



CITY OF LODI
COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Forms of an Installment Purchase Contract and a Trust Agreement Relating to Wastewater System Revenue Certificates of Participation, 2004 Series A; and Approving and Authorizing Certain Other Matters Relating Thereto

MEETING DATE: April 27, 2004

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the Lodi Public Improvement Corporation adopt the attached resolution approving forms of an Installment Purchase Contract and a Trust Agreement relating to Wastewater System Revenue Certificates of Participation, 2004 Series A; and approving and authorizing certain other matters relating thereto.

BACKGROUND INFORMATION: The attached financing documents for the White Slough project are the result of numerous meetings with our financial advisor, the underwriter and legal counsel(s). A representative from our advisor, Public Financial Management, Inc., will be available at the meeting to answer questions.

Approval of the financing requires the prior adoption of the proposed rate increases being considered at this same meeting.

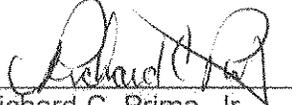
The attached resolution concerns approval, execution and delivery of the COP documents listed below:

1. Installment Purchase Contract
2. Trust Agreement

FUNDING: Wastewater Fund



Vicky McAthie, Finance Director



Richard C. Prima, Jr.
Public Works Director

RCP/pmf

Attachments

cc:

APPROVED:



H. Dixon Flynn, City Manager

INSTALLMENT PURCHASE AGREEMENT

by and between

CITY OF LODI

and

LODI PUBLIC IMPROVEMENT CORPORATION

Dated as of May 1, 2004

relating to

**CITY OF LODI
WASTEWATER SYSTEM REVENUE
CERTIFICATES OF PARTICIPATION
2004 SERIES A**

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INSTALLMENT PURCHASE AGREEMENT

This INSTALLMENT PURCHASE AGREEMENT, made and entered into as of May 1, 2004, by and between the CITY OF LODI, a municipal corporation duly organized and existing under and by virtue of the laws of the State of California (the "City"), and the LODI PUBLIC IMPROVEMENT CORPORATION, a nonprofit, public benefit corporation duly organized and existing under and by virtue of the laws of the State of California (the "Corporation").

WITNESSETH:

WHEREAS, the City has established the System (capitalized terms used herein and not otherwise defined shall have the meanings given such terms pursuant to Section 1.1) to provide for the collection, treatment and disposal of wastewater; and

WHEREAS, the City proposes to make certain additions, betterments, extensions, replacements and improvements to its System constituting the Project and more fully described in Exhibit A hereto; and

WHEREAS, the Corporation is authorized to enter into contracts for the acquisition and sale of facilities such as the Project; and

WHEREAS, the Corporation has agreed to assist the City by acquiring or causing the acquisition of the Project as herein provided and selling the Project to the City on the terms and conditions set forth herein; and

WHEREAS, the City and the Corporation have duly authorized the execution of this Agreement;

WHEREAS, the Corporation will assign certain of its rights hereunder, including its right to receive Installment Payments, to Union Bank of California, N.A., as Trustee under the Trust Agreement; and

WHEREAS, pursuant to the Trust Agreement, the Trustee is to execute and deliver City of Lodi Wastewater System Revenue Certificates of Participation, 2004 Series A, evidencing the proportionate interests of the Owners thereof in the Installment Payments; and

WHEREAS, the proceeds of the sale of the Certificates are to be applied, among other things, to finance the Costs of the Project; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Installment Purchase Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Installment Purchase Agreement;

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

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this Section shall for all purposes hereof and of any amendment hereof or supplement hereto and of any report or other document mentioned herein or therein have the meanings given such terms in the Trust Agreement, such following definitions to be equally applicable to both the singular and plural forms of any of the defined terms.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations by the City. The City represents, warrants and certifies as follows:

(a) The City is a municipal corporation duly organized and existing under and pursuant to the laws of the State of California. The City has full legal right, power and authority to enter into this Agreement and carry out its obligations hereunder, to carry out and consummate all transactions contemplated by this Agreement, and the City has complied with the provisions of all applicable law in all matters relating to such transactions. By proper action, the City has duly authorized the execution, delivery and due performance of this Agreement.

(b) The City will not take or permit any action to be taken which results in the interest component of the Installment Payments being included in the gross income for purposes of federal income taxation or not being exempt from personal income taxes of the State of California.

(c) The City has determined that it is necessary and proper for City uses and purposes within the terms of all applicable law that the City finance the acquisition of the Project in the manner provided for in this Agreement.

(d) All acts, conditions and things required by the Constitution and statutes of the State to have been performed, to have happened and to exist precedent to and in connection with the execution and delivery of this Agreement, have been performed, have happened and do exist in regular and due time, form and manner as required by law.

Section 2.2. Representations and Warranties by the Corporation. The Corporation represents and warrants that the Corporation is a nonprofit, public benefit corporation duly organized and in good standing under the laws of the State of California, has full legal right, power and authority to enter into this Agreement and to carry out and consummate all

transactions contemplated by this Agreement and by proper action has duly authorized the execution, delivery and due performance of this Agreement.

ARTICLE III

ACQUISITION OF THE PROJECT

Section 3.1. Sale and Purchase of Project. In consideration for the Corporation's assistance in financing the Project through the execution and delivery of this Agreement and the Trust Agreement, the City agrees to act as the Corporation's agent for purposes of construction and acquisition of the Project. The City will proceed with the acquisition and construction of the Project as provided in Section 6.12. The Corporation will make the amounts on deposit in the Improvement Fund available to the City for this purpose, as provided in the Trust Agreement.

