

# NOVATO SANITARY DISTRICT

Meeting Date: September 14, 2011

**The Board of Directors of Novato Sanitary District will hold a special meeting at 7:30 p.m., Wednesday, September 14, 2011, at the District Offices, 500 Davidson Street, Novato.**

*Materials related to items on this agenda are available for public inspection in the District Office, 500 Davidson Street, Novato, during normal business hours. They are also available on the District's website: [www.novatosan.com](http://www.novatosan.com).*

## **AGENDA**

**1. PLEDGE OF ALLEGIANCE:**

**2. AGENDA APPROVAL:**

**3. PUBLIC COMMENT (Please observe a three-minute time limit):**

This item is to allow anyone present to comment on any subject not on the agenda, or to request consideration to place an item on a future agenda. Individuals will be limited to a three-minute presentation. No action will be taken by the Board at this time as a result of any public comments made.

**4. FINANCE:**

- a. Consider acceptance of the proposal from the Bank of New York Mellon to serve as trustee.
- b. Consider approval of Resolution authorizing the issuance and sale of Wastewater Revenue Certificates of Participation, Series 2011, in the Principal Amount of Not to Exceed \$22,500,000 to provide financing for Wastewater System Improvements, and approving related documents including Installment Sale Agreement, Trust Agreement, Official Statement, Notice of Sale, and related actions.

**5. ADJOURN:**

Next resolution no. 3034

**Next regular meeting date: Monday, September 26, 2011, 6:30 PM at the Novato Sanitary District office, 500 Davidson Street, Novato, CA**

***In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the District at (415) 892-1694 at least 24 hours prior to the meeting. Notification prior to the meeting will enable the District to make reasonable accommodation to help ensure accessibility to this meeting.***

# NOVATO SANITARY DISTRICT BOARD AGENDA ITEM SUMMARY

<b>TITLE: Finance: Trustee Agreement</b>	<b>MEETING DATE: September 14, 2011</b> <b>AGENDA ITEM NO.: 4.a</b>
<b>RECOMMENDED ACTION: Accept a proposal from Bank of New York Mellon to serve as trustee for the Certificates of Participation.</b>	
<b>SUMMARY AND DISCUSSION:</b> <p>The Board reviewed the proposals from four banks at their meeting on August 22<sup>nd</sup>. The proposals are summarized in the attached Table. The Bank of New York Mellon was determined to offer the required services at the lowest total cost and was the recommended selection. The decision was deferred while board members verified that there was no conflict of interest. District Counsel has reviewed the facts provided and determined that receiving checks from institutions that have accounts at the Bank of New York Mellon does not constitute a conflict or an obstacle to selecting them as the trustee.</p>	
<b>ALTERNATIVES: Select one of the alternate proposals.</b>	
<b>BUDGET INFORMATION: The trustee fees are included in the cost of the COP.</b>	
<b>DEPT.MGR.:</b>	<b>MANAGER:</b>

**Novato Sanitary District  
Wastewater Certificates of Participation, Series 2011  
Summary of Trustee Bids - August 2011**

Criteria/Fee	Description	Bank of New York Mellon	U.S. Bank	Wells Fargo Bank	Union Bank of California
<b>Contact</b>		Jose Matamoros (213) 630-6457	Steven D. Torgeson (415) 273-4544	Stuart Weiss (213) 371-3357	Daren DiNicola (415) 705-5043
<b>Initial Fees</b>					
<b>Acceptance Fee</b>	One time fee payable at closing includes review of documents and account set up	\$250	\$500	\$1,200	\$750
<b>Legal Counsel Fee</b>	Fee and expenses of legal counsel to review financing documents payable at closing	Included in Acceptance Fee	\$1,500	\$300	No Charge
<b>Annual Fees</b>					
<b>Administration Fee</b>	Annual fee covers normal trustee, registrar and paying agent duties. Fee is payable annually in advance and shall not be prorated	\$600	\$1,000	\$1,200	\$750
<b>Dissemination Agent</b>	Produce/mail statements to fulfill continuing disclosure requirements		\$250		\$225
<b>Transactional Charges</b>					
<b>Disbursements/Wires</b>	Charge for item disbursed. Includes wire or check fee	\$35 per transaction	Waived	No fees for up to 24 transactions/yr	\$35 per transaction
<b>Trades</b>	Charge per trade to buy or sell commercial paper or US treasuries agencies	\$35 per transaction	\$50 per transaction	Beyond 24, fee is \$25/transaction	\$60
<b>Out of Pocket/Incidental Expenses</b>	Additional expenses including telephone, fax, courier, copying, mailing, etc.	At Cost	5%	None Anticipated	6% of Annual Fee
<b>Investment Agreement</b>			\$500	\$500	

September 12, 2011

Memo to: Board of Directors

From: Adhoc Finance Committee  
Jean Mariani  
William Long

Subject: Issuance of Wastewater Revenue Certificates of Participation (COP)

The Adhoc Finance Committee held a meeting on September 7, 2011 with board members Jean Mariani and William Long in attendance. William Long, Board President and Beverly James, Manager-Engineer represented the District at a meeting with Standard and Poor's to obtain a rating for the District.

### **District Financial Status**

The committee reviewed the District's financial status including operating reserves and cash flow. Table 1 shows the actual Flow of Operating Funds and Operating Reserves from July 1, 2001 through June 30, 2011. It also shows the projected flows for July 1, 2011 through June 30, 2012. The table shows that actual operating reserves have increased from \$4,357,609 in 2001 to \$9,712,284 in 2011. Table 2, provides a detailed cash flow showing the period between July 1, 2011 and December 31, 2011 when the first SRF loan payment is due. It should be noted that this cash flow does not include the proceeds from the COP.

### **COP Term**

The Committee reviewed three options for the term of the COP, 20, 23, and 25 years to determine the best balance between total interest cost, annual payments, and debt service coverage. They narrowed the options to 20 or 23-year terms. The assumed interest rate is 0.5 basis points above that for a AA general obligation bond. The actual interest rate will be determined at the time of the COP sale and may vary from the assumed rate. Table 3 shows the debt service schedule for a 20-year term. Table 4 shows the projected debt service coverage. Similarly Tables 5 and 6 show the debt service schedule and coverage

for a 23-year term. Both options met the debt service coverage requirement of 1.2 and assume a \$39/year rate increase starting in 2012-13.

***The Committee recommends a 20-year term in order to save between \$2 and \$4 million in interest over the life of the COP.***

### **COP Sale Schedule**

The Committee reviewed the updated Sale Schedule prepared by Bartle Wells in Table 7. The date of the Board meeting for approval of the sale of the COPs and to select the trustee was changed to September 14<sup>th</sup>. The sale date is September 27, 2011.

### **Resolution**

The setting of the terms and conditions and approval of the sale of the \$22,000,000 Wastewater Revenue Certificates of Participation to provide financing for Wastewater System Improvements be in the form of a resolution which will reference the related documents including the Notice of Sale, the Official Statement, the Installment Sale Agreement, and the Trust Agreement. A copy of the draft resolution is included in Appendix A to this memo. The Resolution states that it is authorization for an amount not to exceed \$22,500,000. The additional \$500,000 is normally included in the event something unexpected happens. The intent is to pass approve a COP sale for \$22 million. The related documents are discussed below and included in Appendices.

***The Committee recommends board approval of the Resolution including the supporting documentation.***

### **Notice of Sale**

The Committee and District Counsel reviewed the Notice of Sale prepared by Jones Hall contained in Appendix B. The Notice of Sale details the terms of the sale, the means and date and time the bids will be received.

### **Official Statement**

The Committee reviewed and commented on the draft Official Statement. Their comments are incorporated in the attached draft in Appendix C. The Official Statement is intended to provide prospective COP purchasers with the information they need to make an informed decision as to the risk of purchasing the COPs. It describes the use of the proceeds of the sale, the security for the certificates, the District and its finances, and other risk factors.

### **Installment Sale Agreement**

The Installment Sale Agreement is between Novato Sanitary District and the Public Property Financing Corporation of California is included in Appendix D. The Public

Property Financing Corp is commonly used for COPs. COPs require a counterparty to facilitate the transaction. They are involved only through the closing.

**Trust Agreement**

The Trust Agreement included in Appendix E is between Novato Sanitary District, the Public Property Financing Corporation of California, and the Trustee. The Agreement authorizes the Trustee to manage all of the interactions with the purchasers of the COPs, the disposition of the proceeds of the sale, prepayment of certificates, installment payments, and investments of moneys held in trust.

**Novato Sanitary District**  
**PROJECTED FLOW OF OPERATING FUNDS**  
**AND OPERATING RESERVES**  
**FY 03-04 THROUGH FY 2011-12**

Date: 13-Sep-11

FLOW OF FUNDS	Actual 2001-02	Actual 2002-03	Actual 2003-04	Actual 2004-05	Actual 2005-06	Actual 2006-07	Actual 2007-08	Actual 2008-09	Actual 2009-10	Actual 2010-11	Projected 2011-12
<b>OPERATING</b>											
Beginning Balance	3,828,279	2,562,839	2,518,531	2,610,650	3,414,169	4,150,639	5,187,416	6,413,825	7,631,870	6,966,483	7,420,907
Revenues Other Than SC/PT	781,279	1,594,948	829,612	898,433	957,362	1,068,561	1,325,468	1,018,708	812,553	815,963	744,114
Property Taxes	1,252,939	1,344,630	1,392,792	1,279,567	1,763,422	1,796,003	1,995,120	2,527,507	0	0	0
Service Charge Revenue	2,462,436	2,847,746	3,331,880	4,316,845	4,360,553	5,263,486	5,532,446	5,492,949	8,204,672	8,210,842	8,210,842
Fund Transfer (from SIF)	16,501	22,695	53,820	3,359	54,232	43,867	253,372	77,909	14,399	28,790	55,600
Fund Transfer (to SIF)	(100,000)	0	0	0	(100,000)	0	(200,000)	(100,000)	(25,000)	(28,790)	(60,000)
Fund Transfer (to RSF)	(600,000)	0	0	0	0	0	0	0	0	0	0
Fund Transfer (to ERR)	(600,000)	0	0	0	0	0	0	0	0	0	0
Fund Transfer to/from SRF	0	(890,989)	(192,000)	0	0	0	0	0	0	0	0
Fund Transfer (from C/I Reserve Fund)	0	0	0	0	0	0	0	0	0	0	0
Expenditures	(4,478,595)	(4,963,338)	(5,323,985)	(5,694,685)	(6,299,099)	(7,135,140)	(7,679,997)	(7,799,028)	(9,672,011)	(8,572,381)	(9,001,000)
Ending Bal - Working Capital	2,562,839	2,518,531	2,610,650	3,414,169	4,150,639	5,187,416	6,413,825	7,631,870	6,966,483	7,420,907	7,370,463
Vehicle Replacement	407,820	449,397	511,737	37,241	60,359	86,707	146,613	231,565	290,565	248,372	162,172
Self-Insurance Reserve	186,950	168,339	116,294	115,535	163,803	123,921	74,534	151,915	163,266	164,016	109,166
Rate Stabilization Fund	600,000	600,000	600,000	600,000	600,000	600,000	600,000	600,000	600,000	600,000	600,000
Emergency Repair Reserve Fund	600,000	600,000	600,000	600,000	600,000	600,000	600,000	600,000	600,000	600,000	600,000
Southgate Reserve Fund	0	890,989	698,989	698,989	678,989	678,989	678,989	678,989	678,989	678,989	678,989
<b>Total Operating Reserves</b>	<b>4,357,609</b>	<b>5,227,256</b>	<b>5,137,670</b>	<b>4,766,945</b>	<b>6,253,790</b>	<b>7,277,033</b>	<b>8,513,961</b>	<b>9,894,339</b>	<b>9,299,303</b>	<b>9,712,284</b>	<b>9,520,790</b>
Operating Service Units			26,010	26,150	26,300	26,450	26,600	26,600	26,600	26,600	26,600
Total Service Charge Rate:											
Operating	114	130	130	162	170	184	191	199	281	276	276
Capital	21	25	25	100	132	158	191	223	181	186	186
<b>Total Rate</b>	<b>135</b>	<b>155</b>	<b>155</b>	<b>262</b>	<b>302</b>	<b>342</b>	<b>382</b>	<b>422</b>	<b>462</b>	<b>462</b>	<b>462</b>
Service Charge Rate (\$/yr)	135	155	155	262	302	342	382	422	462	462	462
Increase over Previous Year	17	20	0	107	40	40	40	40	40	0	0
Increase over Previous Year	14.40%	14.81%	0.00%	69.03%	15.27%	13.25%	11.70%	10.47%	9.48%	0.00%	0.00%

SIF = Self-Insurance Fund  
RSF = Rate Stabilization Fund  
ERR = Emergency Repair Reserve  
SRF = Southgate Reserve Fund

NOTE: \$192,000 transfer from SRF (Southgate) in fiscal year 2003-04 was made to Capital Improvements Fund

**Novato Sanitary District**  
**Flow of Funds Operating and Capital**  
July 1 through December 31, 2011

	<u>Actual</u>	<u>Projected</u>	
	<u>Jul 1 - Aug 31, 11</u>	<u>Sept - Dec 31, 11</u>	<u>Balance of Fund</u>
<b>Beginning Balance Operating Fund - 7/1/11</b>			<b>7,056,588</b>
<b>Revenues:</b>			
Sewer Service Charges for Operations	14,608	3,750,000	
Sewer Service Charges for Capital	9,339	3,750,000	
Property Taxes	337,670	885,000	
Connection Charges	650,015	50,000	
Other Revenue	343,055	1,000	
Interest		7,000	
SRF Reimbursement		2,129,975	
<b>Total Revenue</b>	<b>1,354,687</b>	<b>10,572,975</b>	<b>18,984,250</b>
<b>Expenditures:</b>			
Operating Expenditures	1,467,892	3,157,515	
SRF Loan		6,064,321	
<b>Total Expenditures</b>	<b>1,467,892</b>	<b>9,221,836</b>	<b>8,294,522</b>
<b>Ending Balance Operating Fund -12/31/11</b>			<b>8,294,522</b>
<b>Capital Expenditures</b>	<b>1,367,472</b>	<b>3,968,500</b>	<b>2,958,550</b>
<b>Ending Balance after Capital Expenditures as of 12/31/11</b>			<b>2,958,550</b>



## 20 YEARS

**Novato Sanitary District  
2011 Certificates of Participation  
Debt Service Schedule**

**20 YEARS**

Dated Date:	10/12/11
-------------	----------

Payment Date	Principal	Rate	Interest	Period Debt Svc	Fiscal Year Debt Svc
02/01/12			\$221,550.07	\$221,550.07	\$221,550.07
08/01/12			365,862.50	365,862.50	
02/01/13	850,000	1.250%	365,862.50	1,215,862.50	1,581,725.00
08/01/13			360,550.00	360,550.00	
02/01/14	865,000	1.500%	360,550.00	1,225,550.00	1,586,100.00
08/01/14			354,062.50	354,062.50	
02/01/15	880,000	1.600%	354,062.50	1,234,062.50	1,588,125.00
08/01/15			347,022.50	347,022.50	
02/01/16	890,000	1.700%	347,022.50	1,237,022.50	1,584,045.00
08/01/16			339,457.50	339,457.50	
02/01/17	905,000	2.000%	339,457.50	1,244,457.50	1,583,915.00
08/01/17			330,407.50	330,407.50	
02/01/18	925,000	2.300%	330,407.50	1,255,407.50	1,585,815.00
08/01/18			319,770.00	319,770.00	
02/01/19	945,000	2.600%	319,770.00	1,264,770.00	1,584,540.00
08/01/19			307,485.00	307,485.00	
02/01/20	970,000	3.000%	307,485.00	1,277,485.00	1,584,970.00
08/01/20			292,935.00	292,935.00	
02/01/21	1,000,000	3.200%	292,935.00	1,292,935.00	1,585,870.00
08/01/21			276,935.00	276,935.00	
02/01/22	1,035,000	3.350%	276,935.00	1,311,935.00	1,588,870.00
08/01/22			259,598.75	259,598.75	
02/01/23	1,065,000	3.550%	259,598.75	1,324,598.75	1,584,197.50
08/01/23			240,695.00	240,695.00	
02/01/24	1,105,000	3.650%	240,695.00	1,345,695.00	1,586,390.00
08/01/24			220,528.75	220,528.75	
02/01/25	1,145,000	3.800%	220,528.75	1,365,528.75	1,586,057.50
08/01/25			198,773.75	198,773.75	
02/01/26	1,190,000	3.950%	198,773.75	1,388,773.75	1,587,547.50
08/01/26			175,271.25	175,271.25	
02/01/27	1,235,000	4.050%	175,271.25	1,410,271.25	1,585,542.50
08/01/27			150,262.50	150,262.50	
02/01/28	1,285,000	4.150%	150,262.50	1,435,262.50	1,585,525.00
08/01/28			123,598.75	123,598.75	
02/01/29	1,340,000	4.200%	123,598.75	1,463,598.75	1,587,197.50
08/01/29			95,458.75	95,458.75	
02/01/30	1,395,000	4.300%	95,458.75	1,490,458.75	1,585,917.50
08/01/30			65,466.25	65,466.25	
02/01/31	1,455,000	4.350%	65,466.25	1,520,466.25	1,585,932.50
08/01/31			33,820.00	33,820.00	
02/01/32	1,520,000	4.450%	33,820.00	1,553,820.00	1,587,640.00
<b>Total</b>	<b>\$22,000,000</b>		<b>\$9,937,472.57</b>	<b>\$31,937,472.57</b>	<b>\$31,937,472.57</b>

\* Municipal Market Data Aa GO Bond scale plus 0.50 basis points - September 6, 2011.

## 20 YEARS

**Novato Sanitary District  
Projected Debt Service Coverage**

**20 YEARS**

	Actual	Budget	Projected			
	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
Average Residential Annual Sewer Charge	\$462	\$462	\$501	\$540	\$579	\$618
Annual Percent Change		0.0%	8.4%	7.8%	7.2%	6.7%
<b>REVENUES</b>						
Sewer Service Charges for Operations	\$8,023,872	\$8,210,842	\$8,233,114	\$8,677,000	\$8,958,000	\$9,240,000
Sewer Service Charges for Capital	5,359,997	5,472,815	6,364,000	7,260,000	8,160,000	9,062,000
Property Taxes (2% Increase)	1,774,217	1,775,000	1,811,000	1,847,000	1,884,000	1,922,000
Connection Charges	174,631	681,600	448,000	470,000	494,000	518,000
Other Revenues (2% Increase)	924,911	853,062	870,000	887,000	905,000	923,000
Interest	30,397	40,000	391,000	279,000	277,000	297,000
Use of Fund Reserves	0	1,215,597	0	0	0	0
Total Revenues	16,288,025	18,248,916	18,117,114	19,420,000	20,678,000	21,962,000
<b>OPERATING EXPENSES</b>						
Collections	1,013,092	1,156,257	1,183,000	1,233,000	1,270,000	1,308,000
Treatment - Contract Operations	2,255,018	2,632,750	2,700,000	2,781,000	2,864,000	2,950,000
Reclamation	382,063	493,787	502,000	518,000	534,000	550,000
Laboratory	689,638	693,008	705,000	734,000	756,000	779,000
Pump Stations	702,446	814,148	778,000	794,000	818,000	843,000
Administration (1)	2,909,197	2,737,900	2,740,000	2,911,000	2,998,000	3,088,000
CalPERS Side Fund Payoff	0	1,215,597	0	0	0	0
Hazardous Household Waste	307,137	360,601	373,000	384,000	396,000	408,000
Zions Bank - Line of Credit	209,456	0	0	0	0	0
SRF Loan	0	6,064,321	5,423,064	5,423,064	5,423,064	5,423,064
Total Operating Expenses	8,468,047	16,168,369	14,404,064	14,778,064	15,059,064	15,349,064
<b>NET REVENUES</b>	7,819,978	2,080,547	3,713,050	4,641,936	5,618,936	6,612,936
<b>Debt Service</b>						
Series 2011 COPS (Estimated)	0	222,000	1,586,000	1,586,000	1,586,000	1,586,000
Total Debt Service	0	222,000	1,586,000	1,586,000	1,586,000	1,586,000
Debt Service Coverage (min 1.20x)	0.00	9.37	2.34	2.93	3.54	4.17
Net Income After Debt Service for Pay-as-you-go	7,819,978	1,858,547	2,127,050	3,055,936	4,032,936	5,026,936

1 - Includes Retiree Health Benefits.

Source: NSD Final Budget for FY 2011-13, BWA's 2011-2016 Financial Plan dated June 24, 2011

**Novato Sanitary District**  
**2011 Certificates of Participation**  
**Debt Service Schedule**

**23 YEARS**

Dated Date:	10/12/11
-------------	----------

Payment Date	Principal	Rate	Interest	Period Debt Svc	Fiscal Year Debt Svc
02/01/12			238,171.96	238,171.96	238,171.96
08/01/12			393,311.50	393,311.50	
02/01/13	695,000	1.250%	393,311.50	1,088,311.50	1,481,623.00
08/01/13			388,967.75	388,967.75	
02/01/14	705,000	1.500%	388,967.75	1,093,967.75	1,482,935.50
08/01/14			383,680.25	383,680.25	
02/01/15	715,000	1.600%	383,680.25	1,098,680.25	1,482,360.50
08/01/15			377,960.25	377,960.25	
02/01/16	730,000	1.700%	377,960.25	1,107,960.25	1,485,920.50
08/01/16			371,755.25	371,755.25	
02/01/17	740,000	2.000%	371,755.25	1,111,755.25	1,483,510.50
08/01/17			364,355.25	364,355.25	
02/01/18	755,000	2.300%	364,355.25	1,119,355.25	1,483,710.50
08/01/18			355,672.75	355,672.75	
02/01/19	770,000	2.600%	355,672.75	1,125,672.75	1,481,345.50
08/01/19			345,662.75	345,662.75	
02/01/20	790,000	3.000%	345,662.75	1,135,662.75	1,481,325.50
08/01/20			333,812.75	333,812.75	
02/01/21	815,000	3.200%	333,812.75	1,148,812.75	1,482,625.50
08/01/21			320,772.75	320,772.75	
02/01/22	840,000	3.350%	320,772.75	1,160,772.75	1,481,545.50
08/01/22			306,702.75	306,702.75	
02/01/23	870,000	3.550%	306,702.75	1,176,702.75	1,483,405.50
08/01/23			291,260.25	291,260.25	
02/01/24	900,000	3.650%	291,260.25	1,191,260.25	1,482,520.50
08/01/24			274,835.25	274,835.25	
02/01/25	935,000	3.800%	274,835.25	1,209,835.25	1,484,670.50
08/01/25			257,070.25	257,070.25	
02/01/26	970,000	3.950%	257,070.25	1,227,070.25	1,484,140.50
08/01/26			237,912.75	237,912.75	
02/01/27	1,005,000	4.050%	237,912.75	1,242,912.75	1,480,825.50
08/01/27			217,561.50	217,561.50	
02/01/28	1,050,000	4.150%	217,561.50	1,267,561.50	1,485,123.00
08/01/28			195,774.00	195,774.00	
02/01/29	1,090,000	4.200%	195,774.00	1,285,774.00	1,481,548.00
08/01/29			172,884.00	172,884.00	
02/01/30	1,135,000	4.350%	172,884.00	1,307,884.00	1,480,768.00
08/01/30			148,197.75	148,197.75	
02/01/31	1,185,000	4.450%	148,197.75	1,333,197.75	1,481,395.50
08/01/31			121,831.50	121,831.50	
02/01/32	1,240,000	4.500%	121,831.50	1,361,831.50	1,483,663.00
08/01/32			93,931.50	93,931.50	
02/01/33	1,295,000	4.550%	93,931.50	1,388,931.50	1,482,863.00
08/01/33			64,470.25	64,470.25	
02/01/34	1,355,000	4.660%	64,470.25	1,419,470.25	1,483,940.50
08/01/34			32,898.75	32,898.75	
02/01/35	1,415,000	4.650%	32,898.75	1,447,898.75	1,480,797.50
Total	22,000,000		12,340,735.46	32,892,836.71	34,340,735.46

\* Municipal Market Data Aa GO Bond scale plus 0.60 basis points - September 6, 2011.

**Novato Sanitary District**  
**Projected Debt Service Coverage**

**23 YEARS**

	Actual	Budget	Projected			
	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
Average Residential Annual Sewer Charge	\$462	\$462	\$501	\$540	\$579	\$618
Annual Percent Change		0.0%	8.4%	7.8%	7.2%	6.7%
<b>REVENUES</b>						
Sewer Service Charges for Operations	\$8,023,872	\$8,210,842	\$8,233,114	\$8,677,000	\$8,958,000	\$9,240,000
Sewer Service Charges for Capital	5,359,997	5,472,815	6,364,000	7,260,000	8,160,000	9,062,000
Property Taxes (2% Increase)	1,774,217	1,775,000	1,811,000	1,847,000	1,884,000	1,922,000
Connection Charges	174,631	681,600	448,000	470,000	494,000	518,000
Other Revenues (2% Increase)	924,911	853,062	870,000	887,000	905,000	923,000
Interest	30,397	40,000	391,000	279,000	277,000	297,000
Use of Fund Reserves	0	1,215,597	0	0	0	0
Total Revenues	16,288,025	18,248,916	18,117,114	19,420,000	20,678,000	21,962,000
<b>OPERATING EXPENSES</b>						
Collections	1,013,092	1,156,257	1,183,000	1,233,000	1,270,000	1,308,000
Treatment - Contract Operations	2,255,018	2,632,750	2,700,000	2,781,000	2,864,000	2,950,000
Reclamation	382,063	493,787	502,000	518,000	534,000	550,000
Laboratory	689,638	693,008	705,000	734,000	756,000	779,000
Pump Stations	702,446	814,148	778,000	794,000	818,000	843,000
Administration (1)	2,909,197	2,737,900	2,740,000	2,911,000	2,998,000	3,088,000
CalPERS Side Fund Payoff	0	1,215,597	0	0	0	0
Hazardous Household Waste	307,137	360,601	373,000	384,000	396,000	408,000
Zions Bank - Line of Credit	209,456	0	0	0	0	0
SRF Loan	0	6,064,321	5,423,064	5,423,064	5,423,064	5,423,064
Total Operating Expenses	8,468,047	16,168,369	14,404,064	14,778,064	15,059,064	15,349,064
<b>NET REVENUES</b>	7,819,978	2,080,547	3,713,050	4,641,936	5,618,936	6,612,936
<b>Debt Service</b>						
Series 2011 COPS (Estimated)	0	238,000	1,483,000	1,483,000	1,483,000	1,483,000
Total Debt Service	0	238,000	1,483,000	1,483,000	1,483,000	1,483,000
Debt Service Coverage (min 1.20x)	0.00	8.74	2.50	3.13	3.79	4.46
Net Income After Debt Service for Pay-as-you-go	7,819,978	1,842,547	2,230,050	3,158,936	4,135,936	5,129,936

1 - Includes Retiree Health Benefits.

Source: NSD Final Budget for FY 2011-13, BWA's 2011-2016 Financial Plan dated June 24, 2011

**NOVATO SANITARY DISTRICT**  
**COP Sale Schedule – DRAFT 9/07/11**  
**2011 Revenue Certificate of Participation**  
**Planned Sale Date: Tuesday, September 27, 2011, 10am**

<b>Action</b>	<b>Date</b>	<b>Responsibility</b>
Select Financial Consultant/Bond Counsel	Jan. 2006	NSD
Authorization to Proceed	Jun. 27, 2011	NSD
First draft POS and NOS circulated for review	Aug. 8, 2011	BWA
Send out RFP for Trustee	Aug. 8, 2011	BWA / NSD
Adhoc Finance Committee Meeting	Aug. 22, 2011	BWA / NSD
Contact rating agency for meeting	Aug. 30, 2011	NSD / BWA
Notify Parity to place on calendar	Sept. 6, 2011	BWA
Adhoc Finance Committee Meeting	Sept. 7, 2011 – 4pm	NSD/JH/BWA
Rating agency meeting in SF (tentative)	Sept. 9, 2011 – 10am	NSD/BWA/ S&P
Finalize POS and NOS for Board Packet	Sept. 9, 2011	BWA
Select Trustee	Sept. 14, 2011	NSD /BWA
Board Meeting to approve sale of COPs, select trustee	Sept. 14, 2011	NSD /BWA
Finalize POS/NOS and distribute	Sept. 16, 2011	BWA
Sale Date: receive bids on COPs, award to low bidder	Sept. 27, 2011 – 10am	All
Finalize OS and send out for review	Sept. 29, 2011	BWA
Prepare closing documents/pre-closing	Oct. 11, 2011	NSD / JH
Closing and receipt of funds; fund escrow	Oct. 12, 2011	NSD / JH

Board of Directors' Meeting Dates: 2<sup>nd</sup> and 4<sup>th</sup> Mondays of each month

JUNE							JULY							AUGUST						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4						1	2		1	2	3	4	5	6
5	6	7	8	9	10	11	3	4	5	6	7	8	9	7	8	9	10	11	12	13
12	13	14	15	16	17	18	10	11	12	13	14	15	16	14	15	16	17	18	19	20
19	20	21	22	23	24	25	17	18	19	20	21	22	23	21	22	23	24	25	26	27
26	27	28	29	30			24	25	26	27	28	29	30	28	29	30	31			

  

SEPTEMBER							OCTOBER							NOVEMBER						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
				1	2	3	2	3	4	5	6	7	8			1	2	3	4	5
4	5	6	7	8	9	10	9	10	11	12	13	14	15	6	7	8	9	10	11	12
11	12	13	14	15	16	17	16	17	18	19	20	21	22	13	14	15	16	17	18	19
18	19	20	21	22	23	24	23	24	25	26	27	28	29	20	21	22	23	24	25	26
25	26	27	28	29	30	1	30	31						27	28	29	30			

 - Board Mtgs       - Sale Date

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
NOVATO SANITARY DISTRICT AUTHORIZING THE ISSUANCE  
AND SALE OF WASTEWATER REVENUE CERTIFICATES OF  
PARTICIPATION, SERIES 2011, IN THE PRINCIPAL AMOUNT  
OF NOT TO EXCEED \$22,500,000 TO PROVIDE FINANCING  
FOR WASTEWATER SYSTEM IMPROVEMENTS, AND  
APPROVING RELATED DOCUMENTS AND ACTIONS**

**WHEREAS**, the Novato Sanitary District (the "District") owns and operates facilities and property for the collection, treatment and disposal of wastewater within the service area of the District (the "Wastewater System") and the District has initiated proceedings to construct various improvements to the Wastewater System consisting primarily of improvements to the collection system, pump station, water reclamation facilities and the Novato Main Treatment Plant (the "Project"); and

**WHEREAS**, in order to provide financing for a portion of the Project, the District has previously borrowed funds from the Department of Water Resources of the State of California under an Installment Sale Agreement (the "SRF Installment Sale Agreement"), under which the District is obligated to make semiannual installment payments (the "SRF Installment Payments"); and

**WHEREAS**, the SRF Installment Payments are payable from net revenues of the Wastewater System, and the SRF Installment Sale Agreement provides that the District may incur additional indebtedness to finance improvements to the Wastewater System; and

**WHEREAS**, in order to provide additional funding for the Project, the District wishes to authorize the issuance and sale of Wastewater Revenue Certificates of Participation, Series 2011 in the aggregate principal amount of not to exceed \$22,500,000 (the "Certificates"); and

**WHEREAS**, the Certificates will evidence installment payments which are payable by the District under an Installment Sale Agreement between the District and the Public Property Financing Corporation of California, which will be secured by a pledge of and lien on the net revenues of the Wastewater System on a basis which is subordinate to the SRF Installment Payments; and

**WHEREAS**, the District is authorized to enter into the Installment Sale Agreement pursuant to the Sanitary District Act of 1923, including the provisions of Sections 6512 and 6515 thereof;

**NOW, THEREFORE**, the Board of Directors of the Novato Sanitary District hereby resolves as follows:

**Section 1. Approval of Financing Plan and Related Documents.** The Board of Directors hereby approves the issuance and sale of Wastewater Revenue Certificates of Participation, Series 2011 in the aggregate principal amount of not to exceed \$22,500,000 (the "Certificates") for the purpose of providing funds to finance the Project.

