laws of the State of California, for the purpose of paying the costs of certain public capital improvements.

Reference is hereby made to the Installment Sale Agreement and the Trust Agreement (copies of which are on file at the Office of the Trust Administrator) for a description of the terms on which the Bonds are delivered, the rights thereunder of the owners of the Bonds, the rights, duties and immunities of the Trust Administrator and the rights and obligations of the City under the Installment Sale Agreement, to all of the provisions of the Installment Sale Agreement and the Trust Agreement the Registered Owner of this Bond, by acceptance hereof, assents and agrees.

This single Bond is issued by the Agency and represents the \$3,433,000 aggregate principal amount of Series 2017 Wastewater Enterprise Revenue Bonds (Wastewater System Improvement Project), Bank Qualified, all of like, date, tenor and effect, but differing in amounts and maturities, authorized to be executed and delivered pursuant to the Trust Agreement.

This Bond is transferable only to a Qualified Institutional Buyer (as such term is defined by Rule 144A of the Securities Act of 1933) or other persons with the consent of the City and the Agency, by the Registered Owner thereof in person or by his attorney duly authorized in writing, at the Trust Office, but only in the manner, subject to the limitations and upon payment of the charges provided in the Trust Agreement, and upon surrender of this Bond for cancellation accompanied by delivery of a duly executed written instrument of transfer in the form appearing hereon. Upon such transfer, a new Bond or Bonds of the same Maturity Date representing the same principal amount will be issued to the transferee in exchange herefor.

The City is obligated under the Installment Sale Agreement to pay the Installment Payments from Net Revenues (as such term is defined in the Trust Agreement) and any Parity Debt (as such term is defined in the Trust Agreement) issued or incurred within the meaning of the Trust Agreement.

The obligation of the City to pay the Installment Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to pay Installment Payments does not constitute a debt of the City, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.

The Bond is subject to optional prepayment in whole, or in part among maturities in any manner as directed by the City and by lot within a maturity, on any Business Day, from prepayments of the Installment Payments made at the option of the City pursuant to the Installment Sale Agreement, at a prepayment price equal to the aggregate principal components of the Installment Payments to be prepaid, together with accrued interest represented thereby to the date fixed for prepayment, without premium.

The Bond is subject to mandatory prepayment on any date, in whole, or in part, from unexpended proceeds of the Bond Proceeds Fund established under this Trust Agreement and from the net proceeds of insurance or eminent domain proceedings, in either case deposited with the Trust Administrator, which are credited towards the prepayment of the Installment Payments pursuant to the Installment Sale Agreement, at

a prepayment price equal to one hundred percent (100%) of the principal amount to be prepaid, together with accrued interest represented thereby to the date fixed for prepayment, without premium.

As provided in this Trust Agreement, notice of prepayment shall be mailed by the Trust Administrator by first class mail, postage prepaid, not less than thirty (30) nor more than sixty (60) days before the prepayment date, to the Registered Owner of the Bond, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for prepayment or the cessation of accrual of interest represented thereby. If this Bond is called for prepayment and payment is duly provided herefor as specified in this Trust Agreement, interest represented hereby shall cease to accrue from and after the date fixed for prepayment.

The City has designated its obligations under the Installment Sale Agreement represented by this Bond to be a "qualified tax-exempt obligation" under Section 265(b)(3) of the Internal Revenue Code of 1986.

This Bond is transferable by the Registered Owner hereof, in person or by his or her attorney duly authorized in writing, at the Trust Office of the Trust Administrator, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in this Trust Agreement and upon surrender and cancellation of this Bond.

Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, representing the same aggregate principal amount and representing the same rate of interest and maturity date, will be delivered to the transferee in exchange herefor. The City, the Agency and the Trust Administrator may treat the Registered Owner hereof as the absolute owner hereof for all purposes, whether or not this Bond shall be overdue, and the City, the Agency and the Trust Administrator shall not be affected by any notice to the contrary.

To the extent and in the manner permitted by the terms of this Trust Agreement, the provisions of this Trust Agreement may be amended by the parties thereto with the written consent of the owners of a majority in aggregate principal amount of the Bonds then outstanding, and may be amended without such consent under certain circumstances; provided that no such amendment shall extend the fixed maturity of any Bond or reduce the interest or principal represented thereby, without the express consent of the owner of such Bond.

The Trust Administrator has no obligation or liability to the registered owners of the Bonds to make payments of principal, or interest with respect to the Bonds except from amounts on deposit for such purposes with the Trust Administrator. The Trust Administrator's sole obligations are to administer for the benefit of the registered owners of the Bonds the various funds and accounts established under this Trust Agreement and to perform the other duties expressly imposed upon it under this Trust Agreement.

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

This Bond is given as evidence of a loan to the City made by the United States of America, acting through Rural Utilities Service, United States Department of Agriculture, pursuant to the Consolidated Farm and Rural Development Act, and shall be subject to the present regulations of the Rural Utilities Service or any successor agency thereto and to its future regulations not inconsistent with the express provisions hereof.

IN WITNESS WHEREOF, this Bond has been authenticate, executed and delivered by the Trust Administrator, acting pursuant to this Trust Agreement.

AUTHENTICATED, EXECUTED AND DELIVERED, as of the Dated Date first written above.

TRUST ADMINISTRATOR

By: _____
Finance Director,
City of Lakeport

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face hereof, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants in common

UNIF GIFT MIN ACT ____ Custodian

TEN ENT -- as tenants by the
Entireties

(Cust) ____ (Minor) ____
under Uniform Gifts to Minors

JT TEN -- as joint tenants with
____ right of survivorship
____ and not as tenants in
____ common

Act ____
(State)

ADDITIONAL ABBREVIATIONS MAY ALSO BE USED
THOUGH NOT IN THE LIST ABOVE

ASSIGNMENT

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

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

the within registered Bond and hereby irrevocably constitute(s) and appoint(s) _____
_____, attorney, to transfer the same on the Bond Register of the Trust Administrator with
full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Note: Signature(s) must be guaranteed by an eligible guarantor.