To that end, the Board of Directors hereby approves each of the following financing documents in substantially the respective forms on file with the Manager-Engineer, together with any changes therein or additions thereto approved by the Manager-Engineer:

- Installment Sale Agreement dated as of October 1, 2011, between the District and the Corporation, under which the Corporation agrees to provide financing for the Project and to sell the completed Project to the District in consideration of the payment by the District of semiannual installment payments as the purchase price, to be made from the net revenues of the Wastewater System on a basis which is subordinate to the SRF Installment Payments.
- Trust Agreement dated as of October 1, 2011, among the District, the Corporation and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), whereby the Trustee agrees to execute and deliver the Certificates and to deposit the proceeds thereof in a project fund to be applied to the payment of project costs upon requisitions of the District.

The President is hereby authorized and directed for and in the name and on behalf of the District to execute the final form of each of the foregoing documents, and the Secretary is hereby authorized and directed to attest to the final form of each of the foregoing documents. Execution of each of the foregoing documents by the President shall be conclusive evidence of the approval of any changes therein or additions thereto by the Manager-Engineer. The schedule of installment payments attached to the Installment Sale Agreement shall correspond to the payments of principal and interest represented by the Certificates, to be determined upon the sale thereof as set forth in Section 2.

**Section 2. Sale of Certificates.** The Board of Directors hereby authorizes and directs the sale of the Certificates by competitive public bidding. Bids shall be received, and the Certificates shall be sold, subject to the terms and conditions set forth in the Notice of Sale in substantially the form on file with the Manager-Engineer together with any additions thereto or changes therein deemed advisable by the Manager-Engineer. The Manager-Engineer is hereby authorized and directed to accept the best bid determined in accordance with the Notice of Sale, in the name and on behalf of the District.

Under 53692 of the Government Code the law firm of Jones Hall, as bond counsel to the District, is hereby authorized and directed to cause an appropriate notice of the District's intention to sell the Certificates to be published once in *The Bond Buyer*. Such publication shall be made not later than five days prior to the date set for receipt of bids on the Certificates.

**Section 3. Official Statement.** The Board of Directors hereby approves and deems nearly final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934, the preliminary Official Statement describing the Certificates in the form on file with the Manager-Engineer. The Manager-Engineer is hereby authorized, at the request of the purchaser of the Certificates, to execute an appropriate certificate affirming the Board of Directors' determination that the preliminary Official Statement has been deemed nearly final within the meaning of such Rule. Distribution of the preliminary

Official Statement by the financial advisor is hereby approved. The Manager-Engineer is hereby authorized and directed to approve any changes in or additions to a final form of said Official Statement, and the execution thereof by the Manager-Engineer shall be conclusive evidence of approval of any such changes and additions. The Board of Directors hereby authorizes the distribution of the final Official Statement by the winning bidder for the Certificates. The final Official Statement shall be executed in the name and on behalf of the District by the Manager-Engineer.

**Section 4. Official Actions.** The President, the Manager-Engineer, the Secretary and all other officers of the District, are authorized and directed in the name and on behalf of the District to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution. Whenever in this resolution any officer of the District is directed to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

**Section 5. Effective Date.** This Resolution shall take effect from and after the date of its passage and adoption.

\*\*\*\*\*

The foregoing Resolution was duly and regularly introduced, passed, and adopted by the Board of Directors of the Novato Sanitary District at a special meeting thereof held on the 14th day of September, 2011.

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
William C. Long, President

Attest:

\_\_\_\_\_  
Beverly B. James, Secretary



## NOTICE OF SALE

**\$22,000,000\***

### **NOVATO SANITARY DISTRICT WASTEWATER REVENUE CERTIFICATES OF PARTICIPATION, SERIES 2011**

NOTICE IS HEREBY GIVEN by the Novato Sanitary District (the "District") that bids will be received as follows:

*Time:* Up to and including 10:00 a.m. Pacific Time

*Date:* September 27, 2011

*Electronic Bids:* Via the BIDCOMP/PARITY® Competitive Bidding System

for the purchase of \$22,000,000\* aggregate principal amount of certificates of participation designated the Wastewater Revenue Certificates of Participation, Series 2011 (the "Certificates"). The District may postpone the date or change the time of the sale to any subsequent date or any other time by providing notification through BIDCOMP/PARITY®, Munifacts News Service, or Bloomberg Business News at least 24 hours prior to the scheduled date and time of sale.

The Certificates represent the direct, undivided fractional interests of the owners thereof in installment payments to be made by the District under an Installment Sale Agreement dated as of October 1, 2011 (the "Installment Sale Agreement"), between the District and the Public Property Financing Corporation of California (the "Corporation"). The Certificates will be delivered under the provisions of a Trust Agreement dated as of October 1, 2011 (the "Trust Agreement"), among the Corporation, the District and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee").

**PURPOSE:** The proceeds of the Certificates will be applied for the purpose of financing the cost of acquisition and construction of improvements to the Wastewater System of the District (the "Wastewater System").

**INSURANCE:** Bond insurance may be available and, if so, will be at the bidder's option. All expenses for obtaining municipal bond insurance, including but not limited to the premium for any insurance policy and the cost of any related ratings, shall be the sole responsibility of and shall be paid directly by the winning bidder, and will not be credited to the purchase price of the Certificates.

**SECURITY:** The Certificates represent the direct, undivided fractional interests of the owners thereof in Installment Payments (the "Installment Payments") to be made by the District under the Installment Sale Agreement as the purchase price for certain Wastewater System facilities to be acquired and constructed from the proceeds of the Certificates. The Installment Payments are payable from and secured by a first pledge of and lien on the Net Revenues of the Wastewater System, on a parity with certain outstanding obligations of the District. The District is permitted to incur additional debt

---

\* Preliminary, subject to change.

on a parity with the pledge and lien which secures the Installment Payments, under the Installment Sale Agreement. Bidders should be aware of certain factors affecting the payment of Installment Payments in amounts and at times sufficient to pay the principal and interest represented by the Certificates, and bidders are referred to the Trust Agreement, the Installment Sale Agreement, and the Preliminary Official Statement for further details.

**FORM OF CERTIFICATES:** The Certificates will be issued in fully registered form in denominations of \$5,000 or authorized integral multiples thereof, to be dated initially as of the date of original delivery of the Certificates.

**MATURITIES:** The Certificates will mature, or be subject to mandatory sinking fund prepayment, on February 1 in each of the years and in the amounts, as set forth in the following table. The final principal amount of the Certificates, and the final amount of each maturity of the Certificates, shall be subject to increase or reduction as described below under the heading "Adjustment of Principal Amounts". *Each bidder is required to specify in its bid whether, for any particular year, the Certificates will mature or, alternately, be subject to mandatory sinking fund prepayment in such year.*

Maturity Date (February 1)	Principal Amount*	Maturity Date (February 1)	Principal Amount*
2013		2023	
2014		2024	
2015		2025	
2016		2026	
2017		2027	
2018		2028	
2019		2029	
2020		2030	
2021		2031	
2022		2032	

\* Preliminary, subject to change

**PAYMENT PROVISIONS:** Interest represented by the Certificates will be payable on February 1 and August 1 in each year beginning February 1, 2012 (the "Interest Payment Dates"), to the registered owners by check or draft of the Trustee or, in the case of the owner of Certificates in an aggregate principal amount of at least \$1,000,000, at the written request of such owner by wire transfer. Principal and premium (if any) represented by any Certificate will be paid upon presentation and surrender thereof at the corporate trust office of the Trustee in San Francisco, California. The principal, interest and premium (if any) represented by the Certificates are payable in lawful money of the United States of America.

**OPTIONAL PREPAYMENT:** The Certificates maturing on or before February 1, 2020, are not subject to optional prepayment prior to the respective stated maturities. The Certificates maturing on or after February 1, 2021, are subject to optional prepayment in whole or in part, on any date on or after February 1, 2020, from prepayments of the Installment Payments made at the option of the District under the Installment Sale Agreement. Certificates shall be subject to prepayment under this subsection at a prepayment price equal to 100% of the principal amount of Certificates or portions

thereof to be prepaid together with accrued interest represented thereby to the prepayment date, plus a premium (expressed as a percentage of the par amount to be prepaid) as set forth in the following table:

<u>Prepayment Dates</u>	<u>Prepayment Premium</u>
February 1, 2020, to January 31, 2021	0.5%
February 1, 2021, and thereafter	0.0%

**PREPAYMENT FROM NET PROCEEDS OF INSURANCE OR CONDEMNATION.** The Certificates are subject to mandatory prepayment, in whole or in part (on a pro rata basis among maturities) on any date, from the net proceeds of insurance, condemnation or sale with respect to the Wastewater System, at a prepayment price equal to the principal amount represented by the Certificates to be prepaid, without premium, together with accrued interest to the date fixed for prepayment.

**SINKING FUND PREPAYMENT:** Any bidder may, at its option, specify that one or more maturities of the Certificates will consist of term Certificates which are subject to mandatory sinking fund prepayment in consecutive years immediately preceding the maturity thereof, as designated in the bid of such bidder. If the bid of the successful bidder specifies that any maturity of Certificates will be term Certificates, such term Certificates will be subject to mandatory sinking fund prepayment on February 1 in each year so designated in the bid, in the respective amounts for such years as set forth above under the heading "MATURITIES", at a prepayment price equal to the principal amount thereof to be prepaid together with accrued interest thereon to the prepayment date, without premium.

**CONTINUING DISCLOSURE:** In order to assist bidders in complying with S.E.C. Rule 15c2-12(b)(5), the District will undertake, under the Trust Agreement and a Continuing Disclosure Certificate, to provide annual reports and notices of certain events. A description of this undertaking is set forth in the form of the Continuing Disclosure Certificate appended to the Preliminary Official Statement, which Continuing Disclosure Certificate will also be appended to the Final Official Statement.

**TAX-EXEMPT STATUS:** In the opinion of Jones Hall, A Professional Law Corporation, acting as Bond Counsel to the District, the portion of Installment Payments designated as and comprising interest and received by the owners of the Certificates is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. In the further opinion of bond counsel, such interest is exempt from California personal income taxes. In the event that prior to the delivery of the Certificates (a) the interest on other obligations of the same type and character shall be declared to be taxable (either at the time of such declaration or at any future date) under any federal income tax laws, either by the terms of such laws or by ruling of a federal income tax authority or official which is followed by the Internal Revenue Service, or by decision of any federal court, or (b) any federal income tax law is adopted which will have a substantial adverse effect upon owners of the Certificates as such, the successful bidder for the Certificates may, at its option, prior to the tender of the Certificates, be relieved of its obligation under the contract to purchase the Certificates, and in such case the deposit accompanying its proposal will be returned.

**LEGAL OPINION:** The legal opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, approving the validity of the Trust Agreement and the Installment Sale Agreement, will be furnished to the original purchaser of the Certificates without cost. A copy of the legal opinion, certified by the official in whose office the original is filed, will be printed on, or attached to each Certificate at the expense of the District.

**FURTHER INFORMATION:** A copy of the Preliminary Official Statement describing the Certificates, and any other information concerning the proposed financing, will be furnished upon request to the financial advisor to the District, Bartle Wells Associates, 1889 Alcatraz Avenue, Berkeley, California 94703, telephone: (510) 653-3399.

## TERMS OF SALE

**FORM OF BID:** Bids must be for all of the Bonds and for not less than 99% of the principal amount thereof, plus accrued interest to the date of delivery. Each bid must be in accordance with the terms and conditions set forth herein.

**ELECTRONIC BIDS:** The District will accept bids in electronic form solely via the BIDCOMP/PARITY<sup>®</sup> Competitive Bidding System ("Parity"). Instructions and forms for submitting electronic bids must be obtained from Parity, and the District does not assume any responsibility for ensuring or verifying bidder compliance with Parity's procedures. The District is entitled to assume that any bid received via Parity has been made by a duly authorized agent of the bidder. Neither the District, the Financial Advisor nor Bond Counsel assumes any responsibility for proper functioning of the Parity system, for any error contained in any bid submitted electronically, or for failure of any bid to be transmitted, received or opened at the official time for receipt of bids. The District assumes no responsibility for informing any bidder prior to the deadline for receiving bids that its bid is incomplete, or not received. For further information about Parity, bidders may contact Bartle Wells Associates at (510) 653-3399.

**FORM OF BID; MAXIMUM DISCOUNT:** Each bidder must submit a bid for the purchase of all of the Certificates. The proposal of any bidder must be for not less than all of the Certificates hereby offered for sale. The purchase price of the Certificates may not be less than 99% of the par value thereof and accrued interest represented thereby to the delivery date. The amount of any discount specified shall not exceed 1% of the aggregate principal amount of the Certificates.

**DESIGNATION OF INTEREST RATES:** Each bidder must specify the rate or rates of interest to be represented by the Certificates. The maximum rate bid on any Certificates may not exceed 6% per annum. A bidder will be permitted to bid different rates of interest for the Certificates, provided that the following conditions are met:

- (i) each interest rate specified must be in a multiple of 1/20<sup>th</sup> or 1/8<sup>th</sup> of one percent,
- (ii) the interest rate for each maturity of Certificates shall be equal to or greater than the interest rate on each preceding maturity,
- (iii) no Certificate shall represent more than one rate of interest,

- (iv) interest represented by each Certificate shall be computed from the date of original delivery of the Certificates to the stated maturity (or to its sinking fund redemption date, in the case of term Certificates) at the interest rate specified in the bidder's proposal, payable on the Interest Payment Dates as set forth above, and
- (v) all Certificates maturing at any one time shall represent the same rate of interest.

**DETERMINATION OF BEST BID:** The Certificates will be awarded to the bidder whose proposal produces the lowest true interest rate, determined as hereinafter described. The true interest rate specified in any bid will be that rate which, when used in computing the present worth of all payments of principal and interest to be paid on all Certificates from the date of original delivery thereof (which shall be assumed for computational purposes to be October 12, 2011), to their respective maturity dates or mandatory sinking fund prepayment dates, produces an amount equal to the purchase price specified in such bid. For purposes of computing the true interest rate represented by any proposal, the purchase price specified in such proposal shall be equal to the par amount of the Certificates less any discount or plus any premium specified in such proposal, and the true interest rate shall be calculated by the use of a semiannual interval of compounding interest based on the Interest Payment Dates for the Certificates. All interest will be computed on a 30-day month, 360-day year basis.

**ADJUSTMENT OF PRINCIPAL MATURITIES:** The District reserves the right to increase or decrease the principal amount of any maturity of the Certificates (or, in the case of the term Certificates, the principal amount thereof which is subject to mandatory sinking fund redemption on February 1 in any year). Such adjustments shall not exceed 10 percent of the total principal amount of the Certificates. Notice of such increase or decrease shall be given to the successful bidder as soon as practicable following the notification of award, as described below. No such adjustment will have the effect of altering the basis upon which the best bid is determined.

**RIGHT OF REJECTION:** The District reserves the right, in its discretion, to reject any and all proposals and to waive any irregularity or informality in any proposal.

**TIME OF AWARD:** The Board of Directors of the District has authorized certain designated officers, on behalf of the District, to accept the best responsible bid for the purchase of the Certificates and to accept such bid, for and in the name of the District, by notice to the successful bidder. The District will award the Certificates or reject all bids not later than 24 hours after the expiration of the time prescribed for the receipt of proposals unless such time of award is waived by the successful bidder; provided, that the award may be made after the expiration of the specified time if the bidder has not given the District notice in writing of the withdrawal of such proposal.

**PLACE OF DELIVERY; CANCELLATION FOR LATE DELIVERY:** It is expected that the Certificates will be delivered to DTC for the account of the successful bidder on or about October 12, 2011. The successful bidder shall have the right to cancel the contract of purchase if the Certificates are not tendered for delivery within 60 days from the date of the sale thereof, and in such event the successful bidder shall be entitled to the return of the deposit accompanying his bid.

**GOOD FAITH DEPOSIT:** Upon acceptance of a bid, the selected winning bidder shall be required to make a good faith deposit of \$100,000 by wire transfer in immediately available funds not later than 3:30 p.m. Pacific Time on the next business day following the award, payable to the Novato Sanitary District. Wire transfer information will be provided to the winning bidder by the financial advisor to the District immediately following the award of the bid.

No interest on the good faith deposit will accrue to the purchaser. The good faith deposit of the selected bidder will, immediately upon acceptance of its bid, become the property of the District. The amount of the good faith deposit will be credited to the purchase price of the Certificates. In the event the purchaser fails to honor its accepted proposal, the good faith deposit will be retained by the District.

**STATEMENT OF TRUE INTEREST RATE:** Each bidder is requested, but not required, to state in its proposal the percentage true interest rate represented by its proposal, determined as described above, which shall be considered as informative only and not binding on either the bidder or the District.

**REOFFERING PRICES:** The successful bidder will be required to provide the District or its financial advisor by 2:00 p.m. Pacific Time, on the date on which bids for the Certificates are received, with information as to the initial offering price of each of the Certificates to the public (excluding brokers) at which a substantial amount of the Certificates were sold. The successful bidder shall also be required, as a condition to the delivery of the Certificates, to deliver to the District a certificate, in form and substance satisfactory to the District, stating (i) that, as of the date of award, the Certificates were expected to be reoffered in a bona fide public offering, (ii) the initial offering price at which a substantial amount (at least 10%) of each maturity of the Certificates were sold to the public, and (iii) that no Certificates of a single maturity were offered at one price to the general public and at a discount from that price to institutional or other investors.

**NO LITIGATION:** There is no litigation pending concerning the validity of the Installment Sale Agreement, the Trust Agreement or the Certificates, the corporate existence of the District or the corporation, or the entitlement of the officers thereof to their respective offices, and the purchaser will be furnished a no-litigation certificate certifying to the foregoing as of and at the time of delivery of the Certificates.

**CUSIP NUMBERS:** It is anticipated that CUSIP numbers will be printed on the Certificates, but neither the failure to print such numbers on any Certificates nor any error with respect thereto will constitute cause for a failure or refusal by the purchaser to accept delivery of and pay for the Certificates in accordance with the terms hereof. All expenses in relation to the printing of CUSIP numbers on the Certificates will be paid for by the District; provided, however, that the CUSIP Service Bureau charge for the assignment of said numbers will be the responsibility of and shall be paid for by the winning bidder. The winning bidder shall obtain CUSIP numbers in a timely manner and shall advise the District and Bond Counsel within two business days after notice of award of the CUSIP numbers for the Certificates.

**CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION FEES:** All fees payable to the California Debt and Investment Advisory Commission in connection with

the issuance of the Certificates are the sole responsibility of the purchaser of the Certificates.

**OFFICIAL STATEMENT:** The Board of Directors of the District has adopted an Official Statement relating to the Certificates. Copies of a Preliminary Official Statement will be distributed to the bidders prior to the sale in a form “deemed final” by the District for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934 (the “Rule”) and approved for distribution by resolution of the Board of Directors of the District. Within seven business days from the sale date, the District will deliver to the purchaser copies of the final Official Statement (not to exceed 100 copies), executed by an authorized representative of the District and dated the date of delivery thereof to the purchaser, in sufficient number to allow the purchaser to comply with paragraph (b)(4) of the Rule and to satisfy the Municipal Securities Rulemaking Board (the “MSRB”) Rule G-32 or any other rules adopted by the MSRB, which shall include information permitted to be omitted by paragraph (b)(1) of the Rule and such other amendments or supplements as shall have been approved by the District (the “Final Official Statement”).

Dated: September 14, 2011

**NOVATO SANITARY DISTRICT**

By                     /s/ Beverly B. James                      
District Manager-Engineer

# PRELIMINARY OFFICIAL STATEMENT DATED SEPTEMBER 12, 2011

## Novato Sanitary District \$22,000,000 Wastewater Revenue Certificates of Participation Series 2011

**New Issue:** Book-Entry Only

**Rating:** Standard & Poor's: \_\_\_\_\_

**Due:** February 1, as shown below

**Dated:** Date of Delivery

**Tax Exemption:** Interest represented by the Certificates is excluded from gross income for federal income tax purposes and is exempt from State of California personal income taxes. Page 28.

**Prepayment:** The Certificates are subject to prepayment prior to their stated date of maturity. Page 2.

**Security:** The Certificates evidence and represent Installment Payments which are payable by the Novato Sanitary District which are special obligations of the District, payable solely from net revenues of the District, as defined in the Installment Sale Agreement, by and between the District and Public Property Financing Corporation of California. Net revenues consist generally of all revenues after payment of adjusted operation and maintenance expenses. Adjusted operation and maintenance expenses are defined herein. Neither the full faith and credit nor the taxing power of the District is pledged to the payment of the Installment Payments. Page 6

**Purpose:** Proceeds of the Certificates will be used to finance the construction of wastewater system improvements and pay issuance costs. Page 3.

**Interest Payment Dates:** February 1 and August 1, beginning February 1, 2012.

**Closing:** On or about October 12, 2011.

**Denominations:** \$5,000 or multiple thereof.

**Trustee:** TBD

**Bond Counsel:** Jones Hall, A Professional Law Corporation, San Francisco, California

**Financial Advisor:** Bartle Wells Associates, Berkeley, California

**District Counsel:** Meyers Nave Riback Silver and Wilson, Oakland, California

Year (Feb 1)	Principal Amount	Interest Rate	Yield	Price	CUSIP	Year (Feb 1)	Principal Amount	Interest Rate	Yield	Price	CUSIP
2013	850,000	____%	____%			2023	1,065,000	____%	____%		
2014	865,000	____%	____%			2024	1,105,000	____%	____%		
2015	880,000	____%	____%			2025	1,145,000	____%	____%		
2016	890,000	____%	____%			2026	1,190,000	____%	____%		
2017	905,000	____%	____%			2027	1,235,000	____%	____%		
2018	925,000	____%	____%			2028	1,285,000	____%	____%		
2019	945,000	____%	____%			2029	1,340,000	____%	____%		
2020	970,000	____%	____%			2030	1,395,000	____%	____%		
2021	1,000,000	____%	____%			2031	1,455,000	____%	____%		
2022	1,035,000	____%	____%			2032	1,520,000	____%	____%		

The official statement, as supplemented or corrected by the District from time to time, is deemed final by the District as of the date hereof (or of any such supplement or correction), for purposes of compliance with Rule 15c2-12 of the Securities and Exchange Commission.

Terms and conditions of the offering are set forth in the Notice of Sale. Bids will be received online through the PARITY<sup>®</sup> Competitive Bidding System, up to and including 10:00 a.m. Pacific Standard Time. Following acceptance of a bid, information on interest rates and reoffering prices will be printed in the spaces above.

This official statement is dated \_\_\_\_\_.

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.



[LOCATION MAP]

Official Statement  
**NOVATO SANITARY DISTRICT**  
500 Davidson Street  
Novato, California 94945

---

**Board of Directors**

William C. Long, *President*  
Michael Di Giorgio, *Director*  
Dennis Welsh, *Director*  
George C. Quesada, *Director*  
Jean Mariani, *Director*

**District Staff**

Beverly B. James, *District Manager-Engineer, Secretary-Treasurer*  
Laura Creamer, *Finance Officer*

**Professional Services**

Meyers Nave Riback Silver and Wilson, Oakland, *District Counsel*  
Jones Hall, A Professional Law Corporation, San Francisco, *Bond Counsel*  
Bartle Wells Associates, Berkeley, *Financial Advisor*  
TBD, *Trustee*

---

This official statement provides information about the District and the Certificates. The official statement includes:

1. data supplied by the District and by others, as indicated herein;
2. estimates or projections which may or may not be realized and which should not be construed as assertions of fact; and
3. summaries and descriptions of legal and financial documents, or their contents, which do not purport to describe such documents completely and which are made expressly subject to the full provisions of the documents cited.

This official statement does not constitute a recommendation, express or implied, to purchase or not to purchase the Certificates or any other previous debt of the District.

## GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

**No Offering May Be Made Except by this Official Statement.** No dealer, broker, salesperson or other person has been authorized to give any information or to make any representations with respect to the Certificates other than as contained in this Official Statement, and if given or made, such other information or representation must not be relied upon as having been authorized.

**No Unlawful Offers or Solicitations.** This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy in any state in which such offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to any person to whom it is unlawful to make such offer or solicitation.

**Effective Date.** This Official Statement speaks only as of its date, and the information and expressions of opinion contained in this Official Statement are subject to change without notice. Neither the delivery of this Official Statement nor any sale of the Certificates will, under any circumstances, create any implication that there has been no change in the affairs of the District or any other parties described in this Official Statement.

**Use of this Official Statement.** This Official Statement is submitted in connection with the sale of the Certificates referred to in this Official Statement and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not a contract with the purchasers of the Certificates.

**Preparation of this Official Statement.** The information contained in this Official Statement has been obtained from sources that are believed to be reliable, but this information is not guaranteed as to accuracy or completeness.

**Document References and Summaries.** All references to and summaries of the Installment Purchase Agreement, the Trust Agreement or other documents contained in this Official Statement are subject to the provisions of those documents and do not purport to be complete statements of those documents.

**Certificates are Exempt from Securities Laws Registration.** The issuance and sale of the Certificates have not been registered under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, in reliance upon exemptions for the issuance and sale of municipal securities provided under Section 3(a)(2) of the Securities Act of 1933 and Section 3(a)(12) of the Securities Exchange Act of 1934.

**Estimates and Projections.** Certain statements included or incorporated by reference in this Official Statement constitute “forward-looking statements” within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the United States Securities Exchange Act of 1934, as amended, and Section 27A of the United States Securities Act of 1933, as amended. Such statements are generally identifiable by the terminology used such as “plan,” “expect,” “anticipate,” “estimate,” “project,” “budget” or other similar words.

**District Website.** The District maintains a website. However, the information presented there is not a part of this Official Statement and should not be relied upon in making an investment decision with respect to the Certificates.

THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE DISTRICT DOES NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR.

## CONTENTS

<b>Introduction .....</b>	<b>1</b>	<b>Risk Factors .....</b>	<b>27</b>
<b>The Certificates .....</b>	<b>2</b>	General .....	27
Description of the Certificates .....	2	Wastewater System Demand and Expenses.....	27
Purpose of the Certificates.....	3	Limitations on Remedies Available; Bankruptcy .....	27
Construction Program.....	3	Seismic Considerations .....	28
Application of Proceeds .....	4	Initiatives.....	28
Installment Payment Schedule .....	4	The Teeter Plan .....	28
<b>Security for the Certificates .....</b>	<b>6</b>	Property Taxes .....	28
Flow of Funds .....	6	<b>Concluding Information .....</b>	<b>29</b>
Rates and Charges.....	6	Continuing Disclosure .....	29
Revenue Coverage Covenant.....	7	Legal Matters .....	29
Rate Stabilization Fund .....	7	Tax Matters .....	29
Reserve Fund.....	7	Absence of Litigation.....	31
Issuance of Parity Debt .....	7	Ratings.....	31
<b>The District.....</b>	<b>9</b>	Miscellaneous.....	31
District Wastewater System .....	1	<b>APPENDIX A SUMMARY OF CERTAIN</b>	
Capital Improvement Program .....	10	<b>PROVISIONS OF THE INSTALLMENT SALE AND</b>	
<b>District Finances .....</b>	<b>11</b>	<b>TRUST AGREEMENTS</b>	
Financial Statements of Wastewater Enterprise .....	11	<b>APPENDIX B AREA STATISTICAL INFORMATION</b>	
Outstanding Debt.....	15	<b>APPENDIX C NOVATO SANITARY DISTRICT</b>	
Projected Revenues, Expenses, and Debt Service Coverage .....	16	<b>COMPLETE AUDITED FINANCIAL REPORT FOR</b>	
Sewer Service Charges .....	18	<b>THE FISCAL YEAR ENDED JUNE 30, 2010</b>	
Comparison of Average Monthly Wastewater Bills .....	1	<b>APPENDIX D FORM OF CONTINUING</b>	
Connection Fees.....	19	<b>DISCLOSURE CERTIFICATE</b>	
Property Tax Revenues .....	1	<b>APPENDIX E FORM OF BOND COUNSEL</b>	
Pension Obligations .....	20	<b>OPINION</b>	
Management Discussion.....	20	<b>APPENDIX F BOOK ENTRY SYSTEM</b>	
Recent Spill Violations and Fines .....	21		
<b>Constitutional Limitations on Appropriations and Charges .....</b>	<b>23</b>		
Article XIII A.....	23		
Article XIII B.....	23		
Articles XIII C and XIII D.....	24		

## INTRODUCTION

**Issuer:** Novato Sanitary District (“NSD”, or “the District”) is a sanitary district created and existing under the Sanitary District Act of 1923 (California Health & Safety Code §6400 et seq.) to provide for the collection, treatment, reclamation, and disposal of sewage within its service area. In addition, the District is responsible for refuse disposal, recycling, and greenwaste collection through its local franchise collector, Novato Disposal Service. NSD is governed by a five-member board of directors. The District serves a population of about 56,000 in an area of approximately 34 square miles including the City of Novato and surrounding unincorporated areas. The District also serves Hamilton Field (a former air force base) located along the western shore of San Pablo Bay, south of Novato.

**Purpose:** Proceeds of the Certificates will be used to finance the construction of wastewater system improvements and pay costs of issuance incurred in connection with the issuance of the Certificates.

**Security:** The Certificates evidence and represent semiannual Installment Payments which are payable by the District. The Installment Payments are special obligations of the District, payable solely from net revenues of the District. Net revenues consist generally of all revenues after the payment of adjusted operation and maintenance costs, and include property taxes received by the District.

The District shall fix, prescribe, revise, and collect rates and charges for the wastewater system during each fiscal year, which are at least sufficient, after making allowances for contingencies and error in estimates, to:

- pay operation and maintenance costs, installment payments, principal and interest on any parity debt, and any obligations of the District which are payable from gross or net revenues of the wastewater system; and
- yield net revenues equal to at least 120 percent of the installment payments and payments on any parity debt.

**Finances:** Sewer service charges are the largest source of revenue for the District. The 2011/12 budget approved by the Board of Directors for the District estimates total operating and non-operating revenue to be \$17.65 million of which \$13.43 million would be from wastewater service charges. Property taxes and ERAF tax reimbursements are the second largest source of District revenues, and are expected to be \$1,895,000 in the 2011/12 fiscal year. The Board of Directors of the District has the authority to establish wastewater rates and charges and connection fees subject to compliance with various legal requirements as discussed herein.

**Summary of Legal Documents:** Attached as an appendix hereto is a summary of the principal legal documents relating to the Certificates. Purchasers are referred to such appendix for a detailed provision of such legal documents.

*This introduction is not a summary of the official statement. Information presented in this section is treated more completely elsewhere in the official statement, which should be read in its entirety. The official statement speaks only as of its date. Basic documents referred to in the official statement are available from the financial advisor prior to the closing and from the District thereafter.*

## THE CERTIFICATES

### Description of the Certificates

**Name:** Novato Sanitary District

\$22,000,000 Wastewater Revenue Certificates of Participation  
Series 2011

**Dated:** As of the date of delivery

**Denomination:** \$5,000 or multiple thereof.

**Maturities:** February 1, 2013 through 2032.

**Interest:** Interest is payable February 1 and August 1 of each year to the respective dates of maturity of the Certificates beginning February 1, 2012.

**Payment:** The Certificates will be executed, sold, and delivered in fully registered form, without coupons. The Certificates will be registered in the name of Cede & Co., as nominee of the Depository Trust Company ("DTC"), New York, New York, as the initial securities depository for the Certificates. Ownership interests in the Certificates may be purchased in book-entry form only. Purchasers of the Certificates will not receive Certificates representing their ownership interests in the Certificates purchased. Principal and interest payments with respect to the Certificates are payable directly to DTC by the trustee. Upon receipt of payments of principal and interest, DTC will in turn distribute such payments to the beneficial owners of the Certificates. See Appendix F.

**Optional Prepayment:** The Certificates maturing on or before February 1, 2020 are not subject to optional prepayment prior to maturity. The Certificates maturing on or after February 1, 2021 are subject to prepayment at the option of the District on any date on or after February 1, 2020, as a whole or in part, from any source of available funds, at a prepayment price equal to 100 percent of the principal amount of the Certificates to be prepaid together with a premium (expressed as a percentage of the principal amount of the Certificates to be prepaid) as set forth following, plus accrued interest to the date of prepayment:

Prepayment Dates	Premium
February 1, 2020 through January 30, 2021 .....	0.5%
February 1, 2021 and thereafter .....	0.0%

**Prepayment from Net Proceeds of Insurance or Condemnation:** The Certificates are subject to mandatory prepayment in part or in whole on any date from the net proceeds of insurance or eminent domain proceedings, at a prepayment price equal to principal amount to be prepaid, without premium, plus accrued interest to the prepayment date.