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

Certificate of Advances of Payment from United States of America, acting through Rural Utilities Service,
United States Department of Agriculture

The following advances have been paid to and received by the City in the amount and on the date(s) set forth below, as evidenced by the Trust Administrator's signature set forth below, as evidenced by said Trust Administrator's signature set forth opposite "Date of Advance" and "Amount of Advance."

<u>Date of Advance</u>	<u>Amount of Advance</u>	<u>Signature of the Trust Administrator</u>
12/06/2017	\$3,433,000.00	<hr/>

Total principal sum of the within Bond as advanced as of December 6, 2017 is \$3,433,000.00.

Record of Prepayment in Advance of Maturity
of Bonds Represented by this Bond

The Record of prepayment in advance of maturity on the registered Bond shall be substantially as follows:

<u>Amount</u>	<u>Date</u>

EXHIBIT B

**\$3,433,000
CITY OF LAKEPORT
(LAKE COUNTY, CALIFORNIA)
SERIES 2017 WASTEWATER ENTERPRISE REVENUE BONDS
(WASTEWATER SYSTEM IMPROVEMENT PROJECT)
BANK QUALIFIED**

**WRITTEN REQUISITION NO. __ FOR
DISBURSEMENT FROM BOND PROCEEDS FUND**

The undersigned hereby states and certifies that:

1. the undersigned is the duly appointed, qualified and acting City Manager of the City of Lakeport, a general law city and public agency duly organized and validly existing under the laws of the State of California (the “City”), and as such, is familiar with the facts herein certified and is authorized and qualified to certify the same;
2. the undersigned is a duly designated “City Representative,” as such term is defined in that certain Trust Agreement, dated as of December 1, 2017 (the “Trust Agreement”), by and among the Finance Director of the City of Lakeport, as trust administrator (the “Trust Administrator”), the Municipal Financing Agency of Lakeport (the “Agency”), and the City;
3. pursuant to the Trust Agreement, the Trust Administrator is hereby requested to disburse this date, from the Bond Proceeds Fund established under this Trust Agreement, to the payees set forth on Attachment I attached hereto and by this reference incorporated herein, at the addresses identified thereon, the amount set forth opposite such payee for payment of Project or Delivery Costs;
4. the amounts to be disbursed constitute Project or Delivery Costs, that said amounts are required to be disbursed pursuant to a contract entered into therefor by or on behalf of the Agency or the City, or were necessarily and reasonably incurred, and that said amounts are not being paid in advance of the time, if any, fixed for payment;
5. no amount set forth in this requisition was included in any requisition requesting disbursement previously filed with the Trust Administrator pursuant to the Trust Agreement;
6. insofar as such requisition relates to payment for work, materials, equipment or supplies, such work was actually performed, or such materials, equipment or supplies were actually installed in furtherance of the Project or delivered to the appropriate site for such purpose, or delivered for storage or fabrication at a place approved by the City; and

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

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

Dated: _____, 2017

CITY OF LAKEPORT

By: _____

Title: _____

ATTACHMENT 5

ATTACHMENT I

Payee Name and Address

Purpose of Obligation

Amount

ASSIGNMENT AGREEMENT

Dated as of December 1, 2017

by and between the

**MUNICIPAL FINANCING AGENCY OF LAKEPORT,
as Assignor**

and the

**FINANCE DIRECTOR OF THE CITY OF LAKEPORT,
as Trust Administrator**

Relating to

**\$3,433,000
MUNICIPAL FINANCING AGENCY OF LAKEPORT
(City of Lakeport, California)
SERIES 2017 WASTEWATER ENTERPRISE REVENUE BONDS
(Wastewater System Improvement Project)
BANK QUALIFIED**

ASSIGNMENT AGREEMENT

This ASSIGNMENT AGREEMENT, made and entered into as of December 1, 2017, by and between the MUNICIPAL FINANCING AGENCY OF LAKEPORT, a California joint powers authority duly organized and existing pursuant to the laws of the State of California, as assignor (the "Agency"), and the FINANCE DIRECTOR OF THE CITY OF LAKEPORT, as trust administrator (the "Trust Administrator") under the hereinafter-defined Trust Agreement;

WITNESSETH:

WHEREAS, the Agency and the City of Lakeport (the "City"), have entered into an installment sale agreement, by and between the Agency and the City, dated as of December 1, 2017 (together with any amendments or supplements thereto, the "Installment Sale Agreement"), whereby the Agency has agreed to sell to the City, and the City has agreed to purchase from the Agency, certain improvements to the City's Wastewater System, as more particularly described in the Installment Sale Agreement (as amended or modified from time to time, the "Project"), in the manner and on the terms set forth in the Installment Sale Agreement; and

WHEREAS, under the Installment Sale Agreement, the Agency is required to deposit or cause to be deposited with the Trust Administrator certain moneys to be credited, held and applied in accordance with a trust agreement by and among the Trust Administrator, the Agency and the City, dated as of December 1, 2017, together with any amendments or supplements thereto (the "Trust Agreement"); and

WHEREAS, upon delivery of the Installment Sale Agreement and the deposit of moneys by the Agency with respect thereto, the City is obligated to pay certain installment payments to the Agency or its assignee. For the purpose of obtaining the moneys required to be deposited with the Trust Administrator, the Agency is willing to assign and transfer its right, title and interest under the Installment Sale Agreement to the Trust Administrator for the benefit of the owners of the Series 2017 Wastewater Enterprise Revenue Bonds (the "Bonds") to be executed and delivered under the Trust Agreement, and in consideration of such assignment, the Trust Administrator is executing and delivering the Bonds to the Government as the purchaser thereof, the proceeds of which sale are anticipated by the Agency to be sufficient to provide the moneys required to be deposited by the Agency pursuant to the Installment Sale Agreement; and

WHEREAS, each of the parties hereto has authority to enter into this Assignment Agreement and has taken all actions necessary to authorize its officers to enter into it; and