## Purpose of the Certificates

Proceeds of the Certificates will be used to finance a portion of the District’s Wastewater Treatment Facilities Upgrade Project and other wastewater collection system improvements and to pay costs of issuance incurred in connection with the execution and delivery of the Certificates.

## Construction Program

The construction program funded by the Certificates consists of projects to improve the treatment plant, collection system, pumping stations, and reclamation system, including associated planning, engineering, and administrative costs, as outlined in the District’s five-year capital improvement program.

In 2008, the District obtained an \$81,329,083 loan from the California State Water Resources Control Board under the State Revolving Fund (SRF) loan program to upgrade and expand the Novato Treatment Plant to treat the combined flow of the District’s wastewater treatment plants. The new treatment plant replaces two aging treatment facilities with a single new modernized plant. One aging and obsolete plant was replaced by a major new pump station, and its wastewater flow is carried by a new pipeline to the new plant. Improvements include efficient treatment processes that comply with all current standards, re-use of the portions of the plant built since the 1980s that are still usable, and addition of backup facilities in case of equipment failure or emergencies. Loan payments are paid annually through 2031 at a rate of 2.40%.

Prior to securing the SRF loan, the District secured a revolving line of credit with Zions National Bank in 2006. Under the terms of the agreement, the District could borrow up to \$30 million to provide interim financing for the acquisition and construction of improvements to the wastewater collection, treatment, and disposal facilities of the District. The outstanding balance of \$5,233,207 was repaid in 2010/11.

Approximately 75 percent of the capital improvement plan will be funded with the proceeds of the certificates. The remaining portion will be funded on a pay-as-you-go basis and with the District’s capital reserves. Upgrades to the District’s wastewater treatment plant for recycled water and collection system improvements form the largest component of the capital improvement program.

### Five Year (2011/12 – 2015/16) Capital Improvement Plan Summary

---

Collection System Improvements.....	\$10,747,000
Pump Station Improvements .....	3,100,000
Reclamation System Improvements .....	1,425,000
Treatment Plant Improvements.....	13,945,000
Miscellaneous Improvements .....	<u>560,000</u>
Total Construction Program .....	\$29,777,000

---

## Application of Proceeds

The following table lists the anticipated sources and uses of funds for the Certificates.

---

<b>Sources</b>	
Par Amount of the Certificates	<u>\$22,000,000</u>
Total Sources	22,000,000
<b>Uses</b>	
Project Fund	20,225,000
Reserve Fund	1,500,000
Underwriter's Discount	140,000
Issuance Costs*	125,000
Contingency	<u>10,000</u>
Total Uses	\$22,000,000

---

\* Includes costs for special counsel, financial advisor, rating agency, trustee, printing, distribution, and other miscellaneous costs.

---

## Installment Payment Schedule

The following table shows the principal and interest payments represented by the Certificates for each calendar year.



**Novato Sanitary District**  
**\$22,000,000 Wastewater Revenue Certificates of Participation, Series 2011**  
**Installment Payment Schedule**

Payment Date	Principal	Rate	Interest	Period Debt Svc	Fiscal Year Debt Svc
02/01/12			\$221,550.07	\$221,550.07	\$221,550.07
08/01/12			365,862.50	365,862.50	
02/01/13	850,000	1.250%	365,862.50	1,215,862.50	1,581,725.00
08/01/13			360,550.00	360,550.00	
02/01/14	865,000	1.500%	360,550.00	1,225,550.00	1,586,100.00
08/01/14			354,062.50	354,062.50	
02/01/15	880,000	1.600%	354,062.50	1,234,062.50	1,588,125.00
08/01/15			347,022.50	347,022.50	
02/01/16	890,000	1.700%	347,022.50	1,237,022.50	1,584,045.00
08/01/16			339,457.50	339,457.50	
02/01/17	905,000	2.000%	339,457.50	1,244,457.50	1,583,915.00
08/01/17			330,407.50	330,407.50	
02/01/18	925,000	2.300%	330,407.50	1,255,407.50	1,585,815.00
08/01/18			319,770.00	319,770.00	
02/01/19	945,000	2.600%	319,770.00	1,264,770.00	1,584,540.00
08/01/19			307,485.00	307,485.00	
02/01/20	970,000	3.000%	307,485.00	1,277,485.00	1,584,970.00
08/01/20			292,935.00	292,935.00	
02/01/21	1,000,000	3.200%	292,935.00	1,292,935.00	1,585,870.00
08/01/21			276,935.00	276,935.00	
02/01/22	1,035,000	3.350%	276,935.00	1,311,935.00	1,588,870.00
08/01/22			259,598.75	259,598.75	
02/01/23	1,065,000	3.550%	259,598.75	1,324,598.75	1,584,197.50
08/01/23			240,695.00	240,695.00	
02/01/24	1,105,000	3.650%	240,695.00	1,345,695.00	1,586,390.00
08/01/24			220,528.75	220,528.75	
02/01/25	1,145,000	3.800%	220,528.75	1,365,528.75	1,586,057.50
08/01/25			198,773.75	198,773.75	
02/01/26	1,190,000	3.950%	198,773.75	1,388,773.75	1,587,547.50
08/01/26			175,271.25	175,271.25	
02/01/27	1,235,000	4.050%	175,271.25	1,410,271.25	1,585,542.50
08/01/27			150,262.50	150,262.50	
02/01/28	1,285,000	4.150%	150,262.50	1,435,262.50	1,585,525.00
08/01/28			123,598.75	123,598.75	
02/01/29	1,340,000	4.200%	123,598.75	1,463,598.75	1,587,197.50
08/01/29			95,458.75	95,458.75	
02/01/30	1,395,000	4.300%	95,458.75	1,490,458.75	1,585,917.50
08/01/30			65,466.25	65,466.25	
02/01/31	1,455,000	4.350%	65,466.25	1,520,466.25	1,585,932.50
08/01/31			33,820.00	33,820.00	
02/01/32	1,520,000	4.450%	33,820.00	1,553,820.00	1,587,640.00
<b>Total</b>	<b>\$22,000,000</b>		<b>\$9,937,472.57</b>	<b>\$31,937,472.57</b>	<b>\$31,937,472.57</b>

## **SECURITY FOR THE CERTIFICATES**

The Certificates evidence direct, undivided fractional interests of the owners thereof in the Installment Payments. The Installment Payments are special obligations of the District, payable from and secured by a first pledge of and lien on the net revenues of the District. Net revenues consist generally of all revenues (including connection fees and including property taxes received by the District) after the payment of operation and maintenance costs. Neither the full faith and credit nor the taxing power of the District is pledged to the payment of the Installment Payments.

### **Flow of Funds**

The District covenants and agrees that all gross revenues received by the District, including property tax revenues, shall be used in the following order of priority:

- (i) all wastewater system operation and maintenance costs, including the SRF Installment Payments, estimated by the District to become due and payable;
- (ii) Installment Payments on the Certificates and all payments of principal of and interest on parity debt;
- (iii) to the trustee the amount of any deficiency in the reserve fund established for the Certificates and in any reserve fund established for parity debt;
- (iv) any other payments required to comply with the provisions of the Installment Sale Agreement and any parity debt documents; and
- (v) any other lawful purpose of the District.

In the Installment Sale Agreement, the Installment Payment Fund, as a special fund, is created as a special account. The installment payment fund and reserve fund shall be held and maintained by the trustee.

### **Rates and Charges**

In the Installment Sale Agreement, the District agrees to fix, prescribe, revise, and collect rates and charges for the wastewater system, together with other revenues estimated to be received by the District during each fiscal year, which are at least sufficient, after making allowance for contingencies and error in estimates, to pay the following amounts in the following order:

- (i) all wastewater operation and maintenance costs, including the SRF Installment Payments, which are estimated by the District to become due and payable in such fiscal year;
- (ii) Installment Payments on the Certificates;
- (iii) all other payments required by the Installment Sale Agreement and the instruments pursuant to any parity debt related to the wastewater system; and

- (iv) all payments required to meet any other obligations of the District, which are payable from gross or net revenues of the wastewater system.

### **Revenue Coverage Covenant**

In the Installment Sale Agreement, the District agrees to fix, prescribe, revise, and collect rates and charges for the wastewater system and during each fiscal year that are sufficient to yield net revenues equal to at least 120 percent of the installment payments on the Certificates and all parity debt in such fiscal year.

### **Rate Stabilization Fund**

The District has a rate stabilization fund that allows the District to spread unexpected expenses over several years. The rate stabilization fund provides a reserve to pay for unanticipated costs until the District increases rates sufficiently. Per Board policy, the minimum fund balance for the rate stabilization fund is \$600,000 which will be replenished over a three to four year period should the fund be drawn down. The District has the right at any time to withdraw any or all amounts in the fund for any lawful purpose of the District. Amounts on deposit in the rate stabilization fund are not pledged to pay the installment payments or any parity debt.

### **Reserve Fund**

The Trust Agreement establishes a reserve fund as a reserve for the payment of the lease payments. The reserve fund will be initially funded by the District at \$1,500,000 and will be held by the trustee and maintained in the amount of the reserve requirement. If the balance in the reserve fund exceeds the reserve requirement, the trustee will transfer the excess to the lease payment fund at least semiannually on or prior to each lease payment date.

“Reserve Requirement” is defined in the Installment Sale Agreement to mean, as of the date of calculation, an amount equal to the lesser of (i) 10% of the principal amount of the Outstanding Certificates; (ii) maximum amount of Installment Payments due in any Fiscal Year prior to the final maturity of the Certificates; or (iii) 125% of the total amount of then unpaid Installment Payments as of the date of calculation, and dividing that total by the number of Fiscal Years remaining to final maturity of the Certificates.

### **Issuance of Parity Debt**

The District may issue parity bonds, loans, advances, or indebtedness payable from net revenues from the wastewater system provided that the District is in compliance with all covenants of the Installment Sale Agreement and that net revenues are at least equal to 120 percent of the maximum installment payments and annual debt service on all parity debt to be outstanding, and that a reserve fund has been established for the parity debt.

The calculated net revenues may include an allowance for net revenues from any additions or improvements to or extensions of the wastewater system to be made by the District during the 36 month period following the issuance of such parity debt, in an amount equal to 100% of the estimated additional average annual net revenues to be derived from all properties which are improved with a structure the construction of which has been completed prior to the date of issuance of such parity debt and to which service will be provided by such additions,

improvements and extensions, all as shown by the certificate or opinion of a financial consultant.

The calculated net revenues may also include an allowance for net revenues arising from any increase in the charges made for service from the wastewater system which has become effective prior to the incurring of such parity debt but which, during all or any part of the most recent completed fiscal year for which audited financial statements of the District are available, or for any more recent consecutive 12 month period selected by the District, was not in effect, in an amount equal to the total 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 12 month period, all as shown by the certificate or opinion of a financial consultant.

The calculated net revenues may, at the option of the District, also include an allowance for earnings due to any increase in wastewater charges that have become effective prior to incurring additional indebtedness. The increased earnings are calculated as if the increase in charges and/or taxes had been in effect during whole fiscal year or a 12-month period.

## THE DISTRICT

The Novato Sanitary District, originally known as the Marin County Sanitary District #6, formed in 1925 as a special district of the State of California. The District was renamed as the Novato Sanitary District in February 1978. Today the District provides wastewater collection, treatment, and disposal services for the City of Novato and surrounding unincorporated areas in Marin County, California. The District also serves Hamilton Field (a former air force base) located along the western shore of San Pablo Bay, south of Novato. In addition, the District is also responsible for refuse disposal, recycling, and green-waste collection through its franchise collection entity, currently Novato Disposal Service. Recently, the District (in conjunction with the North Marin Water District), also initiated a recycled water program whereby a portion of the District's secondary effluent is imparted a high level of additional treatment to meet California Title 22 recycled water standards for golf course and landscape irrigation.

The District currently serves a population of about 56,000 in an area of approximately 34 square miles. The District's service area is comprised primarily of single-family residential units on lots under one acre in size. Commercial land-use is concentrated along Highway 101, along Redwood Boulevard, downtown along Grant Avenue, in the Industrial Park near the Ignacio Transfer Pump Station (ITPS) site, and in small clusters and convenience centers. No major industrial wastewater producers exist within the District's service area.

According to the District's 2010 Sewer System Management Plan, in general, the District's service area is significantly built out with increased density anticipated in the downtown area and commercial corridors. Future growth areas include areas that are zoned very low density residential and include Atherton, Greenpoint, Blackpoint, Indian Valley, Bel Marin Keys, and Verissimo Valley. Each of these areas except for Bel Marin Keys and Verissimo Valley are currently on septic tank systems and are expected to convert to sewers by 2025

### District Wastewater System

The District owns a wastewater collection system, a wastewater treatment plant, a reclamation facility and an effluent discharge outfall. In 2010, the District contracted out the operations of the treatment plant to Veolia Water. Under the contract, the District continues to own the facilities, set rates, and make all policy decisions.

Table 1 shows average dry weather flows (ADWF) for calendar years 2006

through 2010. The treatment plant is currently designed for an ADWF of 7.05 MGD.

The District's wastewater collection system collects and transports wastewater flows to the wastewater treatment plant through a series of gravity sewers and interceptors, pump stations, and force mains. The collection system include a total of about 225 miles of sewers with about

---

**Table 1 ■ Novato Sanitary District  
Average Dry Weather Flows,  
2006-2010 (millions of gal/day-MGD)**

---

<b>Year</b>	<b>MGD</b>
2010	4.230
2009	3.890
2008	4.040
2007	3.470
2006	3.540

---

200 miles of gravity sewer lines ranging from 4-inch to 54-inch diameter, 25 miles of force mains, and 40 pump stations. The pump stations vary in capacity from roughly 50 gallons per minute (gpm) to about 5 million gallons per day (MGD), and individual pumps range from 3 horsepower (hp) to 90 hp.

## Sewer Customers

In 2011/12, the District had a total of 29,374 equivalent dwelling units (EDUs), as shown in Table 2.

Residential units represent roughly 75 percent of all customers, and commercial customers account for 21 percent of the customer base. The District also directly bills about 4 percent of its customers which include the school district, fire district, and other governmental customers.

**Table 2 ■ Novato Sanitary District  
Summary of Sewer Customers  
2010/11**

Class	EDUs	% of Total
Single Family Residential	16,780	57.1%
Multi-Family Residential (1)	5,179	17.6%
Commercial / Industrial	6,283	21.4%
Government Agencies	<u>1,132</u>	<u>3.9%</u>
Total	29,374	100.0%

Source: NSD customer records

1 - Multi-family units include units that share one water meter

The District's ten largest wastewater customers are listed in Table 3. Rates and charges collected from the ten largest wastewater customers are projected to represent approximately 6.7 percent of the District's sewer service sale revenues, or 5.1 percent of total revenues, for the budget year 2011/12.

**Table 3 ■ Novato Sanitary District  
Ten Largest Wastewater Customers  
Projected 2011/12**

Customer Name	No. of EDUs	2011/2012 Estim. Charges	% of Total Annual Service Charges
Novato Unified School District	368.21	\$170,113	1.3%
Fireman's Fund	367.95	\$169,993	1.3%
Vintage Oaks Shopping Center (not including Costco or Target)	274.49	\$126,814	0.9%
Hamilton Hangers (3 - 10)	186.90	\$86,348	0.6%
BioMarin	182.62	\$84,370	0.6%
Nave Bros	129.78	\$59,958	0.4%
Condiotti Enterprises Inc	127.07	\$58,706	0.4%
Novato Fair Shopping Center	120.39	\$55,620	0.4%
City of Novato	110.36	\$50,986	0.4%
Novato Community Hospital	<u>91.01</u>	<u>\$42,047</u>	<u>0.3%</u>
Total	1958.78	\$904,956	6.7%

## Capital Improvement Program

The District continues to be proactive in improving its infrastructure which is guided by a long-term capital improvement adopted by the Board of Directors. The District recently completed

construction of the new \$90 million advanced wastewater treatment plant to meet environmental regulations and to meet future capacity needs during the life of the COPs. Additionally beginning around 2005, the District developed a sewer collection system master plan to provide upgrades and maintenance needed for the District’s collection system. Following the Master Plan, the District has invested up to \$5 million each year in upgrades and maintenance to the collection system. The upgrade program is anticipated to be largely complete within the next four years and will result in a state-of-the-art system.

The District is also planning to repair and upgrade private sewer lines that run from homes and buildings to the public sewer main in the street. With more than 200 miles of laterals in Novato, many are deteriorating and are a major factor in sewer overflows and spills. The District has been upsizing both its treatment plant and collection system improvements to handle high inflows of stormwater into damaged laterals while the District works to develop a plan to repair private sewer laterals. The District’s current five-year capital improvement program is summarized in Table 4.

**Table 4 ■ Novato Sanitary District  
Summary of Five-Year Capital Improvement Program**

	2011/12	2012/13	2013/14	2014/15	2015/16	Total
Collection System	\$2,243,000	\$2,270,000	\$2,270,000	\$2,233,000	\$1,731,000	\$10,747,000
Treatment Plant	7,930,000	4,925,000	610,000	280,000	200,000	13,945,000
Reclamation	455,000	355,000	205,000	205,000	205,000	1,425,000
Miscellaneous	185,000	285,000	30,000	30,000	30,000	560,000
Pump Stations	<u>1,520,000</u>	<u>1,520,000</u>	<u>20,000</u>	<u>20,000</u>	<u>20,000</u>	<u>3,100,000</u>
Total	\$12,333,000	\$9,355,000	\$3,135,000	\$2,768,000	\$2,186,000	\$29,777,000

## District Finances

The District has established and maintained an excellent state of fiscal health by employing recognized, conservative financial practices. The District maintains a steady level of reserves, including the dedication of a portion of unrestricted cash and equivalents to designated operating and capital reserves.

## Financial Statements of Wastewater Enterprise

Table 5 shows a three-year history of the District’s revenues and expenses from fiscal year 2007/08 to 2009/10. The District’s primary source of revenue is from ongoing user service charges, which account for approximately 96% of operating revenues and roughly 83% of total revenues. Property taxes account for the second largest portion of the District’s revenues, at 12% of total revenues. Table 5 shows revenues, expenses, and net income for the District for the past three fiscal years based on information provided in the District’s audited financial statements. A complete copy of the District’s 2009/10 audit is included as Appendix C.

**Table 5 ■ Novato Sanitary District  
Statement of Revenues and Expenses**

Year Ending June 30	2010	2009	2008
<b>Operating Revenues</b>			
Sewage service charges	\$13,462,437	\$12,286,426	\$11,063,829
Other sewer charges	300,817	287,716	300,042
Permit, inspection and other fees	23,163	27,408	39,291
Recycled water facilities	8,000	74,736	93,626
AB939 - solid waste programs	<u>277,299</u>	<u>271,862</u>	<u>271,862</u>
Total Operating Revenues	14,071,716	12,948,148	11,768,650
<b>Operating Expenses</b>			
Collection system	828,832	599,787	694,147
Treatment plant	3,102,119	3,017,245	2,262,070
Wastewater reclamation and disposal	296,268	411,778	344,182
Laboratory and monitoring	597,743	537,069	389,036
Sewers and pump stations	540,641	332,808	383,503
Recycled water facility	0	74,736	82,310
AB939 - solid waste programs	284,999	286,682	249,797
Administrative and engineering	4,003,850	2,425,285	3,031,550
Capital improvement projects - minor	0	0	27,648
Depreciation and amortization	<u>2,288,892</u>	<u>2,227,627</u>	<u>1,326,027</u>
Total Operating Expenses	11,943,344	9,913,017	8,790,270
Operating Income (Loss)	2,128,372	3,035,131	2,978,380
<b>Non-Operating Revenues</b>			
Property taxes	1,866,049	1,928,207	1,995,120
Special equalization charges	0	0	2,908
Franchise fees	45,000	45,000	45,000
Rental revenue	0	82,517	82,517
Interest earnings	196,303	702,002	1,081,073
Interest expense	(1,211,880)	(1,302,270)	(1,305,067)
Deferred charges amortization	(18,689)	(18,689)	0
Loss on sale/disposition of capital assets	(909,553)	(83,842)	(221,920)
Other non-operating revenues	11,753	25,546	0
Other non-operating expenses	<u>(29,397)</u>	<u>(27,568)</u>	<u>0</u>
Total Non-Operating Revenues, net	(50,414)	1,350,903	1,679,631
Net Income before Capital Contributions	2,077,958	4,386,034	1,679,631
<b>Capital Contributions</b>			
Connection fees	1,277,790	647,101	316,609
Capital contributions	<u>446,867</u>	<u>395,702</u>	<u>338,915</u>
Total Capital Contributions	1,724,657	1,042,803	655,524
Net Revenues	\$3,802,615	\$5,428,837	\$4,658,011

Source: Based on District's audited financial statements.



Table 6 shows a three-year history of the District's assets, liabilities, and retained earnings based on the District's audited financial statements.

**Table 6 ■ Novato Sanitary District  
Assets, Liabilities, and Retained Earnings**

Year Ending June 30	2010	2009	2008
<b>ASSETS</b>			
Current Assets			
Cash and cash equivalents	\$11,164,827	\$32,828,454	\$33,887,093
Receivables	3,505,774	561,930	519,261
Prepaid expenses and other deposits	<u>58,849</u>	<u>0</u>	<u>15,832</u>
Total Current Assets	14,729,450	33,390,384	34,422,186
Non-Current Assets			
Deferred charges, net	16,744	35,433	0
Capital Assets - not depreciated	84,690,638	60,183,890	0
Capital Assets, net - being depreciated	97,955,791	96,879,918	135,398,729
Revolving credit line origination fee	<u>0</u>	<u>0</u>	<u>54,122</u>
Total Non-Current Assets	182,663,173	157,099,241	135,452,851
Total Assets	197,392,623	190,489,625	169,875,037
<b>LIABILITIES AND NET ASSETS</b>			
Current Liabilities			
Accounts payable and accrued expenses	2,373,853	3,129,873	3,540,641
Customer deposits and deferred revenue	83,648	163,942	338,995
Restricted - special assessment payable	167,132	166,520	168,391
Accrued interest payable	2,387,310	1,267,595	325,568
Long-term liabilities - due within one year	<u>5,275,640</u>	<u>30,061,780</u>	<u>259,055</u>
Total Current Liabilities	10,287,583	34,789,710	4,632,650
Non-Current Liabilities			
Long-term liabilities - due in more than one year			
Compensated absences	127,300	166,646	168,562
Other post-employment benefits payable	283,236	0	0
Loan payable	<u>75,348,207</u>	<u>47,989,587</u>	<u>51,698,057</u>
Total Non-current Liabilities	75,758,743	48,156,233	51,866,619
Total Liabilities	86,046,326	82,945,943	56,499,269
<b>Net Assets</b>			
Investment in capital assets, net of related debt	102,065,015	79,067,990	83,754,794
Unrestricted	<u>9,281,282</u>	<u>28,475,692</u>	<u>29,620,974</u>
Total Net Assets	111,346,297	107,543,682	113,375,768

Source: Based on District's audited financial statements.

Table 7 shows a three-year history of the District's statement of cash flows and cash equivalents based on the District's audited financial statements. Information for the fiscal year ending June 30, 2011 is not currently available.

**Table 7 ■ Novato Sanitary District  
Statement of Cash Flows**

Year Ending June 30	2010	2009	2008
<b>Cash Flows from Operating Activities</b>			
Cash receipts from customers for wastewater services	\$13,682,419	\$12,889,706	\$11,695,932
Cash paid to employees for salaries and wages	(2,327,199)	(3,877,890)	(1,847,887)
Cash paid to vendors and suppliers for materials and supplies	<u>(8,020,427)</u>	<u>(4,612,350)</u>	<u>(3,852,988)</u>
Net cash provided (used) in operating activities	3,334,793	4,399,466	5,995,057
<b>Cash Flows from Non-Capital Financing Activities</b>			
Property taxes	1,855,798	1,928,207	1,995,120
Franchise fees	45,000	45,000	45,000
Rental revenue	<u>0</u>	<u>82,517</u>	<u>82,517</u>
Net cash provided by non-capital financing activities	1,900,798	2,055,724	2,122,637
<b>Cash Flows from Capital and Related Financing Activities</b>			
Acquisition and construction of capital assets	(28,781,066)	(35,181,072)	(29,634,600)
Capital contributions	1,724,657	1,042,803	316,609
Special equalization charges	0	0	2,908
Proceeds received from loan payable	24,731,189	26,297,761	21,691,826
Principal payments on note payable	(24,773,024)	0	0
Interest payments on note payable	(92,165)	(419,439)	(1,193,381)
Employee loan payoff	<u>0</u>	<u>0</u>	<u>92,855</u>
Net cash used in capital and related financing activities	(27,190,409)	(8,259,947)	(8,723,783)
<b>Cash Flows from Investing Activities</b>			
Interest income	291,191	746,119	1,248,508
<b>Net increase (decrease) in cash and equivalents</b>	<b>(21,663,627)</b>	<b>(1,058,638)</b>	<b>642,419</b>
<b>Cash and Equivalents</b>			
Beginning of fiscal year	32,828,454	33,887,092	33,244,674
End of fiscal year	11,164,827	32,828,454	33,887,093

Source: Based on District's audited financial statements.

## Outstanding Debt

In addition to the \$22 million in certificates with this issuance, the District has two other long-term obligations:

- **California State Water Resources Control Board - State Revolving Fund (SRF) loan:**  
In 2008, the District obtained an \$81,329,083 loan from the California State Water Resources Control Board under the State Revolving Fund (SRF) loan program to upgrade and expand the Novato Treatment Plant. Interest accrues at a rates of 2.40% compounded annually. The first debt service payment of \$6,064,000 is due on December 31, 2011 and includes interest accrued during construction. Thereafter the loan will be repaid on December 31 of each year in nineteen equal installments of \$5,423,000 through FY 2030/31. Table 8 shows the debt service payment schedule for the SRF loan. As described herein, the SRF loan is included as an operating expense of the District.
- **California Public Employees' Retirement System (CalPERS) Side Fund Loan:**  
Side funds were created at the time CalPERS implemented risk pools to ensure that plans with varying funded status could participate in the same pool. The District's PERS liability as of June 30, 2011 was \$1,215,597. Annual payments are about \$118,000.

The CalPERS Side Fund Loan amortizes at an interest rate of 7.75 percent. The District has sufficient funds to pay off the Side Fund Loan in its entirety and may choose to do so during the current fiscal year.

Additionally, within the District's boundaries, there exists Assessment District No. 2001 (Novato Heights) which was formed for the sole purpose of financing sewer system improvements. The District is not liable for repayment of any bonds issued to finance these local improvements. The District acts as the agent for the property owners within the assessment district by collecting assessments, forwarding collections to bondholders, and initiating foreclosure procedures if appropriate. The outstanding balance on these bonds was \$1,525,000 as of June 30, 2010.

The District's last bond issue was the 1986 Sewer Bonds Series A in which the District borrowed \$3.5 million in October 1986 to finance upgrades to the Novato Treatment Plant, Ignacio Treatment Plant, Bahia Interceptor Project, and Reclamation Facilities. The net effective interest rate was 6.39 percent with debt service payments paid biannually. The bonds were paid off in entirety in October 2006.

**Table 8 ■ Novato Sanitary District  
SRF Loan Debt Service Schedule**

<b>FYE</b>	<b>Outstanding Principal</b>	<b>Interest Payment</b>	<b>Principal Payment</b>	<b>Total Annual Payment</b>
2012	\$81,973,200	\$6,064,321	\$0	\$6,064,321
2013	81,973,200	1,967,000	3,456,064	5,423,064
2014	78,517,136	1,884,000	3,539,064	5,423,064
2015	74,978,072	1,799,000	3,624,064	5,423,064
2016	71,354,008	1,712,000	3,711,064	5,423,064
2017	67,642,944	1,623,000	3,800,064	5,423,064
2018	63,842,880	1,532,000	3,891,064	5,423,064
2019	59,951,816	1,439,000	3,984,064	5,423,064
2020	55,967,752	1,343,000	4,080,064	5,423,064
2021	51,887,688	1,245,000	4,178,064	5,423,064
2022	47,709,624	1,145,000	4,278,064	5,423,064
2023	43,431,560	1,042,000	4,381,064	5,423,064
2024	39,050,496	937,000	4,486,064	5,423,064
2025	34,564,432	830,000	4,593,064	5,423,064
2026	29,971,368	719,000	4,704,064	5,423,064
2027	25,267,304	606,000	4,817,064	5,423,064
2028	20,450,240	491,000	4,932,064	5,423,064
2029	15,518,176	372,000	5,051,064	5,423,064
2030	10,467,112	251,000	5,172,064	5,423,064
2031	5,295,048	127,000	5,296,064	5,423,064

### Projected Revenues, Expenses, and Debt Service Coverage

Table 9 shows the District’s projected 2010/11 results and projected revenues, expenses, and debt service based on the 2011/12 budget. The calculation of coverage ratios shown in the table are based a forecast of revenues and expenses. The estimated debt service coverage satisfies the District’s pledge to maintain net revenues of at least 1.2 times annual installment payments on the Certificates. The SRF loan does not require the District to meet a debt service coverage covenant. Key assumptions used in the forecast include:

- The District will increase sewer service charges annually on July 1 beginning in 2012/13.
- The customer base will not increase significantly over the next five years.
- Connection fees are increased by 5 percent annually.
- Connection fees are anticipated to increase in 2011/12 and 2012/13 with development of a new senior complex.

- Property taxes will increase by 2 percent each year.
- Operating expenses are increased at 3 percent per year.
- The District will pay off the CalPERS Side Fund Loan in 2011/12 with reserves.

**Table 9 ■ Novato Sanitary District  
Projected Revenues, Expenses, and Debt Service Coverage**

	Actual	Budget	Projected			
	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
Average Residential Annual Sewer Charge	\$462	\$462	\$501	\$540	\$579	\$618
Annual Percent Change		0.0%	8.4%	7.8%	7.2%	6.7%
Number of Equivalent Connections	29,374	29,384	29,464	29,514	29,564	29,614
Estimated New Connections	10	80	50	50	50	50
<b>BEGINNING OPERATING FUND BALANCE</b>	\$6,966,483	\$7,421,000	\$6,485,000	\$6,735,000	\$7,015,000	\$7,316,000
<b>REVENUES</b>						
Sewer Service Charges for Operations	\$8,023,872	\$8,210,842	\$8,233,114	\$8,677,000	\$8,958,000	\$9,240,000
Sewer Service Charges for Capital	5,359,997	5,472,815	6,364,000	7,260,000	8,160,000	9,062,000
Property Taxes (2% Increase)	1,774,217	1,775,000	1,811,000	1,847,000	1,884,000	1,922,000
Connection Charges	174,631	681,600	448,000	470,000	494,000	518,000
Other Revenues (2% Increase)	924,911	853,062	870,000	887,000	905,000	923,000
Interest	30,397	40,000	391,000	279,000	277,000	297,000
Use of Fund Reserves	0	<u>1,215,597</u>	0	0	0	0
Total Revenues	16,288,025	18,248,916	18,117,114	19,420,000	20,678,000	21,962,000
<b>OPERATING EXPENSES</b>						
Collections	1,013,092	1,156,257	1,183,000	1,233,000	1,270,000	1,308,000
Treatment - Contract Operations	2,255,018	2,632,750	2,700,000	2,781,000	2,864,000	2,950,000
Reclamation	382,063	493,787	502,000	518,000	534,000	550,000
Laboratory	689,638	693,008	705,000	734,000	756,000	779,000
Pump Stations	702,446	814,148	778,000	794,000	818,000	843,000
Administration (1)	2,909,197	2,737,900	2,740,000	2,911,000	2,998,000	3,088,000
CalPERS Side Fund Payoff	0	1,215,597	0	0	0	0
Hazardous Household Waste	307,137	360,601	373,000	384,000	396,000	408,000
Zions Bank - Line of Credit	209,456	0	0	0	0	0
SRF Loan	0	<u>6,064,321</u>	<u>5,423,064</u>	<u>5,423,064</u>	<u>5,423,064</u>	<u>5,423,064</u>
Total Operating Expenses	8,468,047	16,168,369	14,404,064	14,778,064	15,059,064	15,349,064
<b>NET REVENUES</b>	7,819,978	2,080,547	3,713,050	4,641,936	5,618,936	6,612,936
<b>Debt Service</b>						
Series 2011 COPS (Estimated)	0	<u>222,000</u>	<u>1,586,000</u>	<u>1,586,000</u>	<u>1,586,000</u>	<u>1,586,000</u>
Total Debt Service	0	222,000	1,586,000	1,586,000	1,586,000	1,586,000
Debt Service Coverage (min 1.20x)	0.00	9.37	2.34	2.93	3.54	4.17
Net Income After Debt Service for Pay-as-you-go	7,819,978	1,858,547	2,127,050	3,055,936	4,032,936	5,026,936

## Sewer Service Charges

In August 2005, the District Board unanimously adopted a financing plan which included annual rate increases between 2005 and 2010. During this five-year period, sewer rates increased approximately 76 percent. Table 10 shows the annual sewer service charges per equivalent dwelling unit (EDU). A single family residence is equivalent to one EDU. To fund the District's annual cost of service, the sewer service charge is allocated between operations and capital. For 2011/12, \$276 or 60% of the annual charge per EDU is allocated for operations, and \$186 or 40% is earmarked for capital improvement projects and debt service.