WHEREAS, the capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Trust Agreement;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

Section 1. Assignment. The Agency, for good and valuable consideration, does hereby irrevocably assign and transfer to the Trust Administrator, for the benefit of the Owners of the Bonds, all of its rights and interest in the Installment Sale Agreement (excepting only its rights under Sections 5.08, 6.03

and 7.04 thereof), including, without limitation, its rights to receive and collect Installment Payments from the City under the Installment Sale Agreement, its rights to the pledge of Net Revenues, the right to receive and collect any proceeds of any insurance maintained thereunder, or of any condemnation award rendered with respect to the Project and the right to exercise such rights and remedies as are conferred on the Agency by the Installment Sale Agreement as may be necessary to enforce payment of the Installment Payments when due or otherwise to protect its interests in the event of a default by the City. The Installment Payments shall be applied, and the rights so assigned shall be exercised, by the Trust Administrator as provided in the Trust Agreement for the benefit of the Owners of the Bonds.

Section 2. Acceptance. The Trust Administrator hereby accepts such assignment in trust for the purpose of securing, equally and proportionately, such payments and rights to the Owners of the Bonds delivered pursuant to the Trust Agreement, all subject to the provisions of the Trust Agreement.

Section 3. Conditions. This Assignment Agreement shall confer no rights and impose no duties upon the Trust Administrator beyond those expressly provided in the Trust Agreement.

* * * * *

IN WITNESS WHEREOF, the parties hereto have executed this Assignment Agreement by their officers thereunto duly authorized as of the date in the first paragraph above.

MUNICIPAL FINANCING AGENCY
OF LAKEPORT,
as Assignor

By: _____
Executive Director

FINANCE DIRECTOR OF
THE CITY OF LAKEPORT,
as Trust Administrator

By: _____
Finance Director

Water and Waste System Grant Agreement**United States Department of Agriculture****Rural Utilities Service**

THIS AGREEMENT dated _____, between

a public corporation organized and operating under

(Authorizing Statute)

herein called "Grantee," and the United States of America acting through the Rural Utilities Service, Department of Agriculture, herein called "Grantor," WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (waste) system to serve the area under its jurisdiction at an estimated cost of \$ _____ and has duly authorized the undertaking of such project.

Grantee is able to finance not more than \$ _____ of the development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of \$ _____ has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed \$ _____ or _____ percent of said project development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the Conditions of the grant.

As a condition of this grant agreement, the Grantee assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive orders and other generally applicable requirements, including those set out in 7 CFR 3015.205(b), which hereby are incorporated into this agreement by reference, and such other statutory provisions as are specifically set forth herein.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 306(a) of The Consolidated Farm and Rural Development Act for the purpose only of defraying a part not to exceed _____ percent of the project development costs, as defined by applicable Rural Utilities Service instructions.

Grantee Agrees That Grantee Will:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges, whether for one or more classes of service, adopted by resolution dated _____, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute any agreements required by Grantor which Grantee is legally authorized to execute. If any such agreement has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another agreement of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated herein above with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency. When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

[Revision 1, 04/17/1998]

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

L. Abide by the following conditions pertaining to equipment which is furnished by the Grantor or acquired wholly or in part with grant funds. Equipment means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

[Revision 1, 04/17/1998]

1. Use of equipment.

(a) The Grantee shall use the equipment in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the equipment in connection with its other Federally sponsored activities, if any, in the following order of priority:

1) Activities sponsored by the Grantor.

(2) Activities sponsored by other Federal agencies.

(b) During the time that equipment is held for use on the property for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the equipment was originally acquired. First preference for such other use shall be given to Grantor sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of equipment. When the Grantee no longer needs the equipment as provided in paragraph (a) above, the equipment may be used for other activities in accordance with the following standards:

(a) Equipment with a current per unit fair market value of less than \$5,000. The Grantee may use the equipment for other activities without reimbursement to the Federal Government or sell the equipment and retain the proceeds.

(b) Equipment with a current per unit fair market value of \$5,000 or more. The Grantee may retain the equipment for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value or proceeds from sale of the equipment. If the Grantee has no need for the equipment and the equipment has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the equipment exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the equipment and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share ten percent of the proceeds for Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the equipment elsewhere the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the equipment, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for equipment shall also include:

(a) Records which accurately provide for: a description of the equipment; manufacturer's serial number or other identification number; acquisition date and cost; source of the equipment; percentage (at the end of budget year) of Federal participation in the cost of the project for which the equipment was acquired; location, use and condition of the equipment and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years to verify the existence, current utilization, and continued need for the equipment.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(e) Proper sales procedures shall be established for unneeded equipment which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described equipment(use continuation sheets as necessary).

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.
2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.
3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.
4. Accounting records supported by source documentation.

N. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm or photo copies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

O. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

P. Provide an audit report prepared in accordance with Grantor regulations to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

Q. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentality's of states shall not be held accountable for interest earned on grant funds pending their disbursement.

R. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item K above.

S. To include in all contracts for construction or repair a provision for compliance with the Copeland ``Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

T. To include in all contracts in excess of \$100,000 a provision that the contractor agrees to comply with all the requirements of the Clean Air Act (42 U.S.C. §7414) and Section 308 of the Water Pollution Control Act (33 U.S.C. §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. In so doing the Contractor further agrees:

[Revision 1, 11/20/1997]

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR Part 32 as of the date of contract award.

[Revision 1, 11/20/1997]

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term ``facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed \$_____ which it will advance to Grantee to meet not to exceed _____ percent of the project development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Agreement

This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized

attested and its corporate seal affixed by its duly authorized

Attest:

By _____

(Title) _____

By _____

(Title) _____

UNITED STATES OF AMERICA

RURAL UTILITIES SERVICE

By _____

(Title)

UNITED STATES DEPARTMENT OF AGRICULTURE

RURAL DEVELOPMENT

RURAL UTILITY SERVICE

OFFER

Subject to the Bond Specifications attached hereto as Exhibit A, the General Conditions attached hereto as Exhibit B, the Special Conditions attached hereto as Exhibit C, and the adoption of Form RD 1780-27, "Loan Resolution," the United States of America, hereinafter referred to as "the Government", hereby offers to make a loan in the sum of \$3,433,000 to the Municipal Financing Agency of Lakeport, in Lake County, in the state of California (hereinafter called "Agency") in order to aid in the construction of the new Wastewater Facilities Project.

The loan herein provided for shall be made by purchase at par value of the Bonds in the sum of \$3,433,000 and bearing interest at the rate of 2.125% per annum. In the event any other bidder offers to purchase any of the issue at a net interest rate of not more than 2.125% per annum, that portion of the issue will not be purchased by the Government, and it will purchase the balance of said issue. In such event, it is understood that the obligations of the Agency set forth in the Installment Sale Agreement and Trust Agreement would apply as fully and to the same extent as if the entire issue were sold to the Government. In the event that no bid is received from any bidders within the terms herein specified, the entire issue will be purchased by the Government, subject to the conditions aforesaid.

Upon acceptance, this offer, together with all of the Exhibits attached hereto and Form RD 1780-27, "Loan Resolution," shall become the Agreement.

This offer must be accepted within 60 days from the date hereof.

Dated this __th day of December, 2017.

UNITED STATES OF AMERICA

by: _____
Acting Community Programs Director
USDA Rural Development
for the Rural Utility Service

EXHIBIT A**FORM OF REVENUE BOND**

No. R-1

\$_____.00

**UNITED STATES OF AMERICA
STATE OF CALIFORNIA****MUNICIPAL FINANCING AGENCY OF LAKEPORT
(City of Lakeport, California)
SERIES 2017 WASTEWATER ENTERPRISE REVENUE BONDS
(Wastewater System Improvement Project)
BANK QUALIFIED**

INTEREST PAYMENT DATES	RATE OF INTEREST	DATED DATE
April 1 and October 1 as described below	2.125%	December 21, 2017

REGISTERED OWNER: UNITED STATES OF AMERICA, ACTING THROUGH RURAL UTILITIES SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE

PRINCIPAL AMOUNT: _____ MILLION _____ THOUSAND DOLLARS

THIS IS TO CERTIFY THAT the Registered Owner identified above, or registered assigns, as the registered owner (the "Registered Owner") of this Series 2017 Wastewater Enterprise Revenue Bond (the "Bond") is the owner of a direct, undivided fractional interest in installment payments (the "Installment Payments") payable under the Installment Sale Agreement dated as of December 1, 2017 (the "Installment Sale Agreement") by and between the MUNICIPAL FINANCING AGENCY OF LAKEPORT, a California joint powers authority duly organized and existing pursuant to the laws of the State of California (the "Agency"), and the CITY OF LAKEPORT (the "City"), a general law city and public agency duly organized and validly existing under the laws of the State of California. The Installment Payments and certain other rights and interests under the Installment Sale Agreement have been assigned to the Finance Director of the City, as trust administrator (the "Trust Administrator"), having an office in the location described in the Trust Agreement referred to below.

The Registered Owner of this Bond is entitled to receive, subject to the terms of the Installment Sale Agreement, on the Maturity Dates identified below, or any earlier prepayment date, the Principal Amounts identified below representing a direct, undivided fractional share of the portion of the Installment Payments designated as principal as follows:

and to receive on April 1, 2018, and semiannually thereafter on October 1 and April 1 of each year (each an “Interest Payment Date”) until payment in full of said principal the Registered Owner’s direct, undivided fractional share of the Installment Payments designated as interest coming due during the interest period immediately preceding each of the Interest Payment Dates. Interest represented hereby shall be payable at the above stated Rate of Interest from the Dated Date identified above. The Registered Owner’s share of the portion of the Installment Payments designated as interest is the result of the multiplication of the share of the portion of the Installment Payments designated as principal as shown and endorsed on the attached Certificate of Advances of Payment from the United States of America, by the Rate of Interest per annum identified above, calculated on the basis of a 365-day year.

Principal represented hereby is payable in lawful money of the United States of America upon surrender hereof at the Office of the Trust Administrator, and interest represented hereby is payable by check or draft mailed by first class mail by the Trust Administrator on each Interest Payment Date to the Registered Owner at such Owner’s address as it appears on the bond register of the Trust Administrator as of the preceding Record Date; provided, however, that so long as the United States of America remains the Registered Owner of the Bonds, payment of principal shall be made on each Principal Payment Date and payment of interest shall be made on each Payment Date to the Registered Owner, unless otherwise requested by the Registered Owner, by the Pre-Authorized Debit (PAD) payment process (i.e., the City’s payments shall be electronically debited from the Installment Payment Fund on each Interest Payment Date in accordance with the PAD process established by Form SF-5510 and Form RD 3550-28, both entitled “Authorization Agreement for Pre-Authorized Payments”).

This Bond has been executed and delivered by the Trust Administrator pursuant to the terms of a Trust Agreement by and among the Trust Administrator, the Agency and the City, dated as of December 1, 2017 (the “Trust Agreement”). The City has certified that it is authorized to enter into the Installment Sale Agreement and this Trust Agreement under the laws of the State of California, for the purpose of paying the costs of certain public capital improvements.

Reference is hereby made to the Installment Sale Agreement and the Trust Agreement (copies of which are on file at the Office of the Trust Administrator) for a description of the terms on which the Bonds are delivered, the rights thereunder of the owners of the Bonds, the rights, duties and immunities of the Trust Administrator and the rights and obligations of the City under the Installment Sale Agreement, to all of the provisions of the Installment Sale Agreement and the Trust Agreement the Registered Owner of this Bond, by acceptance hereof, assents and agrees.

This single Bond is issued by the City and represents the \$3,433,000 Series 2017 Wastewater Enterprise Revenue Bonds (Wastewater System Improvement Project), all of like, date, tenor and effect, but differing in amounts and maturities, authorized to be executed and delivered pursuant to the Trust Agreement.