**Table 10 ■ Novato Sanitary District Annual Sewer Service Charges Per Equivalent Dwelling Unit (EDU)**

Year	Sewer Service Charge per EDU	Percent Change
2004/05	\$262	
2005/06	302	15.3%
2006/07	342	13.2%
2007/08	382	11.7%
2008/09	422	10.5%
2009/10	462	9.5%
2010/11	462	0.0%
2011/12	462	0.0%

The District establishes rates and charges by ordinance. It has the authority to set rates and charges for wastewater service and connection without the approval of any other governmental agency. It can terminate service to delinquent customers, require full payment of delinquent accounts, and impose reconnection fees to resume service.

Most of the District's service charges are collected along with the Marin County property tax bills. Property tax bills are due twice annually, on December 10 and April 10 each fiscal year. The District's service charge revenues are covered by the County's Teeter Plan, under which Marin County is to pay the District 100 percent of the gross property tax payable annually to the District, and to retain any penalties or delinquencies collected to offset such gross payment. The District directly bills tax-exempt agencies such as the City and schools.

Residential sewer service charges are based on actual water consumption during the winter months. Sewer service is measured in Equivalent Dwelling Units (EDU). One EDU of flow is equal to the typical water use by a single-family home. Charges are tiered based on the amount of water use. For example, residential customers who use between 26% and 199% of the average use of all customers are charged for one unit of service (1 EDU). Customers who use 200% or more than the average water use are charged for 1.8 EDUs, and those that use 25% or less than the average user are charged for 0.6 EDU.

Non-residential customers pay a proportionate charge based on their water use, size of facility, and the strength of the wastewater. The non-residential sewer service charge is comprised of a fixed charge and a variable component. The fixed portion of the charge is based on building square footage and industry-standard flow factors. The charge per square foot of floor area varies for different types of uses. The variable charge is determined by industry-standard strength factors and water usage which fluctuates each year. Domestic sewage produced by residential customers is the standard against which higher strength commercial and industrial sewage discharges are measured. The strength of residential usage is equal to one EDU. A

restaurant, for example, has stronger sewage than an office (due to the grease, food waste, and detergents in the wash water) and therefore a higher EDU rating and charge. The minimum non-residential charge is one EDU.

### Comparison of Average Monthly Wastewater Bills

Table 11 compares the District's annual sewer service charge to similar regional wastewater agencies. The charges shown are based on 2011/12 rates for single family residential customers. The District's annual wastewater bill is among the lowest in the region.

**Table 11 ■ Novato Sanitary District Comparison of Annual Sewer Bills 2011/12**

Agency	2011/12 Annual Sewer Charge
Sausalito Marin City Sanitary District - Marin City	\$439
<b>Novato Sanitary District</b>	<b>462</b>
Sanitary District No. 2 - Corte Madera (1)	500
Las Gallinas Valley Sanitary District	590
Sausalito Marin City Sanitary District - Sausalito (2)	603
Ross Valley Sanitary District - Ross Valley	627
City of Mill Valley	694
City of Petaluma (3)	764
Sanitary District No. 5 - Tiburon	825
Ross Valley Sanitary District - Larkspur	923
Sanitary District No. 5 - Belvedere	1,836

1 - Include collection charge per parcel/billing  
 2- Includes both the District's and City's sewer fees  
 3 - Assumes winter water use average of 8 hundred cubic feet (hcf).

### Connection Fees

The District charges a wastewater connection fee to new customers connecting to the wastewater system. Connection fees can only be used for capital purposes. The District uses the fees to pay for projects listed in the capital improvement program. Connection fees may also be used for installment payments and constitute gross revenues from which the pledged net revenues are derived in the calculation of the debt service coverage requirements. The current connection fee is \$8,520 per equivalent dwelling unit. The District increases the connection fee by 5 percent each year.

### Property Tax Revenues

The District receives a portion of property taxes collected within the boundaries of the District. Property taxes for the District have been collected since the time of District formation in 1925. The property tax collected on behalf of the District is limited to a maximum total levy, which is adjusted annually by a cost of living factor and a change of population factor in accordance with Article XIII B of the California State Constitution. The District requests an allocation of property tax revenues, up to the

**Table 11 ■ Novato Sanitary District Assessed Valuation**

Year	Total Assessed Value	Percent Change
2003	6,472,321,272	
2004	7,093,625,831	9.6%
2005	7,910,248,923	11.5%
2006	8,838,973,455	11.7%
2007	9,491,627,231	7.4%
2008	9,829,812,081	3.6%
2009	9,580,325,664	-2.5%
2010	9,432,410,765	-1.5%
2011	9,349,746,271	-0.9%

Source: Novato Sanitary District

maximum, each year by resolution.

Property taxes are collected by Marin County as a part of the County's one percent general levy. The County uses the Teeter Plan method of property tax distribution. Under this method, the County pays the District 100 percent of property tax due to the District and retains any penalties or delinquencies collected to offset such gross payment.

Table 11 shows the District's assessed valuation for the past nine years. The assessed valuation of property within the District has risen steadily over this period, with slight decreases in the past three years.

## Pension Obligations

The District contributes to the California Public Employees' Retirement System (CalPERS), a cost-sharing multi-employer defined benefit pension plan. CalPERS provides retirement and disability benefits, annual cost-of-living adjustments, and death benefits to plan members and beneficiaries. CalPERS acts as a common investment and administrative agent for participating public entities within the State of California. Benefit provisions and all other requirements are established by state statute and the District.

The District is required to contribute the actuarially determined remaining amounts necessary to fund the benefits for its members. The required employer contribution rates are equal to the annual pension costs (APC) percentage of payroll for the prior three fiscal years. The District has historically fully funded its pension obligations, as determined by actuarial calculations by PERS. In fiscal year 2009/10, the District's annual pension cost was roughly \$301,129. Beginning in 2010/11, the operations of the wastewater water treatment plant were converted to contract operations by Veolia Water, and some employees were transferred from the District's payroll to personnel of Veolia Water. As a result, the District estimates that the 2011/12 PERS contribution will be \$\_\_\_\_\_.

The District provides certain post-employment benefits (OPEB) to its retired employees, including lifetime health benefits to such employees and their spouses, which the District has been paying on a pay-as-you-go basis. For the fiscal year ending June 30, 2010, the District's net contribution for OPEB benefits was \$283,236. Based on the most recent valuation (July 1, 2009), the unfunded actuarial accrued liability for all OPEB benefits was \$5,554,000. The District has not funded any portion of such unfunded liability, and does not have any plan to do so.

## Management Discussion

The District adopted a financing plan and five years of annual sewer service charge increases beginning in 2005/06. Since then sewer service charges have increased over 76 percent. The District's current annual wastewater service charge of \$462/EDU is the lowest in Marin County for a combined (collection and treatment) district. The rate increases assisted the District in securing a low-cost State loan to finance the \$90 million wastewater treatment plant upgrade project.



The District has also joined with other local water and wastewater agencies to expand the amount of recycled water for reuse on wildlife wetlands, golf courses and for irrigation of large landscapes and agriculture across the North Bay. In Marin County, the District is working with North Marin Water District and Las Gallinas Valley Sanitary District to provide recycled water to large landscape, golf courses, school and park turf areas, commercial users west of U.S. 101, the Fireman's Fund Companies, Valley Memorial Park Cemetery and landscape irrigation at Hamilton Field, including the Coast Guard housing area.

**Novato Disposal has been providing solid waste services to the Novato community since 1978. In 1982, Novato Disposal established the first curbside recycling program in Marin County. The District recently agreed to amend its Franchise Agreement with Novato Disposal to make major progress toward achieving Zero Waste Goals at minimal cost to Novato residents. The purpose is to take 80% of the trash collected and recycle, reuse or compost it, keeping it out of the landfill. The contract requires Novato Disposal to meet a series of performance goals, including achieving 60% diversion by 2015, 70% diversion by 2020, and 80% by 2025.**

Novato Disposal has already taken the first step toward reaching zero waste goals by implementing school and residential single-family food waste composting. The contract requires the company to extend food waste composting to apartments and condominiums. The company will also increase recycling at commercial buildings and to multi-family customers. Supermarket and restaurant food waste recycling is planned to begin in 2012. Novato Disposal's rates are already among the lowest in the county—about 20% to 40% below what most other communities are paying. As part of the amendment, the Company has agreed to implement these new residential programs without any increases, except for inflation.

**Novato Sanitary District collaborates with neighboring agencies to sponsor and support a variety of innovative programs to help educate children about wastewater treatment and help individuals protect the environment. Educational programs include newsletters, school field trips, public tours of the treatment plant, and a thermometer exchange program.**

## Recent Spill Violations and Fines

During the period between May 2007 and May 2010, the District experienced approximately 70 sewage spills from its sewage collection system, totaling nearly 500,000 gallons. As a result of such spills, the San Francisco Regional Water Quality Control Board levied a fine of \$287,500 on the District. The District has paid such fine and is taking steps to remedy the cause of such sewage spills.

In addition, the U.S. Department of Justice conducted an investigation into allegations that the District unlawfully discharged inadequately treated wastewater into San Pablo Bay in 2007. Such investigation has been concluded without any criminal charges having been filed against the District, and the matter has been referred to the San Francisco Regional Water Quality Control Board for potential civil action. The District believes that such action may result in an additional fine, but that any such fine would be in an amount which can be paid by the District without materially adversely affecting the financial condition of the District or its ability to pay

the Installment Payments in full when due.

## Constitutional Limitations on Appropriations and Charges

### Article XIII A

On June 6, 1978, California voters approved Proposition 13, an initiative constitutional amendment which enacted Article XIII A of the California Constitution. Article XIII A substantially altered the taxation of real property in California. The article (as amended) limits ad valorem property taxes of all real property to 1 percent of the full cash value of the property except for any taxes above that level required to pay debt service on certain bonds approved by the voters. The article defines “full cash value” as the assessor’s appraised value of real property as of March 1, 1975 subject to annual adjustment to reflect increases, not to exceed 2 percent per year, in the consumer price index or comparable local data. Article XIII A permits establishment of a new “full cash value” for new construction or a change in ownership.

The District receives a portion of property taxes collected by Marin County through its general county levy.

### Article XIII B

Article XIII B of the California Constitution limits the annual appropriations of the state and of any city, county, school district, authority, or other political subdivision of the state to the level of appropriations of the particular governmental entity for the prior fiscal year, adjusted for changes in the cost of living and population. The “base year” for establishing such appropriations limit is 1978/79 and the limit is to be adjusted annually to reflect changes in population and consumer prices. Adjustments in the appropriations limit of any entity may also be made if (i) the financial responsibility for a service is transferred to another public entity or to a private entity; (ii) the financial source for the provision of services is transferred from taxes to other revenues, or (iii) the voters of the entity approve a change in the limit for a period of time not to exceed four years.

Appropriations subject to Article XIII B generally include the proceeds of taxes levied by the state or other entity of local government, exclusive of certain state subventions or refunds of taxes. “Proceeds of taxes” include, but are not limited to, all tax revenues and the proceeds to an entity of government from (i) regulatory licenses, user charges, and user fees (but only to the extent such proceeds exceed the cost of providing the service or regulation), and (ii) the investment of tax revenues. Article XIII B includes a requirement that if an entity’s revenues in any year exceed the amounts permitted to be spent, the excess must be returned by revising tax rates or fee schedules over the two subsequent years.

Certain expenditures are excluded from the appropriations limit including payments of indebtedness existing or legally authorized as of January 1, 1979, or of bonded indebtedness thereafter approved by the voters and payments required to comply with court or federal mandates which without discretion require an expenditure for additional services or which unavoidably make the providing of existing services more costly.

The District believes that its wastewater charges do not exceed the costs it reasonably bears in providing such services and therefore are not subject to the limits of Article XIII B. As more fully described above, the District covenants in the Installment Sale Agreement that it will prescribe rates and charges sufficient to provide for the installment payments each year.

## Articles XIII C & XIII D of the California Constitution

**General.** On November 5, 1996, California voters approved Proposition 218, the so-called "Right to Vote on Taxes Act." Proposition 218 added Articles XIII C and XIII D to the State Constitution, which affect the ability of local governments to levy and collect both existing and future taxes, assessments, and property-related fees and charges. Proposition 218, which generally became effective on November 6, 1996, changed, among other things, the procedure for the imposition of any new or increased property-related "fee" or "charge," which is defined as "any levy other than an ad valorem tax, a special tax or an assessment, imposed by a local government upon a parcel or upon a person as an incident of property ownership, including user fees or charges for a property related service" (and referred to in this section as a "property-related fee or charge").

On November 2, 2010, California voters approved Proposition 26, the so-called "Supermajority Vote to Pass New Taxes and Fees Act". Section 1 of Proposition 26 declares that Proposition 26 is intended to limit the ability of the State Legislature and local government to circumvent existing restrictions on increasing taxes by defining the new or expanded taxes as "fees." Proposition 26 amended Articles XIII A and XIII C of the State Constitution. The amendments to Article XIII A limit the ability of the State Legislature to impose higher taxes (as defined in Proposition 26) without a two-thirds vote of the Legislature. Proposition 26's amendments to Article XIII C broadly define "tax," but specifically exclude, among other things:

- “(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.
- (2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.
- ...
- (6) A charge imposed as a condition of property development.
- (7) Assessments and property-related fees imposed in accordance with the provisions of Article XIII D.”

**Property-Related Fees and Charges.** Under Article XIII D, before a municipality may impose or increase any property-related fee or charge, the entity must give written notice to the record owner of each parcel of land affected by that fee or charge. The municipality must then hold a hearing upon the proposed imposition or increase at least 45 days after the written notice is mailed, and, if a majority of the property owners of the identified parcels present written protests against the proposal, the municipality may not impose or increase the property-related fee or charge.

Further, under Article XIID, revenues derived from a property-related fee or charge may not exceed the funds required to provide the "property-related service" and the entity may not use such fee or charge for any purpose other than that for which it imposed the fee or charge. The amount of a property-related fee or charge may not exceed the proportional cost of the service attributable to the parcel, and no property-related fee or charge may be imposed for a service unless that service is actually used by, or is immediately available to, the owner of the property in question.

**Initiative Power.** In addition, Article XIIC states that "the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives."

**Judicial Interpretation of Articles XIIC and XIID.** After Proposition 218 was enacted in 1996, appellate court cases and an Attorney General's opinion initially indicated that fees and charges levied for water and wastewater services would not be considered property-related fees and charges, and thus not subject to the requirements of Article XIID regarding notice, hearing and protests in connection with any increase in the fees and charges being imposed. However, three recent cases have held that certain types of water and wastewater charges could be subject to the requirements of Article XIID under certain circumstances.

In *Richmond v. Shasta Community Services District* (2004) 32 Cal.4th 409, the California Supreme Court addressed the applicability of the notice, hearing and protest provisions of Article XIID to certain charges related to water service. In *Richmond*, the Court held that capacity charges are not subject to Proposition 218. The Court also indicated in dictum that a fee for ongoing water service through an existing connection could, under certain circumstances, constitute a property-related fee and charge, with the result that a local government imposing such a fee and charge must comply with the notice, hearing and protest requirements of Article XIID.

In *Howard Jarvis Taxpayers Association v. City of Fresno* (2005) 127 Cal.App.4th 914, the California Court of Appeal, Fifth District, concluded that water, sewer and trash fees are property-related fees subject to Proposition 218 and a municipality must comply with Article XIID before imposing or increasing such fees. The California Supreme Court denied the City of Fresno's petition for review of the Court of Appeal's decision on June 15, 2005.

In July 2006 the California Supreme Court, in *Bighorn-Desert View Water Agency v. Verjil* (2006) 39 Cal.4th 205, addressed the validity of a local voter initiative measure that would have (a) reduced a water agency's rates for water consumption (and other water charges), and (b) required the water agency to obtain voter approval before increasing any existing water rate, fee, or charge, or imposing any new water rate, fee, or charge. The court adopted the position indicated by its statement in *Richmond* that a public water agency's charges for ongoing water delivery are "fees and charges" within the meaning of Article XIID, and went on to hold that

charges for ongoing water delivery are also “fees” within the meaning of Article XIII C’s mandate that the initiative power of the electorate cannot be prohibited or limited in matters of reducing or repealing any local tax, assessment, fee or charge. Therefore, the court held, Article XIII C authorizes local voters to adopt an initiative measure that would reduce or repeal a public agency’s water rates and other water delivery charges. (However, the court ultimately ruled in favor of the water agency and held that the entire initiative measure was invalid on the grounds that the second part of the initiative measure, which would have subjected future water rate increases to prior voter approval, was not supported by Article XIII C and was therefore invalid.)

**Articles XIII C and XIII D and the District’s Sewer Service Charges.** The District’s practice in implementing increases in sewer service and charges has been to mail a notice to all property owners and, at least 45 days later, hold a public hearing before adopting increased rates, in compliance with the *Bighorn* decision. In June 2005, the District mailed a special legal notice in conformance with Proposition 218 and held a public hearing on August 1, 2005. The District will continue to comply with the provisions of Proposition 218 and implementing legislation in connection with future rate increases, as such requirements may be interpreted by state courts.

The District believes its sewer service charges do not constitute “taxes” under Article XIII C as revised by Proposition 26 because, as described in subsection 1(e)(7) of Article XIII C, they are “property-related fees imposed in accordance with the provisions of Article XIII D” (and are also charges for a “property-related service” as defined in subsection 2(g) of Article XIII D) and because, as described in subsection 1(e)(2) of Article XIII C, they are charged for wastewater service, “a specific government service or product provided directly to the payor that is not provided to those not charged.”

The District believes neither its connection fees, nor its capacity fees, nor any similar fees relating to the wastewater system is a “tax” as defined by Proposition 26 because it is a charge to a landowner that is imposed (typically as a condition of property development) for a specific privilege and does not exceed the reasonable costs of conferring the privilege.

**Conclusion.** The District is unable to predict how Article XIII C and Article XIII D will ultimately be interpreted by the courts and what, if any, further implementing legislation will be enacted, and there can be no assurance that Article XIII C and Article XIII D will not limit the ability of the District to impose, levy, charge and collect increased fees and charges for the wastewater system. The District does not anticipate that Proposition 218, if applicable, would have any immediate adverse effect on its ability to comply with its covenants under the Installment Sale Agreement or its ability to generate net revenues to make installment payments on a timely basis.

## Risk Factors

The following section describes certain special considerations and risk factors affecting the payment of and security for the Certificates. The following discussion is not meant to be an exhaustive list of the risks associated with the purchase of any Certificates and does not necessarily reflect the relative importance of the various risks. Potential investors are advised to consider the following special factors along with all other information in the official statement in evaluating the Certificates. There can be no assurance that other considerations will not arise in the future.

### General

The Installment Payments on the Certificates are payable solely from and secured solely by the net revenues pledge therefor under the Installment Sale Agreement, together with amounts on deposit from time to time in certain funds and accounts held by the trustee. If for any reason, the District does not collect sufficient net revenues to pay the principal and interest, the District will not be obligated to use any of its other funds, other than amounts on deposit in the reserve fund and certain other amounts on deposit in the funds and accounts established under the Installment Sale Agreement to pay installment payments on the Certificates.

### Wastewater System Demand and Expenses

There can be no assurance that the local demand for wastewater service provided by the wastewater system will be maintained at levels described in this Official Statement. Reduction in the level of demand could require an increase in rates or charges in order to produce net revenues sufficient to comply with the District's rate covenant in the Installment Sale Agreement. Such rate increases could increase the likelihood of nonpayment, and could also further decrease demand. Furthermore, there can be no assurance that any other entity with regulatory authority over the wastewater system will not adopt further restrictions on operation of the wastewater system.

There can be no assurance that operation and maintenance costs of the wastewater system will be consistent with the levels described in this Official Statement. Changes in technology, increases in the cost of energy or other expenses would reduce net revenues, and could require substantial increases in rates or charges in order to comply with the District's rate covenant. Such rate increases could increase the likelihood of nonpayment, and could also decrease demand.

### Limitations on Remedies Available; Bankruptcy

The enforceability of the rights and remedies of the Certificate owners and the obligations of the District may become subject to the following: the federal bankruptcy code and applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the enforcement of creditors' rights generally, now or hereafter in effect; equitable principles which may limit the specific enforcement under State law of certain remedies; the exercise by the United States of America of the powers delegated to it by the federal constitution; and the reasonable and necessary exercise, in certain exceptional situations, of the police power

inherent in the sovereignty of the state and its governmental bodies in the interest of servicing a significant and legitimate public purpose. Bankruptcy proceedings, or the exercising of powers by the federal or state government, if initiated, could subject the Certificate owners to judicial discretion and interpretation of their rights in bankruptcy or otherwise and consequently may entail risks of delay, limitation, or modification of their rights.

## Seismic Considerations

The area encompassed by the District, like that in much of California, may be subject to unpredictable seismic activity. If there were to be an occurrence of severe seismic activity in the District, there could be an adverse impact on the ability of the District to collect and treat wastewater and the ability of residents to pay the rates and charges, all diminishing net revenues, which could have an adverse effect on the District's ability to pay the principal and interest represented by the Certificates.

## Initiatives

In recent years several initiative measures have been proposed or adopted which affect the ability of local governments to increase taxes and rates. There is no assurance that the electorate or the state legislature will not at some future time approve additional limitations which could affect the ability of the District to implement future rate increases which could reduce net revenues and adversely affect the security for the Certificates.

## The Teeter Plan

The current practice of Marin County under the Teeter Plan is to pay the District 100 percent of the gross property tax payable annually to the District and to retain any penalties or delinquencies collected to offset such gross payment. There can be no assurances that the County will continue this practice in the future, or that the County will not discontinue the Teeter Plan or remove the District or the property tax payable to the District from the Teeter Plan in the future.

## Property Taxes

The District currently receives property taxes collected as a portion of Marin County's general tax levy, and such property taxes are included in the definition of gross revenues from which the net revenues are derived. There can be no assurance that the state will not reallocate, reduce, or seize property tax revenues, either temporarily or permanently, which would be due to the District. In the event that property tax receipts are reduced or eliminated, the District's Board of Directors has the authority to raise rates to replace any deficiency in revenues.



## Concluding Information

### Continuing Disclosure

The District has covenanted in a continuing disclosure certificate for the benefit of the holders and beneficial owners of the Certificates to provide certain financial information and operating data relating to the District by not later than nine months following the end of the District's fiscal year (currently June 30), for the fiscal year ending June 30, 2012 and to provide notices of the occurrence of certain enumerated events, if material. The District will file the annual report and the notices of material events with each nationally recognized municipal securities information repository. The specific information to be included in the annual report and the notice of material events is set forth in Appendix D to this official statement, "Form of Continuing Disclosure Certificate." The District has never failed to comply with a continuing disclosure undertaking.

### Legal Matters

Jones Hall, A Professional Law Corporation, San Francisco, California, bond counsel will render an opinion with respect to the validity and enforceability of the Installment Sale Agreement and trust agreement. A copy of the legal opinion will accompany the original delivery of each Certificate. The form of the legal opinion proposed to be delivered by bond counsel is included as Appendix E to this official statement. Certain legal matters will be passed upon for the District by its District counsel. Payment of the fees and expenses of Jones Hall as bond counsel is contingent upon the sale and delivery of the Certificates.

### Tax Matters

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, bond counsel, subject, however to the qualifications set forth below, under existing law, the portion of Certificates designated as and comprising interest and received by the owners of the Certificates is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, provided, however, that, for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings.

The opinions set forth in the preceding paragraph are subject to the condition that the District comply with all requirements of the Internal Revenue Code of 1986 (the "Tax Code"), as amended, that must be satisfied subsequent to the delivery of the installment purchase agreement in order that such interest be, or continue to be, excluded from gross income for federal income tax purposes. The District has covenanted to comply with each such requirement. Failure of the District to comply with certain of such requirements may cause the inclusion of such interest in gross income for federal income tax purposes to be retroactive to the date of delivery of the Installment Sale Agreement.

If the initial offering price to the public (excluding bondhouses and brokers) at which a Certificate is sold is less than the amount payable at maturity thereof, then such difference

constitutes "original issue discount" for purposes of federal income taxes and State of California personal income taxes. If the initial offering price to the public (excluding bond houses and brokers) at which each Certificate is sold is greater than the amount payable at maturity thereof, then such difference constitutes "original issue premium" for purposes of federal income taxes and State of California personal income taxes. De minimis original issue discount is disregarded.

Under the Tax Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the Certificate on the basis of a constant interest rate compounded on each interest or principal payment date (with straightline interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such Certificates to determine taxable gain upon disposition (including sale, prepayment, or payment on maturity) of such Certificate. The Tax Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the Certificates who purchase the Certificates after the initial offering of a substantial amount of such maturity. Owners of such Certificates should consult their own tax advisors with respect to the tax consequences of ownership of Certificates with original issue discount, including the treatment of purchasers who do not purchase in the original offering, the allowance of a deduction for any loss on a sale or other disposition, and the treatment of accrued original issue discount on such Certificates under federal individual and corporate alternative minimum taxes.

Under the Tax Code, original issue premium is amortized on an annual basis over the term of the Certificate (said term being the shorter of the Certificate's maturity date or its call date). The amount of original issue premium amortized each year reduces the adjusted basis of the owner of the Certificate for purposes of determining taxable gain or loss upon disposition. The amount of original issue premium on a Certificate is amortized each year over the term to maturity of the Certificate on the basis of a constant interest rate compounded on each interest or principal payment date (with straightline interpolations between compounding dates). Amortized Certificate premium is not deductible for federal income tax purposes. Owners of Premium Certificates, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to State of California personal income tax and federal income tax consequences of owning such Certificates.

In the further opinion of Special Counsel, interest payable with respect to the Certificates is exempt from California personal income taxes.

Owners of the Certificates should also be aware that the ownership or disposition of, or the accrual or receipt of interest with respect to, the Certificates may have federal or state tax consequences other than as described above. Bond counsel expresses no opinion regarding any federal or state tax consequences with respect to the Installment Sale Agreement and the Certificates other than as expressly described above.

Bond Counsel expects to deliver an opinion at the time of issuance of the Certificates in substantially the same form set forth in Appendix E.

### Absence of Litigation

There is no action, suit, or proceeding known to be pending or threatened, restraining or enjoining the execution or delivery of the Certificates or installment purchase agreement, or in any way contesting or affecting the validity of the foregoing or any proceedings of the District taken with respect to any of the foregoing.

### Ratings

Standard & Poor's, a division of the McGraw-Hill Companies, Inc. has assigned its municipal bond rating of \_\_\_ to the Certificates. Such rating reflects only the views of such organization and any desired explanation of the significance of such rating should be obtained from the rating agency furnishing the same, at the following address: Standard & Poor's, 1 Market St, Steuart Tower 15<sup>th</sup> Floor, San Francisco CA 94105. Generally, a rating agency bases its ratings on the information and materials furnished to it and on investigations, studies and assumptions of its own. There is no assurance that such rating will continue for any given period of time or that such rating will not be revised downward or withdrawn entirely by the rating agencies, if in the judgment of such rating agency, circumstances so warrant. Any downward revision or withdrawal of such rating may have an adverse effect on the market price of the Certificates.

### Miscellaneous

The quotations from, and summaries and explanations of the installment purchase agreement, the escrow deposit and trust agreement, statutes and other documents contained herein do not purport to be complete, and reference is made to such documents and statutes for full and complete statements of their provisions. Complete copies of the documents are available upon request from the financial advisor prior to the closing and from the District thereafter.

This official statement is submitted only in connection with the sale of the Certificates by the District. All estimates, assumptions, statistical information, and other statements contained herein, while taken from sources considered reliable, are not guaranteed by the District. The information contained herein should not be construed as representing all conditions affecting the District or the Certificates. All information contained in this official statement pertaining to the District has been furnished by the District, and the execution and delivery of this official statement have been duly authorized by the District.

At the time of payment for and delivery of the Certificates, the District will provide a statement executed by the proper officer of the District to the effect that to the best of his knowledge and belief the statements in the official statement as of its date and as of the date of its delivery are true and correct in all material respects and the official statement does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein in the light of the circumstances under which they were made, not misleading.

Novato Sanitary District

/s/ Beverly B. James  
District Manager-Engineer

APPENDIX A  
SUMMARY OF CERTAIN PROVISIONS OF THE installment SALE and trust  
agreements

## APPENDIX B AREA STATISTICAL INFORMATION

### **NOVATO SANITARY DISTRICT**

Novato Sanitary District is a sanitary district created and existing under the Sanitary District Act of 1923 (California Health & Safety Code Section 6400 et seq.) to provide for the collection, treatment, reclamation, and disposal of sewage within its service area. The District is governed by a five-member board of directors. The District serves a population of about 56,000 in an area of about thirty-four square miles in the northern part of the City of Novato and surrounding unincorporated areas in Marin County, California. The District also serves Hamilton Field (a former air force base) located along the western shore of San Pablo Bay, south of Novato.

The District's service area is comprised primarily of single-family residential units on lots under one acre in size. Commercial land-use is concentrated along Highway 101, along Redwood Boulevard, downtown along Grant Avenue, in the Industrial Park near the Ignacio Treatment Transfer Pump Station (ITPS) site, and in small clusters and convenience centers. No major industrial wastewater producers exist within the District's service area.

According to the District's 2010 Sewer System Management Plan, in general, the District's service area is significantly built out with densification anticipated in the downtown area and commercial corridors. Future growth areas include inclusion of areas are zoned very low density residential and include Atherton, Greenpoint, Blackpoint, Indian Valley, Bel Marin Keys, and Verissimo Valley. Each of these areas except for Bel Marin Keys and Verissimo Valley are currently on septic tank systems and are expected to convert to sewers by 2025.

### **THE COUNTY OF MARIN**

#### **General**

Marin County lies to the north of San Francisco, linked to San Francisco by the Golden Gate Bridge. The County is dominated near the center by a single mountain, Mt. Tamalpais, which rises to an elevation of 2,571 feet. The County is actually a hilly peninsula, with sandy beaches and rugged open space, which is surrounded on three sides by either the Pacific Ocean or the San Francisco Bay.

The County is bounded on the north by the County of Sonoma. The Richmond-San Rafael Bridge links the County with the counties of Contra Costa and Alameda, and the

Golden Gate Bridge links the County with the City and County of San Francisco and the counties further south of San Francisco.

The County's headlands command the northern shore of the Golden Gate. With over 52 miles of seacoast and bayshore, the County also encompasses nearly 160,000 acres of protected park land as well as more than 93,000 acres of ranches and farmland. The wild beaches of Point Reyes National Seashore, the great redwoods of Muir Woods, as well as the quiet trails of a number of state parks and public watershed attract visitors from around the world. Long recognized for its environmental foresight, the County is home to several wildlife and bird sanctuaries.

## **THE CITY OF NOVATO**

### **General**

The City of Novato was incorporated on January 20, 1960 as a general law city. The City Council is made up of five members, elected at large, serving four-year terms. The Mayor is selected for a one-year term from among the members of the City Council. The City operates under a council-manager form of government. The City Council appoints the City Manager, City Attorney and City Clerk. The City has an annual operating budget of approximately \$20 million with 185 employees.

Covering an area of 28 square miles, downtown Novato is 20 miles north of the Golden Gate Bridge, 27 miles from downtown San Francisco, and 15 miles south of the Wine Country. The City is home to more than 2,500 firms offering professional services, manufacturing, research, and retail centers. In addition to prominent financial institutions and distinguished medical services, the City of Novato hosts a network of 40 parks and recreational areas, including three major city parks, excellent schools, two nearby golf courses, and Vintage Oaks, one of the leading retail centers in the North Bay.

Novato's sphere of influence contains seven county-maintained open space preserves with more than 2,600 acres of open space, including 1,600 acres surrounding Mt. Burdell in Northern Novato. Olompali State Park, just north of Novato, comprises 900 acres, bringing the total to nearly 3,500 acres. The City itself is home to a total of 27 parks, including three major city parks. The North Marin Water District also maintains an open space preserve near Loma Verde.

### Population Characteristics

Table B-1 illustrates the relative increase in population for the City of Novato and Marin County since 2000. Over the past ten years, the County's population has increased by over 5 percent compared to the City of Novato which has grown by 12 percent. With an area of 606 square miles (including 86 square miles of tideland), and a population of 252,485, Marin County's population is the most stable in the San Francisco Bay Area. County population has increased at an average annual rate of 0.54 percent since 1980.

Most of the County's 252,485 residents reside in the 11 cities and towns along the eastern U.S. Highway 101 corridor. In contrast to the densely populated eastern part of the County, the western portion is a large area of open parkland, beaches, working dairy ranches, and a few small communities. Eighty-two percent of the County land area is dedicated to open space.

---

**Table B-1 ■ County of Marin Population**

---

<b>Year</b>	<b>Marin County</b>	<b>Percent Change</b>	<b>City of Novato</b>	<b>Percent Change</b>
2000	247,289		47,630	
2001	248,903	0.65%	48,247	1.30%
2002	249,813	0.37%	48,668	0.87%
2003	250,453	0.26%	48,681	0.03%
2004	250,840	0.15%	49,544	1.77%
2005	251,634	0.32%	50,475	1.88%
2006	252,963	0.53%	51,047	1.13%
2007	254,532	0.62%	52,127	2.12%
2008	256,640	0.83%	52,581	0.87%
2009	258,602	0.76%	52,919	0.64%
2010	260,651	0.79%	53,357	0.83%

---

Source: State of California Department of Finance

---

### Assessed Valuation

The County assessor assesses all property within the County except utility property and railroads, which are assessed by the State Board of Equalization. Table B-2 shows a history of assessed valuation in the County from 2000/01 through 2009/10. Over the years shown, the assessed valuation has increased at an average annual rate of 7.0 percent.



---

**Table B-2 ■ Marin County Assessed Valuation**

---

<b>Year</b>	<b>Total Assessed Value</b>	<b>Percent Change</b>
2000/01	\$30,991,510,162	
2001/02	34,029,847,934	9.8%
2002/03	36,520,333,139	7.3%
2003/04	39,024,001,818	6.9%
2004/05	41,710,997,985	6.9%
2005/06	45,414,333,582	8.9%
2006/07	49,237,035,534	8.4%
2007/08	52,554,005,358	6.7%
2008/09	55,610,649,286	5.8%
2009/10	56,645,309,910	1.9%

---

Source: California State Controller's Office

---

Property in California is assessed at 100 percent of full cash value, which does not necessarily equate to current market value. Under Article XIII A of the California Constitution, property is assessed when constructed or upon change of ownership at its market value. The value of property that does not change ownership may be adjusted annually by not more than 2 percent to account for inflation. Due to changes in assessment required under Article XIII A, the County assessment roll no longer reflects market value.

California law also provides property tax exemptions for owner-occupied residences and business inventories. The full value of business inventories is exempt from taxation, as is \$7,000 of the value of owner-occupied residences. Revenues lost to public agencies due to these two exemptions are fully reimbursed by the state.

California counties levy a general property tax of 1 percent of the assessed valuation. This levy is allocated to the County, cities, and special districts in accordance with state law. Property taxes above the 1 percent general levy may be levied on properties in individual jurisdictions to pay debt services on general obligation bonds and for certain other voter-approved purposes.

In accordance with the California Revenue and Taxation Code, the Marin County Tax Collector collects secured tax levies for each fiscal year. One-half of the taxes is due November 1, and becomes delinquent December 10; the second installment is due February 1, and becomes delinquent April 10.

A 10 percent penalty is added to any late installment. On June 30, delinquent properties are sold to the state. Property owners may redeem property upon payment of delinquent taxes and penalties. Properties sold to the state incur a redemption penalty of 1.5 percent of the taxes due per month. Properties may be redeemed under an installment plan by paying current taxes plus 20 percent of delinquent taxes for five years. Interest accrues a 1.5 percent per month on the unpaid balance. If no payments have been made on delinquent taxes at the end of five fiscal years, the property is deeded to the state.

## Employment and Unemployment

Table B-3 shows employment by industry from 2005 through 2010.

**Table B-3 ■ Marin County  
Annual Average Employment**

Industry	2005	2006	2007	2008	2009	2010
Agriculture	600	700	500	500	500	500
Manufacturing	2,500	2,400	2,100	2,100	2,000	2,100
Trade, Transportation & Utilities	18,800	18,300	18,500	18,200	16,500	16,800
Information	3,100	2,200	2,400	2,200	2,000	1,900
Financial Activities	9,300	9,200	8,800	8,200	7,500	6,800
Professional & Business Services	18,500	19,600	19,500	20,300	18,500	18,900
Educational & Health Services	15,600	15,800	15,700	16,100	16,900	16,300
Leisure & Hospitality	12,600	12,700	13,000	13,400	12,700	12,100
Other Services	4,600	4,800	5,000	4,900	4,700	5,000
Government	<u>14,700</u>	<u>15,000</u>	<u>15,100</u>	<u>15,500</u>	<u>15,000</u>	<u>14,900</u>
Total All Industries	100,300	100,700	100,600	101,400	96,300	95,300

Source: California State Employment Development Department

Table B-4 shows employment, unemployment, and labor force data for the Marin County and City of Novato since 2006.

**Table B-4 ■ Marin County and City of Novato  
Employment and Unemployment**

	2006	2007	2008	2009	2010
<b>Marin County</b>					
Civilian Labor Force	130,900	132,200	132,400	131,900	131,400
Civilian Employment	126,300	127,400	126,200	121,700	120,600
Civilian Unemployment Rate	4,600	4,800	6,200	10,200	10,800
Civilian Unemployment	3.50%	3.60%	4.70%	7.70%	8.30%
<b>City of Novato</b>					
Civilian Labor Force	25,600	25,900	26,000	26,000	26,000
Civilian Employment	24,500	24,700	24,500	23,700	23,400
Civilian Unemployment Rate	1,100	1,100	1,400	2,400	2,500
Civilian Unemployment	4.20%	4.30%	5.60%	9.10%	9.80%

Source: California State Employment Development Department

### Major Employers

The following table demonstrates the scope and diversity of the City of Novato's largest employers as of 2010/11.

**Table B-5 ■ City of Novato's Major Employers**

Company	Employees
Fireman's Fund	968
Novato Unified School District	829
BioMarin Pharmaceuticals	549
ImageMovers Digital	435
Novato Community Hospital	340
Target Store	284
Costco Wholesale	260
Buck Institute for Age Research	246
Safeway Stores	243
Brayton Purcell, LLP Attorneys	231

Source: Novato Chamber of Commerce

Fireman's Fund Insurance Company is the City's largest employer (and Marin County's 4th largest) with 968 employees at its Novato campus. Founded in 1863, Fireman's Fund has been providing business and personal insurance for over 145 years.

## Taxable Sales

Table B-6 shows the annual volume of taxable sales within the County and for the City for 2005 through 2009, the most recent year for which full data is available.

**Table B-6 ■ County of Marin and City of Novato  
Taxable Transactions**

	Novato		Marin County	
	Retail Stores	Total All Outlets	Retail Stores	Total All Outlets
<b>2009</b>	\$539,778	\$634,449	\$2,768,875	\$3,660,036
<b>2008</b>	558,055	674,307	3,074,694	4,158,899
<b>2007</b>	595,461	704,337	3,301,467	4,397,181
<b>2006</b>	596,395	700,298	3,244,796	4,285,264
<b>2005</b>	564,191	668,257	3,165,743	4,171,444

Source: California State Board of Equalization

## Transportation

U.S. Highway 101 is the County's north-south artery. Interstate 580 runs east from U.S. 101 in San Rafael, across the bridge to Richmond in Contra Costa County. State Route 1 follows the coast of California past the County's communities of Stinson Beach, Bolinas, and Marshall on Tomales Bay. Commuters to San Francisco may choose Golden Gate Transit's buses from various points or ferry service from Sausalito and Larkspur. The Tiburon Ferry provides service between San Francisco and Tiburon-Belvedere. The County's airport, Gness field, is located in Novato and accommodates private aircraft.

With the passage of Measure Q in 2008, the Sonoma Marin Area Rail Transit (SMART) project will enhance commuter green options by 2014. SMART will build a 70-mile passenger railroad and parallel bicycle-pedestrian path along the publicly owned Northwestern Pacific Railroad right of way through the Marin and Sonoma Counties. The rail line runs from Cloverdale, at the north end of Sonoma County, to Larkspur, where the Golden Gate Ferry connects Marin County with San Francisco. Along the way, SMART will have stations at the major population and job centers of the North Bay: San Rafael, Novato, Petaluma, Cotati, Rohnert Park, Santa Rosa, Windsor, and Healdsburg.

## Education

The County's two community colleges are the College of Marin in Kentfield and Indian Valley College in Novato. The college offers more than 60 academic programs leading to an Associate of Arts or Associate of Science degree, as well as a wide range of community education classes. Novato is a 30-minute drive to University of California at

Berkeley, the University of San Francisco, San Francisco State University, and Sonoma State University in Rohnert Park.

The Buck Institute is one of the foremost non-profit, biomedical research institutes in the world and the first independent research facility in the United States to focus solely on aging and age-related conditions. The Institute began its biomedical research program in 1999 and offers a postdoctoral research training program, in partnership with Lawrence Berkeley National Laboratory and the University of California, Berkeley.

### **Community Facilities**

The Marin County Civic Center was the last building project planned by Frank Lloyd Wright and is a County landmark. Wright designed the building across several hills, in harmony with the landscape on the 60-acre site. The administration building was completed in 1962, the Hall of Justice in 1969, and the Veterans Memorial Auditorium in 1971. The site also includes the County fairgrounds.

The City of Novato is also home to many top health care facilities including the Sutter Medical Campus and the Novato Community Hospital (NCH), Kaiser Permanente, the Marin Community Clinics, and the Novato Wellness Center (NWC).

APPENDIX C  
NOVATO SANITARY DISTRICT  
COMPLETE AUDITED FINANCIAL REPORT  
FOR THE fiscal year ended june 30, 2010

The following pages present the District's audited financial statements for the fiscal year ending June 30, 2010.



APPENDIX D  
FORM OF CONTINUING DISCLOSURE CERTIFICATE



APPENDIX E  
FORM OF BOND COUNSEL OPINION

## APPENDIX F

### BOOK ENTRY SYSTEM

The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the Certificates. The Certificates will be issued as fully registered securities registered in the name of Cede & Co. (DTC's partnership nominee). One fully registered Certificate will be issued for each maturity of the Certificates, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC is a limited-purpose, trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds securities that its participants ("Participants") deposit with DTC. DTC also facilitates the settlement among Participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in Participants' accounts, thereby eliminating the need for physical movement of securities Certificates. Direct Participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is owned by a number of its Direct Participants and by the New York Stock Exchange, Inc., the American Stock Exchange, Inc., and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as securities brokers and dealers, banks, and trust companies that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The Rules applicable to DTC and its Participants are on file with the Securities and Exchange Commission.

Purchases of Certificates under the DTC system must be made by or through Direct Participants, which will receive a credit for the Certificates and DTC's records. The ownership interest of each actual purchaser of each Certificate ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Certificates are to be accomplished by entries made on the books of Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive Certificates representing their ownership interests in Certificates, except in the event that use of the book-entry system for the Certificates is discontinued.

To facilitate subsequent transfers, all Certificates deposited by Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. The deposit of Certificates with DTC and their registration in the name of Cede & Co. effect no change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Certificates; DTC's records reflect only the identity of the Direct Participants to whose accounts such Certificates are credited which may or may not be the Beneficial Owners. The Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to Cede & Co. If less than all of the Certificates within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. will consent or vote with respect to Certificates. Under its usual procedures, DTC mails an Omnibus Proxy to the District as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting right to those Direct Participants to whose accounts the Certificates are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Certificates will be made to DTC. DTC's practice is to credit Direct Participants' accounts on payable date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payment on payable date. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or the District, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to DTC is the responsibility of the District or Agent, disbursement of such payments to Direct Participants shall be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Certificates at any time by giving reasonable notice to the District or Agent. Under such circumstances, in the event that a successor securities depository is not obtained, Certificates are required to be printed and delivered

The District may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Certificates will be printed and delivered.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the District believes to be reliable, but the District takes no responsibility for the accuracy thereof.

---

---

# INSTALLMENT SALE AGREEMENT

Dated as of October 1, 2011

between the

**PUBLIC PROPERTY FINANCING CORPORATION OF  
CALIFORNIA,**  
*as Seller*

and the

**NOVATO SANITARY DISTRICT,**  
*as Purchaser*

Relating to  
\$ \_\_\_\_\_  
**Wastewater Revenue Certificates of Participation,  
Series 2011**

---

---

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I	
Definitions; Rules of Interpretation	
SECTION 1.1. Definitions .....	2
SECTION 1.2. Interpretation .....	2
ARTICLE II	
Representations, Covenants and Warranties	
SECTION 2.1. Representations, Covenants and Warranties of the District .....	2
SECTION 2.2. Representations, Covenants and Warranties of Corporation.....	4
ARTICLE III	
Execution and Delivery of Certificates; Application of Proceeds	
SECTION 3.1. The Certificates .....	6
SECTION 3.2. Deposit and Application of Funds .....	6
SECTION 3.3. Acquisition and Construction of the Project .....	6
SECTION 3.4. Appointment of District as Agent.....	6
SECTION 3.5. Plans and Specifications; Modification of Project Description.....	6
SECTION 3.6. Certificate of Project Completion.....	6
ARTICLE IV	
Sale of Project Installment Payments	
SECTION 4.1. Sale of Project.....	7
SECTION 4.2. Term.....	7
SECTION 4.3. Transfer of Title .....	7
SECTION 4.4. Installment Payments.....	7
SECTION 4.5. Pledge and Application of Net Revenues.....	8
SECTION 4.6. Establishment of Rate Stabilization Fund .....	9
SECTION 4.7. Special Obligation of the District; Obligations Absolute .....	10
SECTION 4.8. Additional Payments .....	11
ARTICLE V	
Covenants of the District	
SECTION 5.1. Disclaimer of Warranties .....	11
SECTION 5.2. Sale or Eminent Domain of Wastewater System .....	11
SECTION 5.3. Insurance .....	12
SECTION 5.4. Records and Accounts .....	12
SECTION 5.5. Rates and Charges .....	13
SECTION 5.6. Superior and Subordinate Obligations .....	13
SECTION 5.7. Issuance of Parity Debt .....	13
SECTION 5.8. Operation of Wastewater System in Efficient and Economical Manner.....	14
SECTION 5.9. Assignment and Amendment Hereof .....	14
ARTICLE VI	
Events of Default	
SECTION 6.1. Events of Default Defined .....	14
SECTION 6.2. Remedies on Default.....	15
SECTION 6.3. No Remedy Exclusive .....	16
SECTION 6.4. Agreement to Pay Attorneys' Fees and Expenses.....	16
SECTION 6.5. No Additional Waiver Implied by One Waiver .....	16
SECTION 6.6. Trustee and Certificate Owners to Exercise Rights .....	16

ARTICLE VII	
Prepayment of Installment Payments	
SECTION 7.1. Security Deposit .....	17
SECTION 7.2. Optional Prepayment .....	17
SECTION 7.3. Mandatory Prepayment From Proceeds of Insurance, Sale or Condemnation .....	17
SECTION 7.4. Credit for Amounts on Deposit .....	18
ARTICLE VIII	
Miscellaneous	
SECTION 8.1. Further Assurances .....	18
SECTION 8.2. Notices .....	18
SECTION 8.3. Governing Law .....	19
SECTION 8.4. Binding Effect .....	19
SECTION 8.5. Severability of Invalid Provisions.....	19
SECTION 8.6. Article and Section Headings and References.....	19
SECTION 8.7. Payment on Non-Business Days .....	19
SECTION 8.8. Execution of Counterparts.....	19
SECTION 8.9. Waiver of Personal Liability .....	19
SECTION 8.10. Trustee as Third Party Beneficiary.....	20
APPENDIX A	Schedule of Installment Payments
APPENDIX B	Description of Project

## INSTALLMENT SALE AGREEMENT

This INSTALLMENT SALE AGREEMENT (this "Agreement"), dated as of October 1, 2011, is between the PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, a nonprofit public benefit corporation duly organized and existing under the laws of the State of California (the "Corporation"), as seller, and the NOVATO SANITARY DISTRICT, a sanitary district duly organized and existing under the Sanitary District Act of 1923 of the State of California (the "District"), as purchaser.

### *BACKGROUND:*

1. The District owns and operates facilities and property for the collection, treatment and disposal of wastewater within the service area of the District (the "Wastewater System") and the District has initiated proceedings to construct various improvements to the Wastewater System, consisting primarily of improvements to the collection system, pump station, water reclamation facilities and the Novato Main Treatment Plant (the "Project").

2. The Corporation has been formed for the purpose of assisting public agencies in the financing of public capital improvements, and in order to provide funds to finance the Project the Corporation has proposed to enter into this Agreement with the District under which the Corporation agrees to provide funds to finance the construction of the Project and to sell the completed Project to the District in consideration of the agreement by the District to pay the purchase price of the Project in semiannual installments (the "Installment Payments").

3. For the purpose of obtaining the moneys required to finance the construction of the Project in accordance with the terms hereof, the Corporation has assigned and transferred certain of its rights under this Agreement to the Trustee under a Trust Agreement dated as of October 1, 2011, among the District, the Corporation and \_\_\_\_\_, as trustee (the "Trustee"), under which the Trustee will execute and deliver Wastewater Revenue Certificates of Participation, Series 2011 in the aggregate principal amount of \$\_\_\_\_\_, evidencing direct, undivided fractional interests in the Installment Payments.

4. The District has previously entered into an Installment Sale Agreement dated November 16, 2007, with the Department of Water Resources of the State of California (Agreement No. 07-824-550-0), for the purpose of providing financing for the Project in the amount of not to exceed \$81,329,083 (the "SRF Installment Sale Agreement"), to be repaid by the District through semiannual installment payments (the "SRF Installment Payments").

5. The SRF Installment Sale Agreement provides that the District may incur additional indebtedness to finance improvements to the Wastewater System on a basis which is subordinate to the SRF Installment Payments.



## AGREEMENT:

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

### ARTICLE I

#### DEFINITIONS; RULES OF INTERPRETATION

SECTION 1.1. *Definitions.* Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Agreement have the respective meanings given them in Appendix A to the Trust Agreement.

SECTION 1.2. *Interpretation.*

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

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

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

### ARTICLE II

#### REPRESENTATIONS, COVENANTS AND WARRANTIES

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

- (a) Due Organization and Existence. The District is a sanitary district duly organized and validly existing under the Sanitary District Act of 1923 of the State of California, has full legal right, power and authority under said laws to enter into this Agreement and the Trust Agreement and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action the Board of Directors of the District has duly authorized the execution and delivery of this Agreement and the Trust Agreement.

- (b) Due Execution. The representatives of the District executing this Agreement and the Trust Agreement are fully authorized to execute the same.
- (c) Valid, Binding and Enforceable Obligations. This Agreement and the Trust Agreement have been duly authorized, executed and delivered by the District and constitute the legal, valid and binding agreements of the District enforceable against the District in accordance with their respective terms; except as the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and except as such enforceability may be subject to the exercise of judicial discretion in accordance with principles of equity.
- (d) No Conflicts. The execution and delivery of this Agreement and the Trust Agreement, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the District is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the District, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially adversely affect the consummation of the transactions contemplated by this Agreement and the Trust Agreement or the financial condition, assets, properties or operations of the District, including but not limited to the performance of the District's obligations under this Agreement and the Trust Agreement.
- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the District or of the voters of the District, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Agreement or the Trust Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.
- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the District after reasonable investigation, threatened against or affecting the District or the assets, properties or operations of the District which, if determined adversely to the District or its interests, would have a material and adverse effect upon the consummation

of the transactions contemplated by or the validity of this Agreement or the Trust Agreement, or upon the financial condition, assets, properties or operations of the District, and the District is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially adversely affect the consummation of the transactions contemplated by this Agreement or the Trust Agreement, or the financial conditions, assets, properties or operations of the District, including but not limited to the payment and performance of the District's obligations under this Agreement and the Trust Agreement.

- (g) No Prior Indebtedness. The District 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 SRF Installment Payments or the Installment Payments as provided herein.
- (h) Compliance with SRF Installment Sale Agreement. The District is in full compliance with the terms and provisions of the SRF Installment Sale Agreement. No event has occurred which constitutes an event of default under the SRF Installment Sale Agreement or which, with the passage of time, if not cured, would constitute an event of default under the SRF Installment Sale Agreement.

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

- (a) Due Organization and Existence. The Corporation is a corporation duly organized and existing under the laws of the State of California, and has power to enter into this Agreement and the Trust Agreement and to perform the duties and obligations imposed on it hereunder and thereunder. The Board of Directors of the Corporation has duly authorized the execution and delivery of this Agreement and the Trust Agreement.
- (b) Due Execution. The representatives of the Corporation executing this Agreement and the Trust Agreement are fully authorized to execute the same.
- (c) Valid, Binding and Enforceable Obligations. This Agreement and the Trust Agreement have been duly authorized, executed and delivered by the Corporation and constitute the legal, valid and binding agreements of the Corporation with the Corporation, enforceable against the Corporation in accordance with their respective terms; except as the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and except as such enforceability may be subject to the exercise of judicial discretion in accordance with principles of equity.

- (d) No Conflicts. The execution and delivery hereof and of the Trust Agreement, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Corporation is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Corporation, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially adversely affect the consummation of the transactions contemplated hereby and by the Trust Agreement or the financial condition, assets, properties or operations of the Corporation, including but not limited to the performance of the Corporation's obligations under this Agreement and the Trust Agreement.
- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Corporation, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery hereof or of the Trust Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.
- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the Corporation after reasonable investigation, threatened against or affecting the Corporation or the assets, properties or operations of the Corporation which, if determined adversely to the Corporation or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Agreement or the Trust Agreement, or upon the financial condition, assets, properties or operations of the Corporation, and the Corporation is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially adversely affect the consummation of the transactions contemplated by this Agreement or the Trust Agreement or the financial conditions, assets, properties or operations of the Corporation, including but not limited to the performance of the Corporation's obligations hereunder and under the Trust Agreement.

## ARTICLE III

### EXECUTION AND DELIVERY OF CERTIFICATES; APPLICATION OF PROCEEDS

SECTION 3.1. *The Certificates.* The Corporation will cause the Certificates to be executed and delivered under the Trust Agreement in the aggregate principal amount of \$\_\_\_\_\_. The Corporation agrees that the proceeds of sale of the Certificates will be paid to the Trustee on the Closing Date for deposit under the Trust Agreement. The District hereby approves the Trust Agreement, the assignment thereunder to the Trustee of certain rights of the Corporation, and the execution and delivery of the Certificates.

SECTION 3.2. *Deposit and Application of Funds.* The proceeds received by the Trustee from the sale of the Certificates to the Original Purchaser will be deposited in the respective funds and accounts, and in the respective amounts, as set forth in Section 3.01 of the Trust Agreement.

SECTION 3.3. *Acquisition and Construction of the Project.* The Corporation hereby agrees with due diligence to supervise and provide for, or cause to be supervised and provided for, the acquisition, construction and installation of the Project in accordance with the plans and specifications, purchase orders, construction contracts and other documents relating thereto and approved by the District under all applicable requirements of law. All contracts for, and all work relating to, the acquisition, construction and installation of the Project are subject to all applicable provisions of law relating to the acquisition and construction of public works by the District. The failure to complete the Project by its estimated completion date does not constitute an Event of Default hereunder or a grounds for termination hereof, nor will any such failure result in the diminution, abatement or extinguishment of the obligations of the District hereunder to pay the Installment Payments when due.

SECTION 3.4. *Appointment of District as Agent.* The Corporation hereby appoints the District as its agent to carry out all phases of the acquisition, construction and installation of the Project under and in accordance with the provisions hereof. The District hereby accepts such appointment and assumes all rights, liabilities, duties and responsibilities of the Corporation regarding the acquisition, construction and installation of the Project. As agent of the Corporation hereunder, the District will enter into, administer and enforce all purchase orders or other contracts relating to the Project. Payment of Project Costs will be made by the District from amounts held by the Trustee in the Project Fund in accordance with the provisions of this Agreement and the provisions of the Trust Agreement.

SECTION 3.5. *Plans and Specifications; Modification of Project Description.* The District has the right to specify the exact scope, nature and identification of the Project and the respective components thereof. Before any payment is made for the Project or any component thereof from amounts on deposit in the Project Fund, the District must prepare detailed plans and specifications relating thereto. The District may from time to time amend any such plans and specifications, and thereby change or modify the description of the Project or any component thereof.

SECTION 3.6. *Certificate of Project Completion.* Not later than 30 days following the completion of the Project, a District Representative will execute and deliver to the Corporation and the Trustee a written certificate which (a) states that the

construction of the Project has been substantially completed, (b) identifies the total Project Costs thereof, and (c) identifies the amounts, if any, to be reserved in the Project Fund for payment of future Project Costs.

## ARTICLE IV

### SALE OF PROJECT; INSTALLMENT PAYMENTS

SECTION 4.1. *Sale of Project.* The Corporation hereby sells the Project to the District, and the District hereby purchases the Project from the Corporation, upon the terms and conditions set forth in this Agreement.

SECTION 4.2. *Term.* The Term of this Agreement begins on the Closing Date and ends on February 1, 2022, or such later or earlier date on which the Certificates cease to be Outstanding under and within the meaning of the Trust Agreement.

SECTION 4.3. *Transfer of Title.* Title to the Project, and each component thereof, will be deemed conveyed by the Corporation to and vested in the District upon the completion of the acquisition, construction and installation thereof. The Corporation and the District agree that no further action or documentation is intended to be required to cause the transfer of title to the Project; however, if any further actions or documentation is so required, the Corporation and the District will take such actions and execute, deliver and cause to be recorded all such documents.

#### SECTION 4.4. *Installment Payments.*

(a) Obligation to Pay. The District hereby agrees to pay to the Corporation, as the purchase price of the Project hereunder, the aggregate principal amount of \$\_\_\_\_\_ together with interest (calculated on the basis of a 360-day year of twelve 30-day months) on the unpaid principal balance thereof, payable in semiannual Installment Payments in the respective amounts and on the respective Installment Payment Dates specified in Appendix A. The Installment Payment coming due and payable on any Installment Payment Date will be deposited by the District with the Trustee, as assignee of the Corporation under the Trust Agreement, in an amount which, together with amounts then held by the Trustee in the Installment Payment Fund, is equal to the full amount of such Installment Payment. The Installment Payments will be secured by and payable solely from the sources specified in Section 4.5.

(b) Effect of Prepayment. If the District prepays all remaining Installment Payments in full under Section 7.2 or Section 7.3, the District's obligations under this Agreement will thereupon cease and terminate, including but not limited to the District's obligation to pay Installment Payments therefor under this Section 4.4; *provided, however,* that the District's obligations to compensate and indemnify the Trustee under Sections 7.03 and 10.03 of the Trust Agreement will survive such prepayment. If the District prepays the Installment Payments in part but not in whole under Section 7.2 or Section 7.3, the principal component of each succeeding Installment Payment will be reduced as provided in such Sections, and the interest component of each remaining Installment Payment will be reduced by the aggregate corresponding amount of interest

which would otherwise be payable with respect to the Certificates thereby prepaid under the applicable provisions of Section 4.01 of the Trust Agreement.

(c) Rate on Overdue Payments. If the District fails to make any of the payments required in this Section 4.4 or in Section 4.8, the payment in default will continue as an obligation of the District until the amount in default has been fully paid, and the District agrees to pay the same with interest thereon, from the date of default to the date of payment, at the Overdue Rate.

(d) Assignment. The District understands and agrees that certain rights of the Corporation, including but not limited to the right of the Corporation to receive payment of the Installment Payments, have been assigned by the Corporation to the Trustee in trust under the Trust Agreement, for the benefit of the Owners of the Certificates, and the District hereby consents to such assignment. The Corporation hereby directs the District, and the District hereby agrees, to pay to the Trustee at its Trust Office, all payments payable by the District under this Section 4.4 and all amounts payable by the District under Article VII.

#### SECTION 4.5. *Pledge and Application of Net Revenues.*

(a) Pledge. All of the Net Revenues and all moneys on deposit in any of the funds and accounts established and held by the Trustee under the Trust Agreement are hereby irrevocably pledged, charged and assigned to the punctual payment of the Installment Payments. Such pledge, charge and assignment constitutes a lien on the Net Revenues and such other moneys for the payment of the Installment Payments in accordance with the terms hereof, which lien will be on a parity with the pledge and lien which secures any Parity Debt.

(b) Deposit of Net Revenues Into Wastewater Fund; Transfers to Make Payments. The District has previously established the Wastewater Fund, which the District will continue to hold and maintain for the purposes and uses set forth herein. The District will deposit all Gross Revenues in the Wastewater Fund immediately on receipt. The District will apply amounts in the Wastewater Fund as set forth in this Agreement, the SRF Installment Sale Agreement and any Parity Debt Documents. The District will apply amounts on deposit in the Wastewater Fund to pay when due the following amounts in the following order of priority:

- (i) all Operation and Maintenance Costs, including the SRF Installment Payments;
- (ii) the Installment Payments and all payments of principal of and interest on any Parity Debt;
- (iii) to the Trustee the amount of any deficiency in the Reserve Fund established for the Certificates and in any reserve fund established for Parity Debt, the notice of which deficiency has been to the District in accordance with the Trust Agreement and the related Parity Debt Documents, respectively;
- (iv) any other payments required to comply with the provisions of this Agreement, the SRF Installment Sale Agreement and any Parity Debt Documents; and

- (v) any other purposes authorized under subsection (d) of this Section 4.5.

(c) No Preference or Priority. Payment of the Installment Payments and the principal of and interest on any Parity Debt will be made without preference or priority. If the amount of Net Revenues on deposit in the Wastewater Fund are any time insufficient to enable the District to pay when due the Installment Payments and the principal of and interest on any Parity Debt, such payments will be made on a pro rata basis.

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

(e) Budget and Appropriation of Installment Payments. During the Term of this Agreement, the District will adopt all necessary budgets and make all necessary appropriations of the Installment Payments from the Net Revenues. If any Installment Payment requires the adoption by the District of a supplemental budget or appropriation, the District will promptly adopt the same. The covenants on the part of the District contained in this subsection (e) are duties imposed by law and it is the duty of each and every public official of the District to take such actions and do such things as are required by law in the performance of the official duty of such officials to enable the District to carry out and perform the covenants and agreements in this subsection (e).

SECTION 4.6. *Establishment of Rate Stabilization Fund.* The District has the right at any time to establish a fund to be held by it and administered in accordance with this Section 4.6, for the purpose of stabilizing the rates and charges imposed by the District with respect to the Wastewater System. From time to time the District may deposit amounts in the Rate Stabilization Fund, from any source of legally available funds, including but not limited to Net Revenues which are released from the pledge and lien which secures the Installment Payments and any Parity Debt, as the District may determine.

The District may, but is not be required to, withdraw amounts on deposit in the Rate Stabilization Fund and deposit such amounts in the Wastewater Fund in any Fiscal Year for the purpose of paying the Installment Payments or the principal of and interest on any Parity Debt coming due and payable in such Fiscal Year. Amounts so transferred from the Rate Stabilization Fund to the Wastewater Fund in any Fiscal Year constitute Gross Revenues for that Fiscal Year (except for purposes of Section 5.7(b) relating to the issuance of Parity Debt), and will be applied for the purposes of the Wastewater Fund. Amounts on deposit in the Rate Stabilization Fund are not pledged to and do not secure the Installment Payments or any Parity Debt. All interest or other earnings on deposits in the Rate Stabilization Fund will be retained therein or, at the option of the District, be applied for any other lawful purposes. The District has the right at any time to withdraw any or all amounts on deposit in the Rate Stabilization Fund and apply such amounts for any other lawful purposes of the District.