This Bond is transferable only to a Qualified Institutional Buyer (as such term is defined by Rule 144A of the Securities Act of 1933) or other persons with the consent of the City and the Agency, by the Registered Owner thereof in person or by his attorney duly authorized in writing, at the Trust Office, but only in the manner, subject to the limitations and upon payment of the charges provided in the Trust Agreement, and upon surrender of this Bond for cancellation accompanied by delivery of a duly executed written instrument of transfer in the form appearing hereon. Upon such transfer, a new Bond or Bonds of the same Maturity Date representing the same principal amount will be issued to the transferee in exchange herefor.

The City is obligated under the Installment Sale Agreement to pay the Installment Payments from Net Revenues (as such term is defined in the Installment Sale Agreement) and any Parity Debt issued or incurred within the meaning of the Installment Sale Agreement.

The obligation of the City to pay the Installment Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to pay Installment Payments does not constitute a debt of the City, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.

The Bond is subject to optional prepayment in whole, or in part among maturities in any manner as directed by the City and by lot within a maturity, on any Business Day, from prepayments of the Installment Payments made at the option of the City pursuant to the Installment Sale Agreement, at a prepayment price equal to the aggregate principal components of the Installment Payments to be prepaid, together with accrued interest represented thereby to the date fixed for prepayment, without premium.

The Bond is subject to mandatory prepayment on any date, in whole, or in part, from unexpended proceeds of the Construction Fund established under this Trust Agreement and from the net proceeds of insurance or eminent domain proceedings, in either case deposited with the Trust Administrator, which are credited towards the prepayment of the Installment Payments pursuant to the Installment Sale Agreement, at a prepayment price equal to one hundred percent (100%) of the principal amount to be prepaid, together with accrued interest represented thereby to the date fixed for prepayment, without premium.

As provided in this Trust Agreement, notice of prepayment shall be mailed by the Trust Administrator by first class mail, postage prepaid, not less than thirty (30) nor more than sixty (60) days before the prepayment date, to the Registered Owner of the Bond, but neither failure to receive such notice nor any

defect in the notice so mailed shall affect the sufficiency of the proceedings for prepayment or the cessation of accrual of interest represented thereby. If this Bond is called for prepayment and payment is duly provided herefor as specified in this Trust Agreement, interest represented hereby shall cease to accrue from and after the date fixed for prepayment.

The City has designated its obligations under the Installment Sale Agreement represented by this Bond to be a “qualified tax-exempt obligation” under Section 265(b)(3) of the Internal Revenue Code of 1986.

This Bond is transferable by the Registered Owner hereof, in person or by his or her attorney duly authorized in writing, at the Trust Office of the Trust Administrator, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in this Trust Agreement and upon surrender and cancellation of this Bond.

Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, representing the same aggregate principal amount and representing the same rate of interest and maturity date, will be delivered to the transferee in exchange herefor. The City, the Agency and the Trust Administrator may treat the Registered Owner hereof as the absolute owner hereof for all purposes, whether or not this Bond shall be overdue, and the City, the Agency and the Trust Administrator shall not be affected by any notice to the contrary.

To the extent and in the manner permitted by the terms of this Trust Agreement, the provisions of this Trust Agreement may be amended by the parties thereto with the written consent of the owners of a majority in aggregate principal amount of the Bonds then outstanding, and may be amended without such consent under certain circumstances; provided that no such amendment shall extend the fixed maturity of any Bond or reduce the interest or principal represented thereby, without the express consent of the owner of such Bond.

The Trust Administrator has no obligation or liability to the registered owners of the Bonds to make payments of principal, or interest with respect to the Bonds except from amounts on deposit for such purposes with the Trust Administrator. The Trust Administrator’s sole obligations are to administer for the benefit of the registered owners of the Bonds the various funds and accounts established under this Trust Agreement and to perform the other duties expressly imposed upon it under this Trust Agreement.

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

This Bond is given as evidence of a loan to the City made by the United States of America, acting through Rural Utilities Service, United States Department of Agriculture, pursuant to the Consolidated Farm and Rural Development Act, and shall be subject to the present regulations of the Rural Utilities Service or any successor agency thereto and to its future regulations not inconsistent with the express provisions hereof.

IN WITNESS WHEREOF, this Bond has been authenticate, executed and delivered by the Trust Administrator, acting pursuant to this Trust Agreement.

AUTHENTICATED, EXECUTED AND DELIVERED, as of the Dated Date first written above.

TRUST ADMINISTRATOR

By: _____
Finance Director,
City of Lakeport

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face hereof, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants in common

UNIF GIFT MIN ACT ____ Custodian

TEN ENT -- as tenants by the
Entireties

(Cust) ____ (Minor) ____
under Uniform Gifts to Minors

JT TEN -- as joint tenants with
____ right of survivorship
____ and not as tenants in
____ common

Act _____
(State)

ADDITIONAL ABBREVIATIONS MAY ALSO BE USED
THOUGH NOT IN THE LIST ABOVE

ASSIGNMENT

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

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

the within registered Bond and hereby irrevocably constitute(s) and appoint(s) _____
_____, attorney, to transfer the same on the Bond Register of the Trust Administrator with
full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Note: Signature(s) must be guaranteed by an eligible guarantor.

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

Certificate of Advances of Payment from United States of America, acting through Rural Utilities Service,
United States Department of Agriculture

[illegible]

A-7

Record of Prepayment in Advance of Maturity
of Bonds Represented by this Certificate

The Record of prepayment in advance of maturity on the registered Bond shall be substantially as follows:

<u>Amount</u>	<u>Date</u>
_____	_____
_____	_____
_____	_____
_____	_____

EXHIBIT B

Municipal Financing Agency of Lakeport

Series 2017 Wastewater Enterprise Revenue Bond

GENERAL CONDITIONS

(To Be Provided by USDA Prior to Closing)

EXHIBIT C

Municipal Financing Agency of Lakeport

Series 2017 Wastewater Enterprise Revenue Bond

SPECIAL CONDITIONS

(To Be Provided by USDA Prior to Closing)

LOAN RESOLUTION
(Public Bodies)

A RESOLUTION OF THE _____ CITY COUNCIL

OF THE _____ CITY OF LAKEPORT

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS

_____ WASTEWATER SYSTEM IMPROVEMENT PROJECT

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the _____ CITY OF LAKEPORT

(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

Three Million Four Hundred Thirty-Three Thousand Dollars (\$3,433,000.00)

pursuant to the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the California Government Code (the "Act"), and as authorized pursuant to Article 4 (commencing with Section 6584) of the Act; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal ly permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0121. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

ATTACHMENT 9

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$ 740,000.00

under the terms offered by the Government; that the Mayor, Mayor Pro Tem, City Manager, Finance Director

and City Clerk of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was: Yeas _____ Nays _____ Absent _____

IN WITNESS WHEREOF, the City Council of the

City of Lakeport has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this 4th, _____ day of December 2017

(SEAL)

By

Margaret Silveira

Attest:

Title

City Manager

Title _____

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as _____ of the _____
hereby certify that the _____ of such Association is composed of
_____ members, of whom , _____ constituting a quorum, were present at a meeting thereof duly called and
held on the _____ day of _____ ; and that the foregoing resolution was adopted at such meeting
by the vote shown above, I further certify that as of _____ ,
the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been
rescinded or amended in any way.

Dated, this _____ day of _____

Title _____



CITY OF LAKEPORT

City Council ☒
City of Lakeport Municipal Sewer District ☐
Lakeport Redevelopment Successor Agency ☐
Lakeport Industrial Financing Authority ☐
Municipal Financing Agency of Lakeport ☐

STAFF REPORT

RE: Approve New Police Detective Classification

MEETING DATE: 12/04/2017

SUBMITTED BY: Kelly Buendia, Administrative Services Director

PURPOSE OF REPORT: ☐ Information only ☐ Discussion ☒ Action Item

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to approve a new Police Detective classification to assist with recruitment and retention of the most qualified personnel. The City Council is further asked to approve reclassification of one Police Officer position to Police Detective.

BACKGROUND/DISCUSSION:

Over the past several years, the City Council has taken action to improve the City's ability to recruit and retain quality sworn personnel in the Lakeport Police Department. This has included replenishing staffing that was depleted during the economic downturn of 2008 and bringing police officer and police sergeant salaries in line with other local agencies. Despite these efforts, inefficiency and inequity within the classification system has been identified as it relates to the Police Detective role.

Currently, Police Detective is a rotating assignment given to a qualified Lakeport Police Officer at the discretion of the Police Chief. A five percent stipend is awarded the person serving in this role. At this time, the department has a limited number of officers with the requisite years of experience to rotate into the position. This could create great hardship should the officer currently assigned to investigations leave or retire. When reviewing the pay, a top step Police Officer III with the five percent stipend earns \$5518 per month. A successful detective will have the same years of experience as that of a Lakeport Police Sergeant who earns \$6012 per month.

In order to recruit a future candidate or retain an existing officer, Police and Human Resources Management are recommending the creation of a new Police Detective classification with a salary range that is the same as a Police Sergeant. No budget adjustment is requested at this time, due to salary savings on vacant positions. A detailed job description is attached to this report.

OPTIONS:

The Council could deny this request and provide other direction to staff.

FISCAL IMPACT:

☒ None ☐ \$ Budgeted Item? ☒ Yes ☐ No

Budget Adjustment Needed? ☐ Yes ☒ No If yes, amount of appropriation increase: \$

Affected fund(s): ☒ General Fund ☒ Water OM Fund ☒ Sewer OM Fund ☐ Other:

Comments:

SUGGESTED MOTIONS:

1. Move to approve a new classification for a Police Detective with a salary range 43.6 earning \$4,708 to \$6,012 per month.
2. Move to reclassify one Police Officer position from the 2017/18 budget to Police Detective.

☒ **Attachments:** 1. Police Detective Job Description



CITY OF LAKEPORT

POLICE DETECTIVE

Job Description

DEFINITION

Positions in this class are normally filled by advancement from the lower level of Police Officer II, III or equivalent. A Police Detective works under general supervision and within the framework and established policies and procedures of the Lakeport Police Department.

CLASS CHARACTERISTICS

A Police Detective has demonstrated by his/her performance, service to law enforcement and should possess or be eligible to possess Intermediate and Advanced certificates, a level of training and expertise, that he/she is capable of performing a variety of complex law enforcement investigations with only occasional instruction or assistance. A police detective possesses strong knowledge of criminal investigation techniques, departmental procedures and policies, and works productively in the absence of supervision. Work is normally reviewed only upon completion and for overall result. A position of this class has the required knowledge to perform basic supervisory tasks and to provide training for less experienced law enforcement employees.

ESSENTIAL FUNCTIONS

The following duties are typical for this classification. Incumbents may not perform all of the listed duties and/or may be required to perform additional or different duties from those set forth below to address business needs and changing business practices.

Detective Duties

Coordinates and conducts complete and detailed investigations of crimes including but not limited to crimes involving juveniles and adults, crimes against persons and property, and crimes involving vice, gaming and narcotics violations. Participates in all normal enforcement activities including enforcing local and State laws, issuing citations, making arrests, administering first aid, and transporting and extraditing prisoners. Maintains knowledge of a wide range of specialized investigative equipment. performs undercover and surveillance activities; interviews victims, complainants, witnesses and suspects; collects, preserves, and maintains evidence and property related to suspected crimes; writes and serves warrants and subpoenas. Prepares highly complex investigative reports and case information; files criminal cases with the District Attorney's Office and works with the District Attorney and other prosecution offices on case filings; provides testimony and evidence in court. Answers questions from the public concerning local and State laws, procedures, and activities of the Department; develops and maintains good relationships with the public, including informants and contacts which may be helpful in criminal investigations. May supervise staff at crime scenes and the department property and evidence section. Positions in this class are also required to travel to other areas of the county, state or out of state in relation to crimes committed in the City of Lakeport and to attend frequent training in other areas of the state.