SECTION 4.7. *Special Obligation of the District; Obligations Absolute.* The District's obligation to pay the Installment Payments and any other amounts coming due and payable hereunder will be a special obligation of the District limited solely to the Net Revenues. Under no circumstances is the District required to advance 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 and such other amounts, and no other funds or property of the District are liable for the payment of the Installment Payments.

The obligation of the District to make the Installment Payments from the Net Revenues and to perform and observe the other agreements contained herein is absolute and unconditional and is not subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach by the Corporation or the Trustee of any obligation to the District or otherwise with respect to the Wastewater System, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the District by the Corporation or the Trustee. Until all of the Installment Payments, Additional Payments and other amounts coming due and payable hereunder have been fully paid or prepaid, the District will:

- (a) not suspend or discontinue payment of any Installment Payments, Additional Payments or such other amounts,
- (b) perform and observe all other agreements contained in this Agreement, and
- (c) not terminate this Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Wastewater System, failure to complete the acquisition and construction of the Project by the estimated completion date thereof, sale of the Wastewater System, the taking by eminent domain of title to or temporary use of any component of the Wastewater System, commercial frustration of purpose, any change in the tax or law other laws of the United States of America or the State of California or any political subdivision of either thereof or any failure of the Corporation or the Trustee 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 or this Agreement.

Nothing contained in this Section 4.7 releases the Corporation from the performance of any of the agreements on its part contained herein or in the Trust Agreement, and if the Corporation fails to perform any such agreements, the District may institute such action against the Corporation as the District may deem necessary to compel performance so long as such action does not abrogate the obligations of the District contained in the preceding paragraph. The District may, however, at its cost and expense and in its name or in the name of the Corporation, prosecute or defend any action or proceeding or take any other action involving third persons which the District deems reasonably necessary in order to secure or protect the District's rights hereunder, and in that event the Corporation will cooperate fully with the District and to take such

action necessary to effect the substitution of the District for the Corporation in such action or proceeding if the District may request.

SECTION 4.8. *Additional Payments.* In addition to the Installment Payments, the District will pay when due the following amounts to the following parties:

- (a) to the Corporation, all reasonable costs and expenses which have been billed to the Corporation in connection with the execution and delivery of the Certificates or otherwise in connection with the performance of any duties of the Corporation under this Agreement or the Trust Agreement;
- (b) to the Trustee upon request therefor, all of its costs and expenses payable as a result of the performance of and compliance with its duties hereunder or under the Trust Agreement or any related documents, which costs and expenses have been mutually agreed upon by the Trustee and the District;
- (c) to the Corporation and the Trustee, all amounts required to indemnify the Corporation and the Trustee under Section 10.03 of the Trust Agreement; and
- (d) all costs and expenses of auditors, engineers and accountants, which costs and expenses have been mutually agreed upon by the District and such auditors, engineers and accountants.

Subject to the provisions of Section 7.03 of the Trust Agreement, the Additional Payments are payable from, but are not secured by a pledge or lien upon, the Net Revenues. The rights of the Trustee and the Corporation under this Section 4.8, and the obligations of the District under this Section 4.8, survive the termination of this Agreement and the resignation or removal of the Trustee.

## **ARTICLE V**

### **COVENANTS OF THE DISTRICT**

SECTION 5.1. *Disclaimer of Warranties.* The Trustee 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 District of the Project or any component thereof, or any other representation or warranty with respect to any of the Project or any component thereof. In no event will the Corporation or the Trustee be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Agreement or the Trust Agreement for the existence, furnishing, functioning or use of the Project.

SECTION 5.2. *Sale or Eminent Domain of Wastewater System.* Except as provided herein, the District covenants that the Wastewater System will not be encumbered, sold, leased, pledged, any charge placed thereon, or otherwise disposed of, as a whole or substantially as a whole if such encumbrance, sale, lease, pledge, charge or other disposition would materially impair the ability of the District to pay the

Installment Payments or the principal of or interest on any Parity Debt, or would materially adversely affect its ability to comply with the terms of this Agreement or any Parity Debt Documents. The District may not enter into any agreement which impairs the operation of the Wastewater System or any part of it necessary to secure adequate Net Revenues to pay the Installment Payments or any Parity Debt, or which otherwise would impair the rights of the Certificate Owners or the Trustee with respect to the Net Revenues. If any substantial part of the Wastewater System is sold, the payment therefor must either (a) be used for the acquisition or construction of improvements and extensions or replacement facilities or (b) be applied to prepay the Installment Payments and any Parity Debt.

Any amounts received as awards as a result of the taking of all or any part of the Wastewater System by the lawful exercise of eminent domain, if and to the extent that such right can be exercised against such property of the District, will either (a) be used for the acquisition or construction of improvements and extension of the Wastewater System, or (b) be applied to prepay the Installment Payments and any Parity Debt.

SECTION 5.3. *Insurance.* The District will at all times maintain with responsible insurers all such insurance on the Wastewater System as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to the Wastewater System. All amounts collected from insurance against accident to or destruction of any portion of the Wastewater System will be used, at the option of the District, either (a) to repair or rebuild such damaged or destroyed portion of the Wastewater System, or (b) to prepay the Installment Payments and any Parity Debt on the next available prepayment date.

The District will also maintain, with responsible insurers, worker's compensation insurance and insurance against public liability and property damage to the extent reasonably necessary to protect the District, the Corporation, the Trustee and the Owners of the Certificates.

Any policy of insurance required under this Section 5.3 may be maintained as part of or in conjunction with any other insurance coverage carried by the District, and may be maintained in whole or in part in the form of self-insurance by the District or in the form of the participation by the District in a joint powers agency or other program providing pooled insurance.

SECTION 5.4. *Records and Accounts.* The District will keep proper books of record and accounts of the Wastewater System in which complete and correct entries will be made of all transactions relating to the Wastewater System. Said books will, upon prior request, be subject to the reasonable inspection of the Owners of not less than 10% of the Outstanding Certificates, or their representatives authorized in writing, upon not less than five Business Days' prior notice to the District.

The District will cause the books and accounts of the Wastewater System to be audited annually by an Independent Accountant not more than 9 months after the close of each Fiscal Year, and will make a copy of such report available for inspection by the Certificate Owners at the office of the District and at the Trust Office of the Trustee. Such report may be part of a combined financial audit or report covering all or part of the District's finances.

SECTION 5.5. *Rates and Charges.*

(a) Gross Revenues Covenant. The District will fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Wastewater System during each Fiscal Year, which are at least sufficient, after making allowances for contingencies and error in the estimates, to yield Gross Revenues sufficient to pay the following amounts in the following order of priority:

- (i) All Operation and Maintenance Costs estimated by the District to become due and payable in the Fiscal Year, including the SRF Installment Payments.
- (ii) All Installment Payments and payments of principal of and interest on any Parity Debt as they become due and payable during the Fiscal Year, without preference or priority. If interest on any Parity Debt is computed at a variable rate, the amount required to be taken into account for any Fiscal Year under this Section 5.5 will be the actual rate borne by such Parity Debt during such Fiscal Year.
- (iii) All amounts, if any, required to restore the balance in the Reserve Fund to the full amount of the Reserve Requirement.
- (iv) All payments required to meet any other obligations of the District which are charges, liens, encumbrances upon, or which are otherwise payable from, the Gross Revenues or the Net Revenues during such Fiscal Year.

(b) Net Revenues Covenant. In addition, the District will fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Wastewater System during each Fiscal Year which are sufficient to yield Net Revenues which are at least equal to 120% of the amount of Installment Payments and all payments of principal of and interest on any Parity Debt coming due and payable during the Fiscal Year. For purposes of this subsection (b), the amount of Net Revenues for a Fiscal Year will be computed by including in Gross Revenues all Connection Charges received in the Fiscal Year and all amounts transferred into the Wastewater Fund from the Rate Stabilization Fund during the Fiscal Year.

SECTION 5.6. *Superior and Subordinate Obligations.* The District may not issue or incur any additional bonds or other obligations during the Term of this Agreement having any priority in payment of principal or interest out of the Gross Revenues or the Net Revenues over the Installment Payments. Nothing herein limits or affects the ability of the District to issue or incur (a) Parity Debt under Section 5.7, or (b) obligations which are either unsecured or which are secured by an interest in the Net Revenues which is junior and subordinate to the pledge of and lien upon the Net Revenues established hereunder.

SECTION 5.7. *Issuance of Parity Debt.* The District may issue or incur any Parity Debt during the Term hereof upon satisfaction of all of the following conditions:

- (a) No Event of Default has occurred and is continuing.

- (b) The Net Revenues, calculated in accordance with sound accounting principles, as shown by the books of the District for the latest Fiscal Year or as shown by the books of the District for any more recent 12 month period selected by the District, in either case verified by a certificate or opinion of an Independent Accountant employed by the District, plus (at the option of the District) any or all of the Additional Revenues, are at least equal to 120% of the amount of Maximum Annual Debt Service. For purposes of computing such Net Revenues, the amount of Gross Revenues may not include any amounts transferred from a Rate Stabilization Fund to the Wastewater Fund.
- (c) The trustee or fiscal agent (if any) for such Parity Debt is the same entity performing the functions of Trustee under the Trust Agreement.
- (d) The District will deliver to the Trustee a written certificate of a District Representative certifying that the conditions precedent to the issuance of such Parity Debt set forth in subsections (a), (b) and (c) of this Section 5.7 have been satisfied.

SECTION 5.8. *Operation of Wastewater System in Efficient and Economical Manner.* The District will operate the Wastewater System in an efficient and economical manner and to operate, maintain and preserve the Wastewater System in good repair and working order.

SECTION 5.9. *Assignment and Amendment Hereof.* This Agreement may not be assigned by the District in whole or in part. This Agreement may be amended by the District and the Corporation, but only (a) for the purpose of providing for the issuance of any Parity Debt under and in accordance with Section 5.7, or (b) otherwise under the circumstances and to the extent permitted under Sections 8.01 or 8.02 of the Trust Agreement.

## **ARTICLE VI**

### **EVENTS OF DEFAULT**

SECTION 6.1. *Events of Default Defined.* The following events constitute Events of Default hereunder:

- (a) Failure by the District to pay any Installment Payment when due and payable hereunder.
- (b) Failure by the District to pay any Additional Payment when due and payable hereunder, and the continuation of such failure for a period of 30 days.
- (c) Failure by the District to observe and perform any covenant, condition or agreement on its part to be observed or performed,

other than as referred to in the preceding clauses (a) or (b), for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the District by the Corporation, the Trustee; *provided, however*, that if the District notifies the Corporation and the Trustee that in its reasonable opinion the failure stated in the notice can be corrected, but not within the 30-day period, such failure will not constitute an event of default hereunder if the District commences to cure such failure within the 30 day period and thereafter diligently and in good faith cures the failure in a reasonable period of time.

- (d) The filing by the District of a voluntary petition in bankruptcy, or failure by the District promptly to lift any execution, garnishment or attachment, or adjudication of the District as a bankrupt, or assignment by the District for the benefit of creditors, or the entry by the District into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the District in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.
- (e) The occurrence of any event defined to be an event of default under the SRF Installment Sale Agreement or any Parity Debt Documents.

SECTION 6.2. *Remedies on Default.* If an Event of Default occurs and is continuing, the Trustee as assignee of the Corporation has the right, at its option and without any further demand or notice, to take any one or more of the following actions:

- (a) Declare all principal components of the unpaid Installment Payments, together with accrued interest thereon at the Overdue Rate from the immediately preceding Installment Payment Date on which payment was made, to be immediately due and payable, whereupon the same will immediately become due and payable. Notwithstanding the foregoing provisions of this subsection (a), however, if, at any time after the principal components of the unpaid Installment Payments have been so declared due and payable under this subsection (a), and before any judgment or decree for the payment of the moneys due have been obtained or entered, the District will deposit with the Trustee a sum sufficient to pay all principal components of the Installment Payments coming due prior to such declaration and all matured interest components (if any) of the Installment Payments, with interest on such overdue principal and interest components calculated at the Overdue Rate, and the reasonable expenses of the Trustee (including any fees and expenses of its attorneys), and any and all other defaults known to the Trustee (other than in the payment of the principal and interest components of the Installment Payments due and payable solely by reason of such declaration) have been made good, then, and in every such case, the Trustee will rescind and annul such declaration and its consequences. However, no such rescission and annulment will extend to or will affect any subsequent default, or will impair or exhaust any right or power consequent thereon. As

provided in Section 6.6, the Trustee is required to exercise the remedies provided herein in accordance with the Trust Agreement.

- (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 this Agreement, or enforce performance and observance of any obligation, agreement or covenant of the District under this Agreement.
- (c) As a matter of right, in connection with the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and the Certificate Owners hereunder, cause the appointment of a receiver or receivers of the Gross Revenues and other amounts pledged hereunder, with such powers as the court making such appointment may confer.

SECTION 6.3. *No Remedy Exclusive.* No remedy herein conferred upon or reserved to the Corporation is intended to be exclusive and every such remedy will be cumulative and will be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power or will 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 Corporation to exercise any remedy reserved to it in this Article VI, it is not necessary to give any notice, other than such notice as may be required in this Article VI or by law.

SECTION 6.4. *Agreement to Pay Attorneys' Fees and Expenses.* If either party to this Agreement defaults under any of the provisions hereof and the nondefaulting party, the Trustee or the Owner of any Certificates employs attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party, the Trustee or such Owner, as the case may be, the reasonable fees of such attorneys and such other expenses so incurred. The provisions of this Section 6.4 will survive the expiration of the Term of this Agreement.

SECTION 6.5. *No Additional Waiver Implied by One Waiver.* If any agreement contained in this Agreement is breached by either party and thereafter waived by the other party, the waiver will be limited to the particular breach so waived and will not be deemed to waive any other breach hereunder.

SECTION 6.6. *Trustee and Certificate Owners to Exercise Rights.* Such rights and remedies as are given to the Corporation under this Article VI have been assigned by the Corporation to the Trustee under the Trust Agreement, to which assignment the District hereby consents. Such rights and remedies will be exercised by the Trustee and the Owners of the Certificates as provided in the Trust Agreement.

## **ARTICLE VII PREPAYMENT OF INSTALLMENT PAYMENTS**

SECTION 7.1. *Security Deposit.* Notwithstanding any other provision hereof, the District may on any date secure the payment of Installment Payments, in whole or in part, by irrevocably depositing with the Trustee an amount of cash which, together with other available amounts, is either:

- (a) sufficient to pay all such Installment Payments, including the principal and interest components thereof, when due under Section 4.4(a), or
- (b) invested in whole or in part in non-callable Federal Securities, the payments of principal of and interest on which, together with other available cash, are sufficient to pay the Installment Payments when due under Section 4.4(a) or when due on any optional prepayment date under Section 7.2, as the District instructs at the time of said deposit.

The sufficiency of amounts deposited with the Trustee under the foregoing subsection (b) must be verified by the report of an Independent Accountant which is addressed and delivered to the Trustee.

If the District makes a security deposit under this Section for the payment of all remaining Installment Payments, all obligations of the District hereunder, and the pledge of Net Revenues and all other security provided by this Agreement for said obligations, will cease and terminate, excepting only the obligation of the District to make, or cause to be made, all Installment Payments from such security deposit. A security deposit constitutes a special fund for the payment of such Installment Payments in accordance with the provisions hereof.

SECTION 7.2. *Optional Prepayment.* The District may exercise its option to prepay the principal components of the Installment Payments in whole or in part on any date on or after February 1, 2020. Such option will be exercised by payment of a prepayment price equal to the sum of (a) the aggregate principal components of the Installment Payments to be prepaid, plus (b) the interest component of the Installment Payment required to be paid on or accrued to such date, plus (c) any premium required to be paid on the corresponding prepayment of the Certificates under Section 4.01(a) of the Trust Agreement. Such prepayment price will be deposited by the Trustee in the Installment Payment Fund to be applied to the prepayment of Certificates under Section 4.01(a) of the Trust Agreement. If the District prepays the Installment Payments in part but not in whole, the principal components will be prepaid among such maturities and in such integral multiples of \$5,000 as the District designates in written notice to the Trustee. The District will give the Trustee written notice of its intention to exercise its option not less than 60 days in advance of the date of exercise.

SECTION 7.3. *Mandatory Prepayment From Proceeds of Insurance, Sale or Condemnation.* The District will prepay the Installment Payments on any date, in whole, or in part among maturities on a pro rata basis in any integral multiple of \$5,000, from and to the extent of any proceeds of insurance, sale or condemnation awards with respect to the Wastewater System theretofore paid to the Trustee for such purpose under Sections 5.3 or 5.4. The District and the Corporation hereby agree that such



proceeds, to the extent remaining after payment of any delinquent Installment Payments, will be deposited in the Installment Payment Fund and credited towards the District's obligations under this Section 7.3.

SECTION 7.4. *Credit for Amounts on Deposit.* If the District prepays the Installment Payments in full under this Article VII, such that the Trust Agreement is discharged by its terms as a result of such prepayment, and upon payment in full of all Additional Payments and other amounts then due and payable hereunder, all available amounts then on deposit in the funds and accounts established under the Trust Agreement will be credited towards the amounts then required to be so prepaid.

## ARTICLE VIII

### MISCELLANEOUS

SECTION 8.1. *Further Assurances.* The District agrees that it will execute and deliver any and all such further agreements, instruments, financing statements or other assurances as may be reasonably necessary or requested by the Corporation, the Trustee to carry out the intention or to facilitate the performance of this Agreement, including, without limitation, to perfect and continue the security interests herein intended to be created.

SECTION 8.2. *Notices.* Any notice, request, complaint, demand or other communication under this Agreement will be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopier or other form of telecommunication, at its number set forth below. Notice will be effective either (a) upon transmission by fax or other form of telecommunication, (b) upon actual receipt after deposit in the United States of America mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Corporation, the District, the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

*If to the District:*

Novato Sanitary District  
500 Davidson Street  
Novato, California 94945  
Attention: Manager-Engineer  
Fax: (415) 898-2279

*If to the Corporation:*

Public Property Financing Corporation of  
California  
2945 Townsgate Road, Suite 200  
Westlake Village, California 91361  
Attention: President  
Fax: (805) 267-7142

*If to the Trustee:*

SECTION 8.3. *Governing Law.* This Agreement will be construed in accordance with and governed by the laws of the State of California.

SECTION 8.4. *Binding Effect.* This Agreement inures to the benefit of and is binding upon the Corporation, the District and their respective successors and assigns, subject, however, to the limitations contained herein.

SECTION 8.5. *Severability of Invalid Provisions.* If any one or more of the provisions contained in this Agreement are for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions will be deemed severable from the remaining provisions contained in this Agreement and such invalidity, illegality or unenforceability will not affect any other provision of this Agreement, and this Agreement will be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The Corporation and the District each hereby declares that it would have entered into this Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Agreement may be held illegal, invalid or unenforceable.

SECTION 8.6. *Article and Section Headings and References.* The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, will be solely for convenience of reference and do not affect the meaning, construction or effect of this Agreement. All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof; and words of the masculine gender mean and include words of the feminine and neuter genders.

SECTION 8.7. *Payment on Non-Business Days.* Whenever any payment is required to be made hereunder on a day which is not a Business Day, such payment will be made on the immediate preceding Business Day.

SECTION 8.8. *Execution of Counterparts.* This Agreement may be executed in any number of counterparts, each of which for all purposes is deemed to be an original and all of which together constitutes but one and the same instrument.

SECTION 8.9. *Waiver of Personal Liability.* No member of the Board of Directors, officer, agent or employee of the District has any individual or personal liability for the payment of Installment Payments or Additional Payments or be subject to any personal liability or accountability by reason of this Agreement; but nothing herein contained shall relieve any such member of the Board of Directors, officer, agent or employee from the performance of any official duty provided by law or by this Agreement.

SECTION 8.10. *Trustee as Third Party Beneficiary.* The Trustee is hereby made a third party beneficiary hereof and is entitled to the benefits of this Agreement with the same force and effect as if the Trustee was a party hereto.

\* \* \* \* Remainder of page left blank intentionally \* \* \* \*

IN WITNESS WHEREOF, the Corporation and the District have caused this Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**PUBLIC PROPERTY FINANCING  
CORPORATION OF CALIFORNIA,**  
*as Seller*

By: \_\_\_\_\_  
Secretary/Treasurer

**NOVATO SANITARY DISTRICT, as  
Purchaser**

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

ATTEST:

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

## APPENDIX A

### SCHEDULE OF INSTALLMENT PAYMENTS

<u>Installment Payment Date<sup>(1)</sup></u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Total Payment</u>
---	--------------------------------	-------------------------------	--------------------------

Installment  
Payment Date<sup>(1)</sup>

Principal  
Component

Interest  
Component

Total  
Payment

- (1) Installment Payment Dates are the 5<sup>th</sup> Business Day immediately preceding each date shown in the table.

## **APPENDIX B**

### **DESCRIPTION OF PROJECT**

The Project consists of the following improvements to the Wastewater System, subject to the right of the District to modify this list as provided in Section 3.4:

# TRUST AGREEMENT

Dated as of October 1, 2011

among

\_\_\_\_\_,  
*as Trustee*

**PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA,**

and the

**NOVATO SANITARY DISTRICT**

**Relating to**

**\$ \_\_\_\_\_  
Wastewater Revenue Certificates of Participation,  
Series 2011**

---

---



## TABLE OF CONTENTS

	<u>Page</u>
<b>ARTICLE I</b>	
Definitions	
Section 1.01. Definitions .....	2
Section 1.02. Authorization.....	2
Section 1.03. Interpretation .....	2
<b>ARTICLE II</b>	
The Certificates of Participation	
Section 2.01. Authorization.....	3
Section 2.02. Date .....	3
Section 2.03. Terms of Certificates.....	3
Section 2.04. Fully Registered Form; Interest .....	3
Section 2.05. Book Entry System .....	4
Section 2.06. Form and Execution of Certificates.....	5
Section 2.07. Transfer and Exchange .....	6
Section 2.08. Certificates Mutilated, Lost, Destroyed or Stolen.....	6
Section 2.09. Payment.....	7
Section 2.10. Execution of Documents and Proof of Ownership .....	7
Section 2.11. Registration Books .....	8
<b>ARTICLE III</b>	
Disposition of Proceeds; Project Fund Costs of Issuance Fund and Reserve Fund	
Section 3.01. Application of Proceeds.....	8
Section 3.02. Costs of Issuance Fund.....	8
Section 3.03. Project Fund .....	9
Section 3.04. Reserve Fund .....	9
<b>ARTICLE IV</b>	
Prepayment of Certificates	
Section 4.01. Prepayment .....	10
Section 4.02. Selection of Certificates for Prepayment .....	11
Section 4.03. Notice of Prepayment .....	11
Section 4.04. Partial Prepayment of Certificates .....	12
Section 4.05. Effect of Notice of Prepayment.....	12
Section 4.06. Purchase of Certificates .....	12
<b>ARTICLE V</b>	
Installment Payments; Installment Payment Fund	
Section 5.01. Assignment of Rights in Installment Sale Agreement.....	13
Section 5.02. Establishment of Installment Payment Fund .....	13
Section 5.03. Application of Moneys.....	13
Section 5.04. Surplus .....	13
<b>ARTICLE VI</b>	
Moneys in Funds; Investment	
Section 6.01. Held in Trust.....	14
Section 6.02. Investments Authorized.....	14
Section 6.03. Accounting .....	14

Section 6.04. Allocation of Earnings .....	14
Section 6.05. Valuation and Disposition of Investments .....	15

ARTICLE VII  
The Trustee

Section 7.01. Appointment of Trustee .....	16
Section 7.02. Acceptance of Trusts .....	16
Section 7.03. Fees, Charges and Expenses of Trustee .....	19
Section 7.04. Notice to Certificate Owners of Default.....	20
Section 7.05. Removal of Trustee .....	20
Section 7.06. Resignation by Trustee.....	20
Section 7.07. Appointment of Successor Trustee.....	20
Section 7.08. Merger or Consolidation .....	20
Section 7.09. Concerning any Successor Trustee.....	21
Section 7.10. Non-Liability of Trustee.....	21
Section 7.11. Actions Through Agents .....	21
Section 7.12. Nature of Trust Engagement .....	21

ARTICLE VIII

Modification or Amendment of Agreements

Section 8.01. Amendments Permitted Without Consent of Owners .....	22
Section 8.02. Amendments Permitted Without Consent of Owners .....	22
Section 8.03. Effect of Supplemental Agreement.....	23
Section 8.04. Endorsement or Replacement of Certificates Delivered After Amendments.....	24
Section 8.05. Amendatory Endorsement of Certificates .....	24
Section 8.06. Notice to Rating Agencies .....	24

ARTICLE IX

Other Covenants

Section 9.01. Compliance With and Enforcement of Installment Sale Agreement .....	24
Section 9.02. Observance of Laws and Regulations.....	24
Section 9.03. Recordation and Filing.....	24
Section 9.04. Tax Covenants.....	25
Section 9.05. Continuing Disclosure.....	25
Section 9.06. Further Assurances .....	26

ARTICLE X

Limitation of Liability

Section 10.01. Limited Liability of District and Corporation .....	26
Section 10.02. No Liability for Trustee Performance .....	26
Section 10.03. Indemnification of Corporation and Trustee.....	26
Section 10.04. Opinion of Counsel .....	27
Section 10.05. Limitation of Rights to Parties and Certificate Owners .....	27

ARTICLE XI

Events of Default and Remedies of Certificate Owners

Section 11.01. Assignment of Rights.....	27
Section 11.02. Remedies.....	27
Section 11.03. Application of Funds .....	27
Section 11.04. Institution of Legal Proceedings .....	28

Section 11.05.	Non-waiver.....	28
Section 11.06.	Remedies Not Exclusive.....	28
Section 11.07.	Power of Trustee to Control Proceedings.....	28
Section 11.08.	Limitation on Certificate Owners' Right to Sue .....	29

ARTICLE XII

Miscellaneous

Section 12.01.	Discharge of this Trust Agreement .....	29
Section 12.02.	Notices.....	30
Section 12.03.	Records .....	31
Section 12.04.	Payment of Certificates After Discharge.....	31
Section 12.05.	Governing Law.....	31
Section 12.06.	Binding Effect; Successors; Benefits Limited to Parties .....	31
Section 12.07.	Execution in Counterparts .....	31
Section 12.08.	Delivery of Cancelled Certificates .....	31
Section 12.09.	Corporation and District Representatives .....	32
Section 12.10.	Headings .....	32
Section 12.11.	Waiver of Notice .....	32
Section 12.12.	Severability of Invalid Provisions .....	32

APPENDIX A	Definitions
APPENDIX B	Form of Certificate of Participation

## TRUST AGREEMENT

This TRUST AGREEMENT, made and entered into as of October 1, 2011, is among \_\_\_\_\_, a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee"), the PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, a nonprofit public benefit corporation duly organized and existing under the laws of the State of California (the "Corporation"), and the NOVATO SANITARY DISTRICT, a sanitary district duly organized and existing under the Sanitary District Act of 1923 of the State of California (the "District").

### *BACKGROUND:*

1. The District owns and operates facilities and property for the collection, treatment and disposal of wastewater within the service area of the District (the "Wastewater System") and the District has initiated proceedings to construct various improvements to the Wastewater System, consisting primarily of improvements to the collection system, pump station, water reclamation facilities and the Novato Main Treatment Plant (the "Project").

2. The Corporation has been formed for the purpose of assisting public agencies in the financing of public capital improvements, and in order to provide funds to finance the Project the Corporation has entered into an Installment Sale Agreement dated as of October 1, 2011 (the "Installment Sale Agreement") with the District under which the Corporation agrees to provide funds to finance the construction of the Project and to sell the completed Project to the District in consideration of the agreement by the District to pay the purchase price of the Project in semiannual installments (the "Installment Payments").

3. For the purpose of obtaining the moneys required to finance the construction of the Project in accordance with the terms hereof and of the Installment Sale Agreement, the Corporation wishes to assign and transfer certain of its rights under the Installment Sale Agreement to the Trustee, and at the written direction of the Corporation the Trustee will execute and deliver Wastewater Revenue Certificates of Participation, Series 2011 in the aggregate principal amount of \$\_\_\_\_\_, evidencing direct, undivided fractional interests in the Installment Payments.

4. The District has previously entered into an Installment Sale Agreement dated November 16, 2007, with the Department of Water Resources of the State of California (Agreement No. 07-824-550-0), for the purpose of providing financing for the Project in the amount of not to exceed \$81,329,083 (the "SRF Installment Sale Agreement"), to be repaid by the District through semiannual installment payments (the "SRF Installment Payments").

5. The SRF Installment Payments are payable from net revenues of the Wastewater System, and the SRF Installment Sale Agreement provides that the District may incur additional indebtedness to finance improvements to the Wastewater System on a basis which is subordinate to the SRF Installment Payments.

## AGREEMENT:

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

### ARTICLE I

#### DEFINITIONS

SECTION 1.01. *Definitions.* Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms defined in Appendix A attached to this Trust Agreement have the respective meanings specified in that Appendix when used in this Trust Agreement.

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

SECTION 1.03. *Interpretation.*

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

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

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Trust Agreement; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section or subdivision hereof.

## ARTICLE II

### THE CERTIFICATES OF PARTICIPATION

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

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

- (a) it is executed after a Record Date and on or before the following Interest Payment Date, in which event interest represented thereby is payable from such Interest Payment Date; or
- (b) it is executed on or before the first Record Date, in which event interest represented thereby is payable from the Closing Date; or
- (c) interest represented by such Certificate is in default as of the date of its execution, in which event interest represented thereby is payable from the Interest Payment Date to which interest represented thereby has previously been paid or made available for payment.

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

<u>Maturity Date</u> <u>(February 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Maturity Date</u> <u>(February 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2013			2023		
2014			2024		
2015			2025		
2016			2026		
2017			2027		
2018			2028		
2019			2029		
2020			2030		
2021			2031		
2022			2032		

SECTION 2.04. *Fully Registered Form; Interest.* The Certificates shall be delivered in the form of fully registered Certificates without coupons in the authorized denominations of \$5,000 or any integral multiple thereof, except that no Certificate shall represent principal payable in more than one year. The Certificates shall be assigned such alphabetical and numerical designation as shall be deemed appropriate by the Trustee.

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

SECTION 2.05. *Book Entry System.*

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

With respect to Certificates the ownership of which is registered in the name of the Nominee, the District and the Trustee have no responsibility or obligation to any Depository System Participant or to any person on behalf of which the District holds an interest in the Certificates. Without limiting the generality of the immediately preceding sentence, the District and the Trustee have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any Depository System Participant or any other person, other than a Certificate Owner as shown in the Registration Books, of any notice with respect to the Certificates, including any notice of prepayment, (iii) the selection by the Depository of the beneficial interests in the Certificates to be prepaid if the District elects to prepay the Certificates in part, (iv) the payment to any Depository System Participant or any other person, other than a Certificate Owner as shown in the Registration Books, of any amount with respect to principal, premium, if any, or interest represented by the Certificates or (v) any consent given or other action taken by the Depository as Owner of the Certificates. The District and the Trustee may treat and consider the person in whose name each Certificate is registered as the absolute owner of such Certificate for the purpose of payment of principal, premium, if any, and interest represented by such Certificate, for the purpose of giving notices of prepayment and other matters with respect to such Certificate, for the purpose of registering transfers of ownership of such Certificate, and for all other purposes whatsoever. The Trustee will pay the principal, interest and premium, if any, represented by the Certificates only to the respective Owners or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal, interest and premium, if any, represented by the Certificates to the extent of the sum or sums so paid. No person other than a Certificate Owner shall receive a Certificate evidencing the obligation of the District to make payments of principal, interest and premium, if any, under this Trust Agreement. Upon delivery by the Depository to the Nominee of written notice to the effect that the Depository has determined to substitute a new Nominee in its place, such new nominee shall become the Nominee hereunder for all purposes; and upon receipt of such a notice the District shall promptly deliver a copy of the same to the Trustee.

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

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

If the District determines that it is in the best interests of the beneficial owners of the Certificates that they be able to obtain certificated Certificates, the District may notify the Depository System Participants of the availability of such certificated Certificates through the Depository. In such event, the Trustee will execute, transfer and exchange Certificates as required by the Depository and others in appropriate amounts; and whenever the Depository requests, the Trustee and the District shall cooperate with the Depository in taking appropriate action (i) to make available one or more separate certificates evidencing the Certificates to any Depository System Participant having Certificates credited to its account with the Depository, or (ii) to arrange for another Securities Depository to maintain custody of a single certificate evidencing such Certificates, all at the District's expense.