At times of emergency or other police department operational necessity, positions in this class are required to maintain uniforms and be prepared to conduct general law enforcement duties. Those duties are described below:

Patrol and Traffic Safety Duties

Patrols an assigned area during an assigned shift and looks for indicators of possible criminal activity or threats to life and property; answers calls for police services; enforces City, county, and state laws; makes field contacts and completes forms; may conduct both preliminary and follow-up investigations of disturbances, prowlers, burglaries, thefts, robberies, vehicle accidents, suspected homicides, and other criminal incidents.

As a Motor Officer, patrols the City on a motorcycle or in a radar-equipped patrol unit; responds to calls related to traffic incidents and any other emergencies; observes, monitors, and controls routine and unusual traffic conditions; assists and advises motorists and enforces traffic safety laws.

Makes arrests as necessary; serves warrants and subpoenas; conducts searches and seizures involving people, vehicles and structures; interviews victims, complainants, and witnesses; interrogates suspects; gathers and preserves evidence; receives, searches, and books prisoners; fingerprints and transports prisoners; testifies and presents evidence in court.

Contacts and cooperates with other law enforcement agencies in matters relating to the investigation of crimes and the apprehension of offenders.

Writes reports and field notes; participates in staff development; attends briefings and training sessions; performs routine maintenance on assigned patrol vehicle, firearms, and other equipment.

Makes traffic stops and issues warnings, citations, or makes arrests as necessary; checks vehicles and observes vehicle occupants; investigates scenes of vehicle accidents, provides emergency medical care as necessary, directs traffic and arranges for clearing of roadway, interviews drivers and witnesses and prepares reports; directs traffic at fire, special events, and other emergency or congested situations.

Assists the public and answers questions; administers first aid and responds to calls for medical assistance; establishes and maintains good relationships with the general public.

Other Functions

As assigned, acts as training officer for new Police Officers; serves as field supervisor on individual calls requiring special attention; or conducts background investigations.

As assigned, makes presentations before a variety of public groups to promote crime prevention activities and to enhance public understanding of Police Department activities; serves as liaison to neighborhood watch groups and schools.

When assigned as a Canine Officer, cares for, maintains and trains a police dog; conducts demonstrations and raises funds to maintain program.

As assigned, serves as the School Resources Officer; teaches a variety of drug resistance classes; assists with student discipline and counseling; ensures that school district policies and school rules are followed; maintains statistical data on assigned programs; fosters a positive relationship between law enforcement, students and school staff.

May be assigned to direct, supervise and coordinate police officers when a supervisor is not available; assists in briefing and training new personnel; may be assigned to direct, train and coordinate police cadets, police explorers and/or volunteers.

QUALIFICATIONS GUIDELINES

Education and/or Experience

Must satisfactorily perform the qualification of Police Officer II in the Lakeport Police Department or equivalent. In addition, this position requires a minimum of four years of law enforcement experience as a Police Officer with the Lakeport Police Department or equivalent, possession of an Intermediate Peace Officer Standards and Training (POST) Certificate, have a satisfactory performance evaluation and letter of recommendation from his/her supervisor. Possession of advanced POST certificate and criminal investigation coursework or training is highly desirable.

Knowledge, Skills and Abilities

Skills of Police Officer I and Police Officer II and Police Officer III positions with a combined knowledge and expertise in criminal investigation, evidence collection and training. Also provides supervisory support when a supervisor is not available.

Special Requirements

Possession of a Class C California driver's license and a satisfactory driving record.

Meet requirements or standards mandated by the California Government Code for a Peace Officer.

Receive satisfactory results from a background investigation, physical examination, drug testing and administrative testing which meet the established qualifications standards.

Ability to attend and pass specialized POST courses including, general criminal investigations, homicide investigation, sexual assault investigation, search warrant writing, narcotics investigation advanced traffic accident investigation and mechanical vehicle inspections

PHYSICAL PROFILE:

CATEGORY IV – PUBLIC SAFETY

DEFINITION

Positions in this category are involved in active public safety duties, which involve the safeguarding of individuals, public and property. Incumbents are required to meet the physical standards to insure the ability to carry out this responsibility.

CHARACTERISTICS

Positions in this category are actively and principally engaged in the enforcement of public laws or in protecting the public from physical harm and danger. The positions typically included in this category are peace officers and firefighters, whose every day duties place high priority and demands on top physical fitness and agility.

OTHER FACTORS

Lifting Moderate: Lifting 50 pounds maximum with frequent lifting, pushing, and/or carrying of objects weighting up to 25 pounds.

Lifting Heavy: Lifting over 50 pounds, with frequent lifting, pushing and/or carrying weighing over 25 pounds.

Climbing: Ascending or descending ladders, ramps, scaffolding, poles and the like; using feet and legs and/or hands and arms.

Reaching: Reaching above the shoulders to place and/or retrieve objects.

Walking: Ability to walk for prolonged periods of time (usually a minimum of two or more hours per day.)

ATTACHMENT 1

Standing: Ability to stand with little movement for prolonged periods of time (Usually a minimum of two or more hours per day).

Sitting: Ability to sit with little movement for prolonged periods of time (Usually a minimum of two or more hours per day).

Agility: Ability to move quickly and easily often including the ability to crawl, stoop or bend.

Color Vision: Ability to identify and distinguish colors

Distant Vision, Excellent: Without correction vision not less than 20/20 in one eye and not less than 20/25 in the other eye.

Temperatures: Works in temperature sufficiently high or low to cause marked bodily discomfort.

Fumes: Potential inhalation or contact with smoke, vapors, dust or gasses.

Work Environment – Outdoors: Ability to work outdoors in all types of weather conditions.

Work Environment – Moving Objects: Ability to work around moving objects, machinery or vehicles.

Work Environment – Surfaces: Ability to walk on slippery or uneven surfaces

Heights: Ability to work on surfaces above 20 feet.

CLASS RANGE NO.	43.6
FLSA	Non-Exempt
ADOPTION DATE	
REVISION DATE	
APPROVED BY:	



CITY OF LAKEPORT

City Council ☒
City of Lakeport Municipal Sewer District ☐
Lakeport Redevelopment Successor Agency ☐
Lakeport Industrial Financing Authority ☐
Municipal Financing Agency of Lakeport ☐

STAFF REPORT

RE: Hamm HD-14-VV Roller Purchase

MEETING DATE: 12/04/2017

SUBMITTED BY: Douglas Grider, Public Works Director

PURPOSE OF REPORT: ☐ Information only ☐ Discussion ☒ Action Item

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to authorize the City Manager to sign a purchase order and the purchase agreement required for the purchase of a new Hamm HD-14-VV Roller.

BACKGROUND/DISCUSSION:

The City of Lakeport Public Works Department currently utilizes a 1994 Case Roller. It has become apparent that Public Works needs a new roller in order to meet the rising demand for paving projects and material compaction for roadway and other projects. The requested roller has a 56.3" inch drum width compared to the 39" inch drum width on the current Case roller. The wider drum will allow for more pass coverage and faster pass times increasing the daily production rate by allowing the roller to keep pace with the paver.

Appropriations were approved for this purchase in the current fiscal year budget in the amount of \$80,000 from anticipated Measure Z revenues. As Public Works began the paving season the current Case roller began having mechanical issues on a regular basis. In order to keep up with an aggressive paving schedule Public Works rented a Hamm HD-14-VV Roller until a new roller could be purchased. Staff was very satisfied with the roller's performance and operation.

The Public Works Director worked with Nixon-Egli Equipment Co. to secure a government pricing program to ensure the best possible government pricing for this purchase and also secured a 90% roll over of the rental cost for an additional savings of \$14,580.00 bringing the total cost to \$62,748.75. The pricing program is through the NJPA (National Joint Powers Alliance) which uses a bidding process like US Community's and GSA.

OPTIONS:

Move to authorize the purchase of a Hamm HD-14-VV Roller; or provide alternative direction to staff.

FISCAL IMPACT:

☐ None ☒ \$62,748.75 Budgeted Item? ☒ Yes ☐ No

Budget Adjustment Needed? ☐ Yes ☒ No If yes, amount of appropriation increase:

Affected fund(s): ☒ General Fund ☐ Water OM Fund ☐ Sewer OM Fund ☒ Other: **110-3020-983.000 \$40,000 and 203-3020-990.110 \$40,000**

SUGGESTED MOTIONS:

Move to authorize the City Manager to sign the associated purchase order and purchase agreement for a 2017 Hamm Model HD-14-VV double drum vibratory roller

- ☒ **Attachments:**
1. Quote
 2. NJPA Certificate

□ SO. CALIFORNIA: 2044 South Vineyard Avenue, Ontario, CA 91761 • (909) 930-1822 • FAX (909) 923-2356
□ NO. CALIFORNIA: 800 East Grant Line Road, Tracy, CA 95376 • (209) 830-8600 • FAX (209) 830-8884

City of Lakeport
591 Martin Street
Lakeport, CA 95453

November 17, 2017

Attention: Douglas Grider

We are pleased to provide you a quotation on a new **2017 Hamm Model HD-14-VV double drum vibratory roller, Serial # H2310291, on NJPA Contract # 032515-WAI** equipped with the following features:

- Tandem Vibratory Roller – Dual drum drive – infinitely variable
- 54.3" Drum Width – 35.4" Drum Diameter
- 2" Drum Offset for Maximum Working Width of 56.3"
- Independent amplitude and frequency for each drum
- Operating Weight with ROPS/FOPS - 9,779 lbs.
- Speed 0-6.8 mph
- Kubota Model V2403-CR, 4-Cylinder Diesel Engine, 50.0 HP, Tier 4-Final
- ROPS
- 3-Point Swivel Joint for Optimum Driving Comfort
- Vibration Frequency 3,060 vpm (Low), 3,600 vpm (High)
- Water Pump System with 75.3 Gallon water tank
- Optimum visibility due to concaving front housing design
- Ergonomic Driver Platform
- Plastic Scraper – Foldable
- Dashboard Cover
- Operator's Platform with Handrails and entry from either side

Price Per NJPA Contract:	\$ 79,143.00
Less NJPA Discount 15%	\$ 11,871.45
Subtotal:	\$ 67,271.55
Less RPO Rental Paid:	\$ 14,580.00
Subtotal:	\$ 52,691.55
Sales Tax at 8.75%:	\$ 4,640.51
Subtotal:	\$ 57,302.06
Freight, PDI & Training:	\$ 5,446.69
Customer Total Price w/Tax:	\$ 62,748.75

Thank you for the opportunity to quote you on your equipment needs. If you have questions or need additional information please contact me.

Michael Knight
Area Sales Manager
Nixon-Egli Equipment



2017 NJPA Price List CONTRACT 032515-WAI

HD 13i - 14i

Scope of supply - basic machine

Tandem roller for weight class 4-4.5 t

Diesel engine

Manufacturer

KUBOTA

Type

V2403-CR

Power rat. ISO 14396, kW/PS/rpm

36.8/50.0/2700

Emission standard

EU Stage IIIB / EPA Tier 4

Exhaust gas treatment

DOC-DPF

Machine equipment

12-V socket

3-point articulation

Dashboard with displays, indicator lights and switches

Dashboard cover, lockable and weather-resistant

Handrails

Pressure water sprinkling system with interval switch

Operator's platform with access on both sides

Hydrostatic steering

Vibration-isolated operator's platform

Track offset

Vibration front and rear, can be turned on separately or together

HD 13i VV H231	\$75,000
HD 14i VV H231	\$79,143
HD 13i VT H231	\$80,000
HD 14i VT H231	\$84,429
HD 13i VO H231	\$88,571
HD 14i VO H231	\$93,000