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

SECTION 2.06. *Form and Execution of Certificates.* The Certificates shall be substantially in the form set forth in Appendix A attached hereto and by this reference incorporated herein. The Certificates shall be executed by and in the name of the Trustee by the manual signature of an authorized signatory of the Trustee. If any person



whose signature appears on any Certificate ceases to be an authorized signatory before the date of delivery of said Certificate, such signature shall nevertheless be as effective as if such person had remained an authorized signatory until such date.

SECTION 2.07. *Transfer and Exchange.*

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

(b) Exchange of Certificates. Certificates may be exchanged at the Trust Office of the Trustee, for a like aggregate principal amount of Certificates representing other authorized denominations of the same interest rate and maturity. The District shall pay all costs of the Trustee incurred in connection with any such exchange, except that the Trustee may require the payment by the Certificate Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

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

SECTION 2.08. *Certificates Mutilated, Lost, Destroyed or Stolen.* If any Certificate is mutilated, the Trustee, at the expense of the Owner of such Certificate, shall execute and deliver a new Certificate of like principal amount, interest rate and maturity in replacement for the Certificate so mutilated, but only upon surrender to the Trustee of the Certificate so mutilated. The Trustee will cancel and destroy every mutilated Certificate surrendered to it and shall deliver a certificate of destruction to the District at its request. If any Certificate is lost, destroyed or stolen, evidence of such loss, destruction or theft must be submitted to the Trustee, and, if such evidence is satisfactory to the Trustee and the District and, if an indemnity satisfactory to the Trustee and the District shall be given, the Trustee, at the expense of the Certificate Owner, shall execute and deliver a new Certificate of like principal amount, interest rate and maturity and numbered as the Trustee will determine in lieu of and in replacement for the Certificate so lost, destroyed or stolen. The Trustee may require payment of an appropriate fee for each replacement Certificate delivered under this Section 2.08 and of the expenses which may be incurred by the Trustee in carrying out the duties under this Section 2.08. Any Certificate issued under the provisions of this Section 2.08 in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally entitled to the benefits of this Trust Agreement with all other Certificates secured by this Trust Agreement. The Trustee is not required to treat both the original Certificate and any replacement Certificate as being Outstanding for the purpose of determining the

principal amount of Certificates which may be executed and delivered hereunder or for the purpose of determining any percentage of Certificates Outstanding hereunder, but both the original and replacement Certificate shall be treated as one and the same. Notwithstanding any other provision of this Section 2.08, in lieu of delivering a replacement for a Certificate which has been mutilated, lost, destroyed or stolen, and which has matured, the Trustee may make payment with respect to such Certificate upon receipt of indemnity satisfactory to the Trustee and the District.

SECTION 2.09. *Payment.* The Trustee will pay interest represented by the Certificates on each Interest Payment Date, to the person appearing on the Registration Books as the Owner thereof as of the close of business on the Record Date immediately preceding such Interest Payment Date, by check mailed to the Owner by first class mail at the Owner's address appearing on the Registration Books. At the written request of the Owner of Certificates in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of the Record Date preceding any Interest Payment Date, the Trustee will pay interest represented by the Certificates by wire transfer in immediately available funds to such account in the United States as is specified in the written request. The principal and prepayment price represented by any Certificate at maturity or upon prior prepayment is payable in lawful money of the United States of America upon surrender of such Certificate at the Trust Office of the Trustee. The provisions of this Section 2.09 are subject in all respects to the provisions of Section 2.05 which shall govern the payment of principal of and interest on the Certificates at all times while they are held in book-entry form.

SECTION 2.10. *Execution of Documents and Proof of Ownership.* Any request, direction, consent, revocation of consent, or other instrument in writing required or permitted by this Trust Agreement to be signed or executed by Certificate Owners may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such Owners in person or by their attorneys or agents appointed by an instrument in writing for that purpose, or by any bank, trust company or other depository for such Certificates. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the ownership of Certificates shall be sufficient for any purpose of this Trust Agreement (except as otherwise herein provided), if made in the following manner:

- (a) The fact and date of the execution by any Owner, attorney or agent of any such instrument and of any instrument appointing any such attorney or agent, may be proved by a certificate, which need not be acknowledged or verified, of an officer of any bank or trust company located within the United States of America, or of any notary public, or other officer authorized to take acknowledgments of deeds to be recorded in such jurisdictions, that the persons signing such instruments acknowledged before him the execution thereof. 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 authority.
- (b) The fact of the ownership of Certificates by any person and the amount, the maturity and the numbers of such Certificates and the date of holding the same shall be proved by the Registration Books.

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

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

### **ARTICLE III**

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

SECTION 3.01. *Application of Proceeds.* At the direction of the District which is hereby given to the Trustee, the Trustee will deposit the amount of \$\_\_\_\_\_ received by the Trustee from the proceeds of sale of the Certificates on the Closing Date, together with the good faith check in the amount of \$\_\_\_\_\_ which the District has transferred to the Trustee prior to the Closing Date, as follows:

- (a) The Trustee will deposit the amount of \$\_\_\_\_\_ in the Costs of Issuance Fund.
- (b) The Trustee will deposit the amount of \$\_\_\_\_\_ in the Reserve Fund, constituting the full amount of the Reserve Requirement.
- (c) The Trustee will deposit the amount of \$\_\_\_\_\_, constituting the remainder of such proceeds, in the Project Fund.

SECTION 3.02. *Costs of Issuance Fund.* The Trustee will establish and maintain a special fund designated as the "Costs of Issuance Fund" to be held by the Trustee in trust for the benefit of the District and the Owners of the Certificates, and applied solely as provided herein. The Trustee will disburse amounts in the Costs of Issuance Fund to pay Costs of Issuance from time to time in accordance with written requisitions filed by the District with the Trustee. Each such written requisition must be signed by a District Representative and must state, with respect to each payment to be made thereby, (i) the amounts to be disbursed for payment or reimbursement of Costs of Issuance, (ii) the name and address of the person or persons to whom said amounts are to be disbursed, and (iii) that all amounts to be disbursed are for Costs of Issuance properly chargeable to the Costs of Issuance Fund. Each requisition will be sufficient evidence to the Trustee of the facts stated therein and the Trustee has no duty to confirm the accuracy of such facts. On January 1, 2012, the Trustee will transfer any funds remaining in the Costs of Issuance Fund to the Project Fund.

SECTION 3.03. *Project Fund.* The Trustee will establish and maintain a separate fund to be known as the "Project Fund". Except as otherwise provided herein, moneys in the Project Fund will be used solely for the payment of the Project Costs. The Trustee will disburse moneys in the Project Fund from time to time to pay Project Costs (or to reimburse the District for payment of Project Costs) in accordance with written requisitions filed by the District with the Trustee. Each such written requisition must be signed by a District Representative and must state, with respect to each payment to be made thereby, (i) the name and address of the firm or corporation to whom payment is to be made, (ii) the amount and purpose of the payment and (iii) that each payment constitutes a Project Cost. Each requisition will be sufficient evidence to the Trustee of the facts stated therein and the Trustee has no duty to confirm the accuracy of such facts. The Trustee has no responsibility for payments made in accordance with this Section 3.03. The District shall maintain accurate records showing all disbursements from the Project Fund.

Upon the receipt by the Trustee of a written certificate of a District Representative under Section 3.6 of the Installment Sale Agreement, stating that the Project has been substantially completed, the Trustee will withdraw from the Project Fund and deposit in the Installment Payment Fund all amounts remaining on deposit in the Project Fund, other than amounts estimated by the District (as identified in such written certificate) to be required to pay future Project Costs. Upon the filing with the Trustee of a written certificate of the District stating that no further amounts are intended to be requisitioned from the Project Fund, amounts remaining in the Project Fund will either (a) be retained therein and applied to acquire and construct additional improvements to the Wastewater System in accordance with written requisitions of the District filed with the Trustee for that purpose from time to time, (b) transferred by the Trustee to the Installment Payment Fund to be applied to pay the interest components of the Installment Payments next coming due and payable, or (c) transferred by the Trustee to the Installment Payment Fund to be applied the prepayment of Installment Payments under Section 7.2 of the Installment Sale Agreement and the corresponding prepayment of the Certificates under Sections 4.01(a).

If an Event of Default occurs under Section 6.1(a) of the Installment Sale Agreement prior to the closure of the Project Fund by the Trustee, the Trustee will transfer all amounts remaining on deposit in the Project Fund to the Installment Payment Fund, to be credited to the payment of the Installment Payment then in default.

SECTION 3.04. *Reserve Fund.*

(a) General Provisions. The Trustee will establish and maintain a special fund designated as the "Reserve Fund" to be held by the Trustee in trust for the benefit of the District and the Owners of the Certificates. Moneys in the Reserve Fund shall be held in trust as a reserve for the payment when due of the Installment Payments on behalf of the District. Semiannually on or prior to each Installment Payment Date, the Trustee will transfer any moneys in the Reserve Fund in excess of the Reserve Requirement to the Installment Payment Fund to be credited towards the Installment Payment coming due and payable on such Installment Payment Date.

(b) Application of Reserve Fund. If three Business Days prior to any Interest Payment Date the moneys available in the Installment Payment Fund are not at least equal to the amount of the Installment Payment coming due and payable on that Interest Payment Date, the Trustee will apply the moneys available in the Reserve Fund to make

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

## ARTICLE IV

### PREPAYMENT OF CERTIFICATES

#### SECTION 4.01. *Prepayment.*

(a) Optional Prepayment. The Certificates maturing on or before February 1, 2020, are not subject to optional prepayment prior to the respective stated maturities. The Certificates maturing on or after February 1, 2021, are subject to optional prepayment in whole or in part, on any date on or after February 1, 2020, from prepayments of the Installment Payments made at the option of the District under Section 7.2 of the Installment Sale Agreement. Certificates shall be subject to prepayment under this subsection at a prepayment price equal to 100% of the principal amount of Certificates or portions thereof to be prepaid together with accrued interest represented thereby to the prepayment date, plus a premium (expressed as a percentage of the par amount to be prepaid) as set forth in the following table:

<u>Prepayment Dates</u>	<u>Prepayment Premium</u>
February 1, 2020, to January 31, 2021	0.5%
February 1, 2021, and thereafter	0.0%

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

(b) Prepayment From Net Proceeds of Insurance, Sale and Condemnation. The Certificates are subject to mandatory prepayment, on any date, in whole, or in part on a pro rata basis among maturities, from the net proceeds of insurance, sale or condemnation credited towards the prepayment of the Installment Payments by the District under Section 7.3 of the Installment Sale Agreement. Certificates are subject to prepayment under this subsection at a prepayment price equal to the principal amount represented thereby to be prepaid, without premium, together with accrued interest represented thereby to the prepayment date.

(c) Mandatory Sinking Fund Prepayment. The Term Certificates are subject to mandatory prepayment in part by lot, at a prepayment price equal to 100% of the principal amount thereof to be prepaid, without premium, in the aggregate respective

principal amounts and on February 1 in the respective years as set forth in the following table; *provided, however*, that if some but not all of the Term Certificates have been redeemed under subsection (a) of this Section, the total amount of all future sinking fund payments shall be reduced by the aggregate principal amount of the Term Certificates so redeemed, to be allocated among such sinking fund payments on a pro rata basis in integral multiples of \$5,000 (as set forth in a schedule provided by the District to the Trustee).

Sinking Fund Prepayment Date <u>(February 1)</u>	Principal Amount <u>To Be Prepaid</u>
--	--

SECTION 4.02. *Selection of Certificates for Prepayment.* Whenever provision is made herein for the prepayment of Certificates and less than all Outstanding Certificates of any one maturity are called for prepayment, the Trustee will select Certificates for prepayment within such maturity by lot in any manner deemed fair by the Trustee. For the purposes of such selection, Certificates will be deemed to be composed of \$5,000 portions, and any such portion may be separately prepaid. The Trustee will promptly notify the District in writing of the Certificates or portions thereof so selected for prepayment. The selection by the Trustee of any Certificates for prepayment is final and conclusive.

SECTION 4.03. *Notice of Prepayment.* When prepayment is authorized or required under Section 4.01, the Trustee will give notice of the prepayment of the Certificates on behalf and at the expense of the District. Such notice must state the prepayment date and prepayment price and, if less than all of the then Outstanding Certificates of any maturity are to be called for prepayment, shall designate the numbers of the Certificates to be prepaid by giving the individual number (including the CUSIP number) of each Certificate or by stating that all Certificates between two stated numbers, both inclusive, have been called for prepayment or by stating that all of the Certificates of one or more maturities have been called for prepayment, and shall require that such Certificates be surrendered on the designated prepayment date at the Trust Office of the Trustee for prepayment at said prepayment price, giving notice also that further interest represented by the Certificates will not accrue from and after the prepayment date. With regard to any prepayment under Section 4.01(a), if the funds required to pay the prepayment price are not on deposit at the time notice of such prepayment is sent, the notice shall include a statement to the effect that the prepayment is conditioned upon the receipt by the Trustee of the funds required to pay the prepayment on or before the prepayment date. The notice shall further state that on the specified date there shall become due and payable upon each Certificate, the principal and premium, if any, together with interest accrued to said date, and that from and after such date interest with respect thereto shall cease to accrue and be payable.

At least 30 days but not more than 60 days prior to the prepayment date, the Trustee will mail notice of prepayment by first class mail with postage prepaid, to the Owners of Certificates designated for prepayment at their respective addresses appearing on the Registration Books. In addition, the Trustee will give notice of prepayment by to the Municipal Securities Rulemaking Board and to each Securities

Depository at least two days prior to such mailing to the Certificate Owners. Such notice shall, in addition to setting forth the above information, set forth, in the case of each Certificate called only in part, the portion of the principal represented thereby which is to be prepaid; *provided, however*, that neither failure to receive such notice so mailed nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the prepayment of such Certificates or the cessation of accrual of interest represented thereby from and after the date fixed for prepayment.

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

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

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

All Certificates paid at maturity or prepaid prior to maturity under the provisions of this Article IV shall be cancelled upon surrender thereof and destroyed under Section 12.09.

SECTION 4.06. *Purchase of Certificates.* In lieu of prepayment of Certificates as provided in this Article IV, amounts held by the Trustee for such prepayment shall, at the written request of the District Representative received by the Trustee no later than 60 days prior to the prepayment date, be applied by the Trustee to the purchase of Certificates at public or private sale as and when and at such prices (including brokerage, accrued interest and other charges) as the District may in its discretion direct, but not to exceed the prepayment price which would be payable if such Certificates were prepaid. The aggregate principal amount of Certificates of the same maturity purchased in lieu of prepayment under this Section 4.06 may not exceed the aggregate principal amount of Certificates of such maturity which would otherwise be subject to such prepayment.

## ARTICLE V

### INSTALLMENT PAYMENTS; INSTALLMENT PAYMENT FUND

SECTION 5.01. *Assignment of Rights in Installment Sale Agreement.* The Corporation hereby irrevocably transfers, assigns and sets over to the Trustee, without recourse to the Corporation, all of its rights in the Installment Sale Agreement (excepting only the Corporation's rights under Sections 4.7 and 6.4 thereof), including but not limited to all of the Corporation's rights to receive and collect all of the Installment Payments and all other amounts required to be deposited in the Installment Payment Fund. The Trustee hereby accepts such assignment; *provided, however*, that such assignment shall neither create any obligations nor give rise to any duties on the part of the Trustee other than those obligations and duties contained herein and is not liable for any covenants, representations or warranties of the Corporation. All Installment Payments and such other amounts to which the Corporation may at any time be entitled shall be paid directly to the Trustee, and all of the Installment Payments collected or received by the Corporation shall be deemed to be held and to have been collected or received by the Corporation as the agent of the Trustee, and if received by the Corporation at any time shall be deposited by the Corporation with the Trustee within one (1) Business Day after the receipt thereof, and all such Installment Payments and such other amounts shall be forthwith deposited by the Trustee upon the receipt thereof in the Installment Payment Fund.

SECTION 5.02. *Establishment of Installment Payment Fund.* The Trustee will establish and maintain a special fund designated as the "Installment Payment Fund", into which the Trustee will deposit all amounts paid to the Trustee for such purpose under the Installment Sale Agreement. All moneys at any time deposited by the Trustee in the Installment Payment Fund shall be held by the Trustee in trust for the benefit of the District and the Owners of the Certificates. So long as any Certificates are Outstanding, neither the District nor the Corporation have any beneficial right or interest in the Installment Payment Fund or the moneys deposited therein, except only as provided in the Installment Sale Agreement or herein, and such moneys shall be used and applied by the Trustee as hereinafter set forth.

SECTION 5.03. *Application of Moneys.* Except as provided in Sections 5.04 and 11.03, the Trustee will apply amounts in the Installment Payment Fund solely for the purpose of paying the principal, interest and prepayment premiums (if any) represented by the Certificates as the same shall become due and payable, in accordance with the provisions of Article II and Article IV.

SECTION 5.04. *Surplus.* At the written request of the District any surplus remaining in the Installment Payment Fund, after prepayment and payment of all Certificates, including all premiums and accrued interest (if any) and payment of any applicable fees and expenses to the Trustee, will be withdrawn by the Trustee and remitted to the District.



## ARTICLE VI

### MONEYS IN FUNDS; INVESTMENT

SECTION 6.01. *Held in Trust.* The moneys and Permitted Investments held by the Trustee under this Trust Agreement are irrevocably held in trust for the benefit of the District and the Owners of the Certificates solely for the purposes herein specified, and such moneys, and any income or interest earned thereon, shall be expended only as provided in this Trust Agreement, and is not subject to levy or attachment or lien by or for the benefit of any creditor of the Corporation, the Trustee, the District or the Owner of any Certificates.

SECTION 6.02. *Investments Authorized.* Upon the written request of the District filed with the Trustee from time to time, moneys held by the Trustee in any fund or account established hereunder shall be invested and reinvested by the Trustee in Permitted Investments which mature not later than the date such moneys are required or estimated by the District to be required to be expended hereunder. In the absence of any written request of the District directing the investment of uninvested moneys held by the Trustee hereunder, the Trustee will invest such moneys in Permitted Investments described in clause (f) of the definition thereof. Such investments, if registrable, shall be registered in the name of the Trustee, as trustee or in the name of its nominee, and shall be held by the Trustee. The Trustee may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section 6.02 and shall be entitled to its customary fee therefor. Such investments and reinvestments shall be made giving full consideration to the time at which funds are required to be available. The Trustee may act as purchaser or agent in the making or disposing of any investment. Whenever in this Trust Agreement any moneys are required to be transferred by the District to the Trustee, such transfer may be accomplished by transferring a like amount of Permitted Investments. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder. The Trustee is not responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with this Section 6.02.

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

SECTION 6.03. *Accounting.* The Trustee will furnish to the District, not less than monthly, an accounting (in the form customarily used by the Trustee) of all investments and other transactions made by the Trustee under this Trust Agreement. The District acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the District the right to receive brokerage confirmations of security transactions as they occur, the District specifically waives receipt of such confirmations to the extent permitted by law.

SECTION 6.04. *Allocation of Earnings.* Any income, profit or loss on such investments shall be deposited in or charged to the respective funds and accounts from which such investments were made. Notwithstanding the foregoing sentence, however, all income received on the investment of amounts on deposit in the Reserve Fund will be applied as set forth in Section 3.04.

SECTION 6.05. *Valuation and Disposition of Investments.*

(a) Except as otherwise provided in subsection (b) of this Section, all investments of amounts deposited in any fund or account created by or under this Trust Agreement, or otherwise containing gross proceeds of the Certificates (within the meaning of Section 148 of the Tax Code) shall be acquired, disposed of and valued (as of the date that valuation is required by this Trust Agreement or the Tax Code) at Fair Market Value as such term is defined in subsection (d) below. The Trustee has no duty in connection with the determination of Fair Market Value other than to follow (i) the investment directions of the District in any written directions of a District Representative, and (ii) its normal practices in the purchase, sale and determining the value of Permitted Investments.

(b) Investments in the Reserve Fund, and investments in any funds or accounts (or portions thereof) that are subject to a yield restriction under the Tax Code and (unless valuation is undertaken at least annually) investments in the Reserve Fund shall be valued at their present value (within the meaning of Section 148 of the Tax Code). The District shall inform the Trustee which funds are subject to a yield restriction.

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

(d) For purposes of this Section 6.05, the term "Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, (iii) the investment is a United States Treasury Security – State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the District and any related parties do not own more than a 10% beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

## ARTICLE VII

### THE TRUSTEE

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

The Trustee is hereby authorized to pay or prepay the Certificates when duly presented for payment at maturity, or on prepayment, or on purchase by the Trustee as directed by the District prior to maturity in accordance with Section 4.06, and to cancel all Certificates upon payment thereof. The Trustee will keep accurate records of all funds administered by it and of all Certificates paid and discharged. The Trustee will be compensated for its services rendered under the provisions hereof.

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

- (a) The Trustee, prior to the occurrence of an Event of Default and after curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth herein, and no implied covenants or obligations shall be read into this Trust Agreement against the Trustee. In case an Event of Default has occurred (which has not been cured or waived), the Trustee may exercise such of the rights and powers vested in it hereby, and shall use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.
- (b) No provision hereof shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if the repayment of such funds or adequate indemnity against such risk or liability is not assured to it. The Trustee will be entitled to interest on any amounts advanced by it in the performance of its duties hereunder.
- (c) The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents or receivers and the Trustee is not responsible for any misconduct or negligence on the part of any attorney, agent or receiver appointed with due care by it hereunder. The Trustee will

be entitled to advice of counsel concerning all matters of trust and its duty hereunder and shall be protected in any action taken or suffered by it hereunder in reliance on such advice.

- (d) The Trustee is not responsible for the validity hereof or for any recital herein, or in the Certificates, or for any of the supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Certificates issued hereunder or intended to be secured hereby and the Trustee is not bound to ascertain or inquire as to the observance or performance of any covenants, conditions or agreements on the part of the Corporation or the District under the Installment Sale Agreement. The Trustee is not responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Article VI hereof.
- (e) The Trustee is not accountable for the use or application of any Certificates or the proceeds thereof. The Trustee may become the Owner of Certificates secured hereby with the same rights which it would have if not the Trustee; may acquire and dispose of other bonds or evidence of indebtedness of the District with the same rights it would have if it were not the Trustee; and may act as a depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Certificates, whether or not such committee shall represent the Owners of the majority in aggregate principal amount of the Certificates then Outstanding.
- (f) In the absence of bad faith on its part, Trustee shall be protected in acting upon any notice, request, consent, certificate, order, requisition, affidavit, letter, telegram, facsimile or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken or omitted to be taken by the Trustee in good faith hereunder on the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Certificate, shall be conclusive and binding upon all future Owners of the same Certificate and upon Certificates issued in exchange therefor or in place thereof.
- (g) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee will be entitled to rely upon a certificate signed by a Corporation Representative or a District Representative as sufficient evidence of the facts therein contained and prior to the occurrence of an Event of Default of which the Trustee has been given notice or is deemed to have notice, as provided in Section 7.02(i), shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed by it to be necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a certificate of a Corporation Representative or a District Representative to the effect

that an authorization in the form therein set forth has been adopted by the Corporation or the District, as the case may be, as conclusive evidence that such authorization has been duly adopted, and is in full force and effect.

- (h) The permissive right of the Trustee to do things enumerated herein shall not be construed as a duty and it is not answerable for other than its negligence or willful misconduct. The immunities and exceptions from liability of the Trustee will extend to its officers, directors, employees and agents.
- (i) The Trustee is not required to take notice or be deemed to have notice of any Event of Default hereunder except failure by the District to make any of the Installment Payments to the Trustee required to be made by the District under the Installment Sale Agreement or failure by the Corporation or the District to file with the Trustee any document required hereby or by the Installment Sale Agreement to be so filed subsequent to the delivery of the Certificates, unless the Trustee is specifically notified in writing of such default by the Corporation, the District or the Owners of at least 25% in aggregate principal amount of Certificates then Outstanding and all notices or other instruments required hereby or by the Installment Sale Agreement to be delivered to the Trustee must, in order to be effective, be delivered at the Trust Office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no Event of Default except as aforesaid.
- (j) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, have the right (but not the duty) to inspect the Wastewater System including all books, papers and records of the District pertaining to the Wastewater System and the Certificates, and to take such memoranda from and with regard thereto as may be desired.
- (k) The Trustee is not required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.
- (l) Notwithstanding anything elsewhere herein with respect to the execution of any Certificates, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview hereof, the Trustee has the right, but is not required, to demand any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition so that by the terms hereof required as a condition of such action, by the Trustee deemed desirable for the purpose of establishing any right to the execution of any Certificates, the withdrawal of any cash, or the taking of any other action by the Trustee.

- (m) Before taking any action at the direction of the Certificate Owners, the Trustee may require that a satisfactory indemnity bond or other indemnification acceptable to the Trustee be furnished by the Certificate Owners, or any of them, for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any such action.
- (n) All moneys received by the Trustee will, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. The Trustee has no liability for interest on any moneys received hereunder except such as may be agreed upon.
- (o) The Trustee is not responsible for the sufficiency of the Installment Sale Agreement or its right to receive moneys under the Installment Sale Agreement.
- (p) The Trustee is not liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of a majority in aggregate principal amount of the Outstanding Certificates relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, hereunder.
- (q) The Trustee is not liable for any error of judgment made in good faith by a responsible officer of the Trustee unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts relating thereto.
- (r) The Trustee has no responsibility or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Certificates.
- (s) The Trustee's rights to immunities and protection from liability hereunder and its rights to payment of its fees and expenses survive its resignation or removal and final payment or discharge of the Certificates.
- (t) The Trustee is not liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct.

SECTION 7.03. *Fees, Charges and Expenses of Trustee.* The Trustee is entitled to payment and reimbursement from the District and the Corporation for reasonable fees for its services rendered hereunder and all advances, counsel fees (including expenses) and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services. Upon the occurrence of an Event of Default, but only upon such occurrence, the Trustee has a first lien with right of payment prior to payment

on account of principal, premium, if any, and interest represented by any Certificate upon the amounts held hereunder for the foregoing fees, charges and expenses incurred by it respectively.

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

SECTION 7.05. *Removal of Trustee.* The District may remove the Trustee at any time, unless an Event of Default shall have occurred and then be continuing, and shall remove the Trustee (a) if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Owners of a majority in aggregate principal amount of the Certificates then Outstanding (or their attorneys duly authorized in writing) or (b) if at any time the Trustee ceases to be eligible in accordance with Section 7.01, or becomes incapable of acting, or is adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property shall be appointed, or any public officer takes control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation. In each case such removal will be accomplished by the giving of 30 days' prior written notice of such removal by the District to the Trustee, whereupon the District shall appoint a successor Trustee in accordance with Section 7.07.

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

SECTION 7.07. *Appointment of Successor Trustee.* If the Trustee is removed or resigns under Sections 7.05 or 7.06, respectively, the District shall promptly appoint a successor Trustee. If the District for any reason whatsoever fails to appoint a successor Trustee within 30 days following the delivery to the Trustee of the instrument described in Section 7.05 or within 30 days following the receipt of notice by the District under Section 7.06, at the expense of the District the Trustee may apply to a court of competent jurisdiction for the appointment of a successor Trustee meeting the requirements of Section 7.01. Any such successor Trustee appointed by such court shall become the successor Trustee hereunder notwithstanding any action by the District purporting to appoint a successor Trustee following the expiration of such 30 day period.

SECTION 7.08. *Merger or Consolidation.* Any company or association into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company or association to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company or association shall be eligible under Section 7.01, shall be the successor to the Trustee

and vested with all of the title to the trust estate and all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

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

SECTION 7.10. *Non-Liability of Trustee.* The recitals, statements and representations by the District and the Corporation contained herein or in the Certificates shall be taken and construed as made by and on the part of the District and the Corporation, as the case may be, and not by the Trustee, and the Trustee has no responsibility or obligation for the correctness of any thereof.

The Trustee makes no representation or warranty, express or implied as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the District of the Wastewater System. In no event shall the Trustee be liable for special or consequential damages in connection with or arising from the Installment Sale Agreement for the existence, furnishing or use of the Wastewater System.

SECTION 7.11. *Actions Through Agents.* The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Trustee is not answerable for the negligence or willful misconduct of any such attorney, agent, or receiver selected by it with reasonable care. The Trustee is not answerable 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 negligence or willful misconduct.

SECTION 7.12. *Nature of Trust Engagement.* The Trustee undertakes to perform such duties and only such duties as are specifically set forth herein and no implied covenants or obligations shall be read into the Trust Agreement against the Trustee. In accepting the trusts hereby created, the Trustee acts solely as Trustee and not in its individual capacity and all persons, including without limitation the Certificate Owners, the District and the Corporation having any claim against the Trustee arising from the Trust Agreement shall look only to the funds and accounts hereunder for payment except as otherwise provided herein. Under no circumstances shall the



Trustee be liable in its individual capacity for the obligations represented by the Certificates.

## ARTICLE VIII

### MODIFICATION OR AMENDMENT OF AGREEMENTS

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

- (a) to add to the covenants and agreements of any party, other covenants to be observed, or to surrender any right or power herein reserved to the District,
- (b) to cure, correct or supplement any ambiguous or defective provision contained herein or therein,
- (c) in any respect whatsoever in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable and which do not, in the opinion of Bond Counsel, materially adversely affect the interests of the Owners of the Certificates,
- (d) to provide for matters relating to the issuance of Parity Debt, or
- (e) if and to the extent permitted in the opinion of Bond Counsel filed with the Trustee, the District and the Corporation, to delete or modify any of the provisions hereof or thereof relating to the exemption from federal income taxation of interest represented by the Certificates.

Any such supplemental agreement entered into under this Section will become effective upon execution and delivery by the parties hereto or thereto as the case may be. The Trustee will mail a notice thereof to each Rating Agency at least 15 days prior to the effective date of the supplement agreement.

SECTION 8.02. *Amendments Permitted Without Consent of Owners.* Except as permitted under Section 8.01, this Trust Agreement and the rights and obligations of the Owners of the Certificates, and the Installment Sale Agreement and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental agreement which will become effective when the written consents of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding have been filed with the Trustee.

No modification or amendment under this Section 8.01 may (a) extend or have the effect of extending the fixed maturity of any Certificate or reducing the interest rate with respect thereto or extending the time of payment of interest, or reducing the amount of principal thereof or reducing any premium payable upon the prepayment thereof, without the express consent of the Owner of such Certificate, or (b) reduce or have the effect of reducing the percentage of Certificates required for the affirmative vote or written consent to an amendment or modification of the Installment Sale Agreement, without the consent of the Owners of 100% in aggregate principal amount of the Outstanding Certificates, or (c) modify any of the rights or obligations of the Trustee without its written assent thereto.

Any such supplemental agreement may not become effective unless there is filed with the Trustee the written consents of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding and the Trustee has given the notice required below. Each such consent shall be effective only if accompanied by proof of ownership of the Certificates for which such consent is given, which proof shall be such as is permitted by Section 2.10. Any such consent shall be binding upon the Owner of the Certificate giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed.

After the Owners of the required percentage of Certificates have filed their consents to such supplemental agreement, the Trustee will mail a notice thereof to (a) the Owners of the Certificates in the manner hereinbefore provided in this Section for the mailing of such supplemental agreement of the notice of adoption thereof, and (b) each Rating Agency, which notice to the Rating Agencies must be mailed at least 15 days prior to the effective date of the supplement agreement. The notice mailed under the preceding sentence must state in substance that such supplemental agreement has been consented to by the Owners of the required percentage of Certificates and will be effective as provided in this Section (but failure to mail copies of said notice will not affect the validity of such supplemental agreement or consents thereto). A record, consisting of the papers required by this Section to be filed with the Trustee, shall be conclusive proof of the matters therein stated. Such supplemental agreement shall become effective and shall be deemed conclusively binding upon the parties hereto, the Owners of all Certificates at the expiration of 60 days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such 60 day period.

**SECTION 8.03. *Effect of Supplemental Agreement.*** From and after the time any supplemental agreement becomes effective under this Article VIII, this Trust Agreement or the Installment Sale Agreement, as the case may be, shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners of Certificates Outstanding, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any supplemental agreement shall be deemed to be part of the terms and conditions of this Trust Agreement or the Installment Sale Agreement for any and all purposes.

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

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

SECTION 8.06. *Notice to Rating Agencies.* The District shall send copies of any proposed amendment or modification hereof to each Rating Agency at least 10 days prior to the effective date of any such amendment or modification.

## **ARTICLE IX**

### **OTHER COVENANTS**

SECTION 9.01. *Compliance With and Enforcement of Installment Sale Agreement.* The District covenants and agrees with the Trustee, for the benefit of the Owners of the Certificates, to perform all obligations and duties imposed on it under the Installment Sale Agreement. The District 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 Corporation thereunder.

SECTION 9.02. *Observance of Laws and Regulations.* The District will well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State of California, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the District, including its right to exist and carry on business as a public agency, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

SECTION 9.03. *Recordation and Filing.* The District shall record and file all such documents as may be required by law (and shall take all further actions which may be necessary or be reasonably required by the Trustee), all in such manner, at such times

and in such places as may be required by law in order fully to preserve, protect and perfect the security of the Trustee and the Certificate Owners.

SECTION 9.04. *Tax Covenants.*

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

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

(c) Federal Guarantee Prohibition. The District will not take any action or permit or suffer any action to be taken if the result of the same would be to cause the obligations of the District under the Installment Sale Agreement to be “federally guaranteed” within the meaning of Section 149(b) of the Tax Code.

(d) No Arbitrage. The District will not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Certificates or of any other obligations which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date, would have caused the obligations of the District under the Installment Sale Agreement to be “arbitrage bonds” within the meaning of Section 148(a) of the Tax Code.

(e) Rebate of Excess Investment Earnings to United States. The District will calculate or cause to be calculated the Excess Investment Earnings in all respects at the times and in the manner required under the Tax Code. The District will pay the full amount of Excess Investment Earnings to the United States of America in such amounts, at such times and in such manner as may be required under the Tax Code. Such payments will be made by the District from any source of legally available funds of the District.

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

SECTION 9.05. *Continuing Disclosure.* The District hereby covenants and agrees that it will comply with and carry out all of the provisions of that certain Continuing Disclosure Certificate executed by the District as of the Closing Date, as originally executed and as it may be amended from time to time in accordance with its terms. Notwithstanding any other provision of this Trust Agreement, failure of the District to comply with such Continuing Disclosure Certificate shall not constitute an Event of Default; *provided, however,* that any Participating Underwriter (as such term is defined in such Continuing Disclosure Certificate) or any Owner or beneficial owner of the

Certificates may take such actions as may be necessary and appropriate to compel performance by the District of its obligations under this Section, including seeking mandate or specific performance by court order.

SECTION 9.06. *Further Assurances.* The Corporation and the District will make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and of the Installment Sale Agreement, and for the better assuring and confirming unto the Owners of the Certificates the rights and benefits provided herein.

## ARTICLE X

### LIMITATION OF LIABILITY

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

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

SECTION 10.02. *No Liability for Trustee Performance.* Neither the District nor the Corporation have any obligation or liability to any of the other parties or to the Owners of the Certificates with respect to the performance by the Trustee of any duty imposed upon it hereunder.

SECTION 10.03. *Indemnification of Corporation and Trustee.* To the extent permitted by law, the District shall indemnify the Corporation and Trustee, and their respective officers, agents and employees, against all claims, losses, costs, expenses, liability and damages, including legal fees and expenses, arising out of or in connection with any of the following: (a) the failure by the District to observe and perform any of its obligations under the Installment Sale Agreement, (b) the Trustee's exercise and performance of its powers and duties hereunder, or (c) the execution, delivery and sale of the Certificates.

No indemnification will be made under this Section or elsewhere herein for willful misconduct or negligence hereunder by the Trustee or the Corporation, or their respective officers, agents, employees, successors or assigns. The District's obligations under this Section 10.03 shall remain valid and binding notwithstanding maturity and payment of the Certificates and the resignation or removal of the Trustee.

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

SECTION 10.05. *Limitation of Rights to Parties and Certificate Owners.* Nothing herein or in the Certificates expressed or implied is intended or shall be construed to give any person other than the District, the Corporation, the Trustee and the Owners of the Certificates, any legal or equitable right, remedy or claim under or in respect hereof or any covenant, condition or provision hereof; and all such covenants, conditions and provisions are and shall be for the sole and exclusive benefit of the District, the Corporation, the Trustee and the Owners.

## ARTICLE XI

### EVENTS OF DEFAULT AND REMEDIES OF CERTIFICATE OWNERS

SECTION 11.01. *Assignment of Rights.* Under Section 5.01, the Corporation transfers, assigns and sets over to the Trustee all of the Corporation's rights in and to the Installment Sale Agreement (excepting only the Corporation's rights under Sections 4.7 and 6.4 thereof), including without limitation all of the Corporation's rights to exercise such rights and remedies conferred on the Corporation under the Installment Sale Agreement as may be necessary or convenient (a) to enforce payment of the Installment Payments and any other amounts required to be deposited in the Installment Payment Fund, and (b) otherwise to exercise the Corporation's rights and take any action to protect the interests of the Trustee or the Certificate Owners upon the occurrence of an Event of Default.

SECTION 11.02. *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 Trustee may, and at the written direction of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding the Trustee (to the extent indemnified as provided herein) shall, exercise any and all remedies available under law or granted under the Installment Sale Agreement.

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

First, to the payment of the fees, costs and expenses of the Trustee in declaring and enforcing such Event of Default and in the performance of its powers and duties under the Trust Agreement including reasonable compensation to its agents, attorneys and counsel, and then to the Certificate Owners in declaring and enforcing an Event of Default, including compensation to their agents, attorneys and counsel;

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

SECTION 11.04. *Institution of Legal Proceedings.* If one or more Events of Default shall happen and be continuing, the Trustee in its discretion may, and upon the written request of the Owners of a majority in principal amount of the Certificates then Outstanding, and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Owners of Certificates by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee will deem most effectual in support of any of its rights or duties hereunder.

SECTION 11.05. *Non-waiver.* Nothing in this Article XI or in any other provision hereof or in the Certificates, shall affect or impair the obligation of the District, which is absolute and unconditional, to pay or prepay the Installment Payments as provided in the Installment Sale Agreement, or affect or impair the right of action, which is also absolute and unconditional, of the Certificate Owners to institute suit to enforce and collect such payment. No delay or omission of the Trustee or any Owner of any of the Certificates to exercise any right or power arising upon the happening of any Event of Default 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 XI to the Trustee or the Owners of Certificates may be exercised from time to time and as often as shall be deemed expedient by the Trustee or the Certificate Owners.

SECTION 11.06. *Remedies Not Exclusive.* No remedy herein conferred upon or reserved to the Trustee or the Certificate Owners is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise.

SECTION 11.07. *Power of Trustee to Control Proceedings.* If the Trustee, upon the happening of an Event of Default, has taken any action, by judicial proceedings or otherwise, under its duties hereunder, whether upon its own discretion or upon the request of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, it has full power, in the exercise of its discretion for the best interests of the Owners of the Certificates, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action.

SECTION 11.08. *Limitation on Certificate Owners' Right to Sue.* No Owner of any Certificate issued hereunder has the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Trust Agreement, unless:

- (a) such Owner has previously given to the Trustee written notice of the occurrence of an Event of Default hereunder;
- (b) the Owners of a majority in aggregate principal amount of all the Certificates then Outstanding have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name;
- (c) the Owners have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; and
- (d) the Trustee has refused or omitted to comply with such request for a period of 60 days after such written request has been received by, and said tender of indemnity has been made to, the Trustee.

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

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

## **ARTICLE XII**

### **MISCELLANEOUS**

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

- (a) by paying or causing to be paid the principal of and interest and prepayment premiums (if any) represented by such Certificates Outstanding, as and when the same become due and payable; or
- (b) by irrevocably depositing with the Trustee or any other fiduciary, security for the payment of Installment Payments relating to such Certificates as more particularly described in Section 7.1 of the Installment Sale Agreement, said security to be held by the Trustee



on behalf of the District to be applied by the Trustee or by such other fiduciary to pay or prepay such Installment Payments as the same become due, under Section 7.1 of the Installment Sale Agreement;

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

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

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

*If to the District:*

Novato Sanitary District  
500 Davidson Street  
Novato, California 94945  
Attention: Manager-Engineer  
Fax: (415) 898-2279

*If to the Corporation:*

Public Property Financing Corporation of  
California  
2945 Townsgate Road, Suite 200  
Westlake Village, California 91361  
Attention: President  
Fax: (805) 267-7142

*If to the Trustee:*

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

SECTION 12.04. *Payment of Certificates After Discharge.* Notwithstanding any provisions hereof, but subject to any applicable laws of the State of California relating to the escheat of funds or property, any moneys held by the Trustee for the payment of the principal or interest represented by any Certificates and remaining unclaimed for two years after the principal represented by all of the Certificates has become due and payable (whether at maturity or upon call for prepayment or by acceleration as provided herein), if such moneys were so held at such date, or two years after the date of deposit of such moneys if deposited after said date when all of the Certificates became due and payable, shall be repaid to the District free from the trusts created hereby upon receipt of an indemnification agreement acceptable to the District and the Trustee indemnifying the Trustee with respect to claims of Owners of Certificates which have not yet been paid, and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however,* that before the repayment of such moneys to the District as aforesaid, the Trustee may (at the cost of the District) first mail, by first class mail postage prepaid, to the Owners of Certificates which have not yet been paid, at the respective addresses shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Trustee with respect to the Certificates so payable and not presented and with respect to the provisions relating to the repayment to the District of the moneys held for the payment thereof. Any moneys so held by the Trustee will be held uninvested.

SECTION 12.05. *Governing Law.* This Trust Agreement shall be construed and governed in accordance with the laws of the State of California.

SECTION 12.06. *Binding Effect; Successors; Benefits Limited to Parties.* This Trust Agreement is binding upon and inures to the benefit of the parties, and their respective successors and assigns. Whenever herein either the Corporation, the District, the Trustee is named or referred to, such reference includes the successors or assigns thereof, and all the covenants and agreements contained herein by or on behalf of the Corporation, the District, the Trustee will bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not. Nothing herein expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Corporation, the District, the Trustee or the Certificate Owners, any right, remedy or claim hereunder or by reason hereof or of any covenant, condition or stipulation contained herein. All covenants, stipulations, promises and agreements contained herein by or on behalf of the Corporation or the District shall be for the sole and exclusive benefit of the Corporation, the District, the Trustee and the Certificate Owners.

SECTION 12.07. *Execution in Counterparts.* This Trust Agreement may be executed in several counterparts, each of which is an original and all of which constitute but one and the same agreement.

SECTION 12.08. *Delivery of Cancelled Certificates.* Whenever provision is made herein for the surrender to or cancellation by the Trustee of any Certificates, the Trustee will cancel and destroy such Certificates and shall deliver a certificate of destruction with respect thereto to the District.

SECTION 12.09. *Corporation and District Representatives.* Whenever under the provisions hereof the approval of the Corporation or the District is required, or a written certificate, requisition, direction or order is required to be delivered by the District or the Corporation to the Trustee, or the Corporation or the District is required to take some action at the request of the other, such approval or such request shall be given, and such certificate, requisition, direction or order shall be executed, for the Corporation by a Corporation Representative and for the District by a District Representative, and any party hereto shall be authorized to rely upon any such approval, request, certificate, requisition, direction or order.

SECTION 12.10. *Headings.* The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, are solely for convenience of reference and do not affect the meaning, construction or effect hereof. All references herein to "Articles", "Sections", and other subdivisions are to the corresponding Articles, Sections or subdivisions hereof; and the words "herein", "hereof", "hereunder" and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section or subdivision hereof.

SECTION 12.11. *Waiver of Notice.* Whenever the giving of notice by mail or otherwise is required hereunder, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice are not a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 12.12. *Severability of Invalid Provisions.* In case any one or more of the provisions contained herein or in the Certificates 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 hereof, and this Trust Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The parties hereto hereby declare that they would have entered into this Trust Agreement and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the delivery of the Certificates irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases hereof may be held illegal, invalid or unenforceable.

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

\_\_\_\_\_,  
*as Trustee*

By: \_\_\_\_\_  
Authorized Officer

**PUBLIC PROPERTY FINANCING  
CORPORATION OF CALIFORNIA**

By: \_\_\_\_\_  
Secretary/Treasurer

**NOVATO SANITARY DISTRICT**

By: \_\_\_\_\_  
President of the Board

ATTEST:

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

## APPENDIX A

### DEFINITIONS

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

“Additional Payments” means the amounts payable by the District under Section 4.7 of the Installment Sale Agreement.

“Additional Revenues” means, with respect to the issuance of any Parity Debt, any or all of the following amounts:

- (a) An allowance for Net Revenues from any additions or improvements to or extensions of the Wastewater System to be constructed by the District from the proceeds of such Parity Debt, or which have been previously constructed by the District from any other source of funds but which were not in service during any part of the preceding Fiscal Year, in an amount equal to 80% of the estimated additional average annual Net Revenues to be derived from such additions, improvements and extensions for the first 36-month period following the issuance of the proposed Parity Debt, all as shown by the certificate or opinion of a qualified independent consultant employed by the District.
- (b) An allowance for Net Revenues arising from any increase in the charges made for service from the Wastewater System which has been adopted prior to the incurring of such Parity Debt, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of the most recent completed Fiscal Year or during any more recent 12-month period selected by the District, all as shown by the certificate or opinion of a qualified independent consultant employed by the District.

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

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

“Certificates” means the \$\_\_\_\_\_ aggregate principal amount of certificates of participation, designated the Wastewater Revenue Certificates of Participation, Series 2011, executed and delivered and at any time Outstanding hereunder.

“Closing Date” means October \_\_, 2011, being the day when the Certificates, duly executed by the Trustee, are delivered to the Original Purchaser.

“Connection Charges” means all amounts levied by the District as a fee for connecting to the Wastewater System, as such fee is established from time to time under the applicable laws of the State of California, including the fee identified by the District as a facilities reserve charge.

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

“Corporation Representative” means the President or Secretary of the Corporation, or any other person authorized by resolution of the Board of Directors of the Corporation to act on behalf of the Corporation under or with respect hereto.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the District relating to the execution, sale and delivery of the Certificates. Costs of Issuance include (but are not limited to) the following: filing and recording costs, settlement costs, printing costs, reproduction and binding costs, initial fees and charges of the Trustee (which may include legal fees and the first annual administration fee), financing discounts, legal fees and charges, insurance fees and charges, financial and other professional consultant fees, costs of rating agencies for credit ratings, fees for execution, transportation and safekeeping of the Certificates, and any charges and fees in connection with the foregoing.

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

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

“District” means the Novato Sanitary District, a sanitary district duly organized and existing under the Sanitary District Act of 1923 of the State of California, constituting Part 1 of Division 6 of the Health and Safety Code of the State of California.

“District Representative” means the President or Manager-Engineer of the District, or any other person authorized by resolution of the Board of Directors of the District to act on behalf of the District under or with respect to the Installment Sale Agreement and this Trust Agreement.

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

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

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

“Federal Securities” means: (a) non-callable direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America; (b) obligations fully and unconditionally guaranteed as to timely payment of principal and

interest by the United States of America; (c) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America.

“Fiscal Year” means the 12-month period beginning on July 1 of any year and ending on June 30 of the next succeeding year, or any other twelve-month period selected by the District as its fiscal year.

“Gross Revenues” means all gross income and revenue received by the District from the ownership and operation of the Wastewater System, including, without limiting the generality of the foregoing:

- (a) all amounts levied by the District as a fee for connecting to the Wastewater System, as such fee is established from time to time under the applicable laws of the State of California;
- (b) all income, rents, rates, fees, capital improvement fees (including facilities capacity and pump zone fees), charges or other moneys derived from the services, facilities and commodities sold (including recycled water), furnished or supplied through the facilities of the Wastewater System;
- (c) all *ad valorem* property taxes received by the District;
- (d) the earnings on and income derived from the investment of such income, rents, rates, fees, charges or other moneys to the extent that the use of such earnings and income is limited by or under applicable law to the Wastewater System;
- (e) the proceeds derived by the District directly or indirectly from the sale, lease or other disposition of a part of the Wastewater System as permitted in this Trust Agreement; and
- (f) amounts transferred from the Rate Stabilization Fund to the Wastewater Fund, to the extent such amounts are required to be treated as Gross Revenues under Section 4.6 of the Installment Sale Agreement.

The term “Gross Revenues” does not include (i) customers’ deposits or any other deposits subject to refund until such deposits have become the property of the District, (ii) the proceeds of any *ad valorem* property taxes levied for the purpose of paying general obligation bonds of the District relating to the Wastewater System, and (iii) the proceeds of any special assessments or special taxes levied upon real property within any improvement district for the purpose of paying special assessment bonds or special tax obligations of the District relating to the Wastewater System.

“Independent Accountant” means any independent certified public accountant or firm of independent certified public accountants appointed and paid by the District, and who, or each of whom (a) is in fact independent and not under domination of the District; (b) does not have any substantial interest, direct or indirect, with the District; and (c) is not connected with the District as an officer or employee of the District, but who may be

regularly retained to make annual or other audits of the books of or reports to the District.

“Installment Payment” means all payments required to be paid by the District on any date under Section 4.4 of the Installment Sale Agreement, including any amounts payable upon delinquent installments and including any prepayment thereof under Section 7.2 or 7.3 of the Installment Sale Agreement.

“Installment Payment Date” means, with respect to any Interest Payment Date, the 5<sup>th</sup> Business Day preceding such Interest Payment Date.

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

“Installment Sale Agreement” means the Installment Sale Agreement, dated as of October 1, 2011, between the District and the Corporation, together with any duly authorized and executed amendments thereto.

“Interest Payment Date” means, with respect to any Certificate, February 1, 2012, and each February 1 and August 1 thereafter to and including the date of maturity or the date of prepayment of such Certificate.

“Maximum Annual Debt Service” means, as of the date of any calculation, the maximum sum obtained for the current or any future Fiscal Year so long as any of the Certificates remain Outstanding by totaling the following amounts for such Fiscal Year:

- (a) the aggregate amount of the Installment Payments coming due and payable in such Fiscal Year, except to the extent payable from any security deposit under Section 7.1 of the Installment Sale Agreement; and
- (b) the amount of principal of and interest on all outstanding Parity Debt coming due and payable in such Fiscal Year. With respect to any Parity Debt the interest on which is computed at a variable rate, such Parity Debt shall be assumed to bear interest at the highest of:
  - (i) the actual rate on the date of calculation, or if the indebtedness is not yet outstanding, the initial rate (if established and binding),
  - (ii) if the indebtedness has been outstanding for at least 12 months, the average rate over the 12 months immediately preceding the date of calculation, or if no debt is outstanding for the 12 months under the authorizing document, the average rate borne by reference to an index comparable to that to be utilized in determining the interest rate for the debt to be issued, and
  - (iii) (A) if interest on the indebtedness is excludable from gross income under the applicable provisions of the Tax Code, the most recently published Bond Buyer “Revenue Bond Index” (or comparable index if no longer published), or (B) if interest is not so excludable, the interest rate on direct U.S. Treasury obligations having comparable maturities.

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



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

“Operation and Maintenance Costs” means the reasonable and necessary costs paid or incurred by the District for maintaining and operating the Wastewater System, determined in accordance with generally accepted accounting principles, including but not limited to (a) all reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Wastewater System in good repair and working order, (b) all administrative costs of the District 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, and (c) all SRF Installment Payments. “Operating and Maintenance Costs” do not include (i) payments of debt service on bonds, notes or other obligations issued by the District with respect to the Wastewater System, other than the SRF Installment Payments, (ii) depreciation, replacement and obsolescence charges or reserves therefor, and (iii) amortization of intangibles or other bookkeeping entries of a similar nature.

“Original Purchaser” means \_\_\_\_\_, as original purchaser of the Certificates at the public sale thereof.

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

“Overdue Rate” means the highest rate of interest represented by any of the Outstanding Certificates.

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

“Parity Debt Documents” means, collectively, the indenture of trust, trust agreement or other document authorizing the issuance of any Parity Debt or any securities which evidence Parity Debt.

“Parity Debt” means any bonds, notes, leases, installment sale agreements or other obligations of the District payable from and secured by a pledge of and lien upon any of the Net Revenues on a parity with the Installment Payments, entered into or issued under and in accordance with Section 5.7 of the Installment Sale Agreement.

“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:

- (a) Federal Securities;

- (b) Any direct or indirect obligations of an agency or department of the United States of America whose obligations represent the full faith and credit of the United States of America, or which are rated A or better by S&P.
- (c) Interest-bearing deposit accounts (including certificates of deposit) in federal or State chartered savings and loan associations or in federal or State of California banks (including the Trustee), provided that: (i) the unsecured obligations of such commercial bank or savings and loan association are rated A or better by S&P; or (ii) such deposits are fully insured by the Federal Deposit Insurance Corporation.
- (d) Commercial paper rated in the highest short-term rating category by S&P.
- (e) Federal funds or bankers acceptances with a maximum term of one year of any bank which an unsecured, uninsured and unguaranteed obligation rating in the highest rating category of S&P.
- (f) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of at least AAAm-G, AAAm or AAm (such funds may include funds for which the Trustee, its affiliates, parent or subsidiaries provide investment advisory or other management services).
- (g) Obligations the interest on which is excludable from gross income pursuant to Section 103 of the Tax Code and which are either (a) rated A or better by S&P, or (b) fully secured as to the payment of principal and interest by Federal Securities.
- (h) Obligations issued by any corporation organized and operating within the United States of America having assets in excess of \$500,000,000, which obligations are rated A or better by S&P.
- (i) Bonds or notes issued by any state or municipality which are rated by S&P in one of the two highest rating categories assigned by S&P.
- (j) Any investment agreement with, or guaranteed by, a financial institution the long-term unsecured obligations or the claims paying ability of which are rated A or better by S&P at the time of initial investment, by the terms of which all amounts invested thereunder are required to be withdrawn and paid to the Trustee in the event such rating at any time falls below A.
- (k) The Local Agency Investment Fund of the State of California, created pursuant to Section 16429.1 of the California Government Code, to the extent the Trustee is authorized to register such investment in its name.

“Project” means the facilities, improvements and other property described more fully in Appendix B attached to the Installment Sale Agreement, as that Appendix may be amended from time to time in accordance with the Installment Sale Agreement.

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

- (a) all costs required to be paid to any person under the terms of any agreement for or relating to the acquisition, construction and installation of the Project;
- (b) obligations incurred for labor and materials in connection with the acquisition, construction and installation of the Project;
- (c) the cost of performance or other bonds and any and all types of insurance that may be necessary or appropriate to have in effect in connection with the acquisition, construction and installation of the Project;
- (d) all costs of engineering and architectural services, including the actual out-of-pocket costs for test borings, surveys, estimates, plans and specifications and preliminary investigations therefor, development fees, sales commissions, and for supervising construction, as well as for the performance of all other duties required by or consequent to the proper acquisition, construction and installation of the Project;
- (e) any sums required to reimburse the District for advances made for any of the above items or for any other costs incurred and for work done which are properly chargeable to the acquisition, construction and installation of the Project;
- (f) all financing costs incurred in connection with the acquisition, construction and installation of such Project; and
- (g) the interest components of the Installment Payments during the period of acquisition, construction and installation of the Project.

“Project Fund” means the fund by that name established and held by the Trustee under Section 3.03.

“Rate Stabilization Fund” means any fund established and held by the District as a fund for the stabilization of rates and charges imposed by the District with respect to the Wastewater System, which fund is established, held and maintained in accordance with Section 4.6 of the Installment Sale Agreement.

“Rating Agency” means, as of any date, each nationally-recognized municipal bond rating agency which then maintains a rating on the Certificates.

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

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

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

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

“S&P” means Standard & Poor’s Corporation, its successors and assigns.

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

“SRF Installment Sale Agreement” means the Installment Sale Agreement dated November 16, 2007, between the District and the Department of Water Resources of the State of California (Agreement No. 07-824-550-0), including any duly authorized and executed amendments thereto.

“SRF Installment Payments” means all payments required to be paid by the District on any date under the SRF Installment Sale Agreement, including any amounts payable upon delinquent installments.

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

“Term” means, when used with respect to the Installment Sale Agreement, the time during which the Installment Sale Agreement is in effect, as provided in Section 4.2 thereof.

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

“Trust Office” means, with respect to the Trustee, the corporate trust office of the Trustee at its address set forth in Section 12.02; *provided, however*, that for purposes of the payment, prepayment, cancellation, surrender, transfer or exchange of certificates, such term meant the corporate trust office of the Trustee located in San Francisco, California or at such other or additional offices as may be specified by the Trustee in writing to the District except that with respect to presentation of Certificates for payment or for registration of transfer and exchange such term shall mean the office or agency of the Trustee at which, at any particular time, its corporate trust agency business shall be conducted.

“Trustee” means \_\_\_\_\_, or any successor thereto acting as Trustee hereunder.

“Wastewater Fund” means the fund established and held by the District with respect to the Wastewater System for the deposit of Gross Revenues.

“Wastewater System” means any and all facilities now existing or hereafter acquired or constructed which are owned, controlled or operated by the District for the collection, treatment, disposal or reuse of wastewater, including sewage treatment plants, intercepting and collecting sewers, outfall sewers, force mains, pumping stations, ejector stations, oxidation ponds, pipes, valves, machinery and all other appurtenances necessary, useful or convenient for the collection, treatment, purification, reclamation or disposal of sewage, and any necessary lands, rights of way and other real or personal property useful in connection therewith.

**APPENDIX B**

**[FORM OF CERTIFICATE OF PARTICIPATION]**

R-\_\_

\*\*\*\$\_\_\_\_\_\*\*\*

**WASTEWATER REVENUE CERTIFICATE OF PARTICIPATION, SERIES 2011**

**Evidencing the Direct, Undivided Fractional Interest of the Owner Hereof in Installment Payments to be Made by the**

**NOVATO SANITARY DISTRICT, CALIFORNIA**

**As the Purchase Price For Certain Property Under an Installment Sale Agreement with Public Property Financing Corporation of California**

**RATE OF INTEREST: MATURITY DATE: ORIGINAL ISSUE DATE: CUSIP:**  
October \_\_, 2011

REGISTERED OWNER:

PRINCIPAL AMOUNT: DOLLARS

THIS IS TO CERTIFY THAT the Registered Owner identified above, or registered assigns, as the registered owner (the "Registered Owner") of this Certificate of Participation (this "Certificate") is the owner of a direct, undivided fractional interest in Installment Payments (the "Installment Payments") payable by the Novato Sanitary District, a sanitary district duly organized and existing under the laws of the State of California (the "District") under an Installment Sale Agreement dated as of October 1, 2011, (the "Installment Sale Agreement") between the District and Public Property Financing Corporation of California, a nonprofit public benefit corporation duly organized and existing under the laws of the State of California (the "Corporation"), as the purchase price for certain property which is to be used in the water collection, treatment and disposal system of the District (the "Wastewater System"). The Installment Payments and certain other rights and interests under the Installment Sale Agreement have been assigned to \_\_\_\_\_, as trustee (the "Trustee"), having a corporate trust office in San Francisco, California or such other place as designated by the Trustee (the "Trust Office").

The Registered Owner of this Certificate is entitled to receive, subject to the terms of the Installment Sale Agreement, on the Maturity Date identified above, or any earlier prepayment date, the Principal Amount identified above representing a direct, undivided fractional share of the portion of the Installment Payments designated as

principal, and to receive on February 1 and August 1 of each year commencing February 1, 2012 (the "Interest Payment Dates") 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 from the Interest Payment Date next preceding the date of execution of this Certificate unless (a) this Certificate is executed after the close of business on the 15<sup>th</sup> day of the month immediately preceding an Interest Payment Date and on or before such Interest Payment Date, in which event interest shall be payable from such Interest Payment Date, or (b) unless this Certificate is executed on or before January 15, 2012, in which event interest shall be payable from the Original Issue Date identified above. The Registered Owner's share of the portion of the Installment Payments designated as interest is the result of the multiplication of the aforesaid share of the portion of the Installment Payments designated as principal by the Rate of Interest per annum identified above, calculated on the basis of a 360-day year comprised of twelve 30-day months.

Principal and prepayment premium (if any) represented hereby is payable in lawful money of the United States of America upon surrender hereof at the Trust Office of the Trustee. Interest represented hereby is payable by check mailed by first class mail by the Trustee on each Interest Payment Date to the Registered Owner at such Owner's address as it appears on the registration books of the Trustee as of the close of business on the 15<sup>th</sup> day of the preceding month; *provided, however*, that at the written request of the owner of Certificates in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of the 15<sup>th</sup> day of the month preceding an Interest Payment Date, interest represented by such Certificates shall be paid on such Interest Payment Date by wire transfer in immediately available funds to such account within the United States of America as shall be specified in such request.

This Certificate has been executed and delivered by the Trustee under a Trust Agreement dated as of October 1, 2011, among the Trustee, the Corporation and the District (the "Trust Agreement"). The District has certified that it is authorized to enter into the Installment Sale Agreement and the Trust Agreement under the laws of the State of California, for the purpose of financing the acquisition, construction and improvement of properties used for the public purposes of the District relating to the Wastewater System. Reference is hereby made to the Installment Sale Agreement and the Trust Agreement (copies of which are on file at the Trust Office of the Trustee) for a description of the terms on which the Certificates are delivered, the rights thereunder of the owners of the Certificates, the rights, duties and immunities of the Trustee and the rights and obligations of the District under the Installment Sale Agreement, to all of the provisions of the Installment Sale Agreement and the Trust Agreement the Registered Owner of this Certificate, by acceptance hereof, assents and agrees.

The District is obligated under the Installment Sale Agreement to pay the Installment Payments from the Net Revenues of the Wastewater System (as such terms are defined in the Installment Sale Agreement). The obligation of the District to pay the Installment Payments does not constitute an obligation of the District for which the District is obligated to levy or pledge any form of taxation or for which the District has levied or pledged any form of taxation. The obligation of the District to pay the Installment Payments does not constitute a debt of the District, the State of California or

any of its political subdivisions, and does not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

The Certificates maturing on or before February 1, 2020, are not subject to optional prepayment prior to the respective stated maturities. The Certificates maturing on or after February 1, 2021, are subject to optional prepayment in whole or in part, on any date on or after February 1, 2020, from prepayments of the Installment Payments made at the option of the District under the Installment Sale Agreement. Certificates shall be subject to prepayment under this subsection at a prepayment price equal to 100% of the principal amount of Certificates or portions thereof to be prepaid together with accrued interest represented thereby to the prepayment date, plus a premium (expressed as a percentage of the par amount to be prepaid) as set forth in the following table:

<u>Prepayment Dates</u>	<u>Prepayment Premium</u>
February 1, 2020, to January 31, 2021	0.5%
February 1, 2021, and thereafter	0.0%

The Certificates are subject to mandatory prepayment on any date, in whole, or in part among maturities on a pro rata basis and by lot within a maturity, from the net proceeds of insurance, sale or condemnation proceedings with respect to the Wastewater System which are credited towards the prepayment of the Installment Payments under the Installment Sale Agreement, at a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the date fixed for prepayment, without premium.

The Certificates maturing on February 1, 20\_\_, are subject to mandatory prepayment in part by lot, at a prepayment price equal to 100% of the principal amount thereof to be prepaid, without premium, in the aggregate respective principal amounts and on February 1 in the respective years as set forth in the following table; *provided, however,* that if some but not all of the Term Certificates have been redeemed under the optional prepayment provisions described above, the total amount of all future sinking fund payments shall be reduced by the aggregate principal amount of such Certificates so redeemed, to be allocated among such sinking fund payments on a pro rata basis in integral multiples of \$5,000.

Sinking Fund Prepayment Date (February 1)	Principal Amount <u>To Be Prepaid</u>
---	--

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



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

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

Unless this Certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Trustee for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein. The Trustee has no obligation or liability to the Registered Owners of the Certificates for the payment of interest, principal or prepayment premium, if any, with respect to the Certificates out of the Trustee's own funds; the Trustee's sole obligations are those described in the Trust Agreement. The recitals of facts herein shall be taken as statements of the District and the Corporation and the Trustee does not have any responsibility for the accuracy thereof.

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

IN WITNESS WHEREOF, this Certificate has been executed and delivered by \_\_\_\_\_, as trustee, acting under the Trust Agreement.

Execution Date:

\_\_\_\_\_,  
as Trustee

By: \_\_\_\_\_  
Authorized Officer



**ASSIGNMENT**

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

Dated: \_\_\_\_\_

Signature Guaranteed:

Note: Signature guarantee shall be made by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other guarantee program acceptable to the Trustee.

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