In consideration for the Installment Payments as set forth in Section 4.2, the Corporation agrees to sell, and hereby sells, to the City, and the City agrees to purchase, and hereby purchases, from the Corporation, the Project at the Purchase Price specified in Section 4.1 and otherwise in the manner and in accordance with the provisions of this Agreement.

Section 3.2. Title. All right, title and interest in each element and component of the Project shall vest in the City immediately upon execution and delivery of this Agreement or, if later, the acquisition of any rights with respect to such element or component.

ARTICLE IV

INSTALLMENT PAYMENTS

Section 4.1. Purchase Price.

(a) The Purchase Price to be paid by the City to the Corporation for the purchase of the Project is the sum of the principal components of the Installment Payments set forth in Exhibit B hereto plus the interest components of the Installment Payments which consist of the sum of the interest to accrue on the unpaid balance of each such principal component at the interest rate set forth in Exhibit B hereto.

(b) The interest component of the Installment Payments shall accrue from the Delivery Date to the date of payment of the applicable principal component, including any prepayment thereof pursuant to Article VII. The interest component shall be computed on the basis of a 360-day year of twelve 30-day months. The interest component of the Installment Payments shall be paid by the City as and constitute interest paid on the principal components of the Installment Payments.

Section 4.2. Installment Payments and Additional Payments. The City shall, subject the provisions of Section 10.1 and to any rights of prepayment provided in Article VII, pay the Corporation the Purchase Price in installment as follows: (i) each principal component of the Installment Payments is payable on the Installment Payment Date preceding the due date for such principal component set forth in Exhibit B hereto in the amount specified for such due date in Exhibit B hereto; and (ii) the interest components of the Installment Payments shall be payable

on the Installment Payment Date preceding each Interest Payment Date in the amount of accrued interest on the unpaid balance of the principal components of the Installment Payments at the respective interest rates per annum set forth in Exhibit B hereto. Such interest shall be calculated on the basis of a 360-day year consisting of twelve 30- months. The schedule of the principal and interest components as of the Delivery Date are set forth in Exhibit C hereto. The amounts shown in Exhibit C hereto shall automatically be adjusted to account for any prepayment of Installment Payments made by the City pursuant to Article VII and any discharge of Installment Payments pursuant to Article IX.

Each Installment Payment shall be paid to the Corporation in lawful money of the United States of America. In the event the City fails to make any of the payments required to be made by it under this Section, such payment shall continue as an obligation of the City until such amount shall have been fully paid; and the City agrees to pay the same with interest accruing thereon at the highest rate of interest then applicable to the remaining unpaid principal components of the Installment Payments.

The obligation of the City to make the Installment Payments is absolute and unconditional, and, until such time as the Purchase Price shall have been paid in full (or provision for the payment thereof shall have been made pursuant to Article IX), the City will not discontinue or suspend any Installment Payment required to be made by it under this Section, whether or not the System or any part thereof is operating or operable or has been completed, or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part. This Agreement shall be deemed and construed to be a net contract, and the City shall pay absolutely net during the term hereof the Installment Payments and all other payments required hereunder, and such payments shall be net payments and shall not be subject to deduction, abatement reduction or diminution, whether by offset or otherwise, and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.

In addition to the Installment Payments, the City shall also pay such amounts ("Additional Payments") as shall be required for the payment of all fees and administrative costs of the Corporation and the Trustee under the Trust Agreement or otherwise relating to the Certificates, including without limitation all expenses, compensation and indemnification of the Corporation and the Trustee payable by the City hereunder and under the Trust Agreement, fees of auditors, accountants, attorneys or engineers, and all other necessary administrative costs of the Corporation or charges required to be paid by it to comply with the terms hereof of the Certificates or of the Trust Agreement or to indemnify the Corporation and its employees, officers and directors and the Trustee.

ARTICLE V

SECURITY

Section 5.1. Pledge of System Net Revenues. All System Net Revenues and all amounts on deposit in the System Revenue Fund are, pursuant to the Pledge Law, hereby irrevocably pledged to the payment of the Installment Payments as provided herein and shall not be used for any other purpose until all Installment Payments have been fully paid or provision has been made for such payment in accordance with Section 9.1; *provided* that out of the System

Revenues and amounts on deposit in the System Revenue Fund, there may be apportioned such sums for such purposes as are expressly permitted herein. This pledge, together with the pledge of System Net Revenues and amounts in the System Revenue Fund securing all other Parity Debt, shall, subject to application as permitted herein, constitute a first lien on System Net Revenues and amounts on deposit in the System Revenue Fund.

Section 5.2. Allocation of System Revenues. In order to carry out and effectuate the pledge and lien contained herein, the City agrees and covenants that all System Revenues shall be received by the City in trust hereunder and, except for Net Proceeds, shall be deposited when and as received in a special fund designated as the "System Revenue Fund", which fund the City has heretofore established and which fund the City agrees and covenants to maintain and to hold separate and apart from other funds until all Installment Payments have been fully paid or provision has been made therefor in accordance with Section 9.1. To the extent the City has an existing fund which satisfies the foregoing requirements, then such fund shall be deemed to be the "System Revenue Fund" and the City shall not be required to create a new fund. The City may maintain separate accounts within the System Revenue Fund. The amounts in the System Revenue Fund shall be invested in Authorized Investments. Moneys in the System Revenue Fund shall be used and applied by the City as provided in this Agreement.

The City shall, from the moneys in the System Revenue Fund, pay all Operation and Maintenance Costs (including amounts reasonably required to be set aside in contingency reserves for Operation and Maintenance Costs, the payment of which is not then immediately required) as such Operation and Maintenance Costs become due and payable. Thereafter, all remaining moneys in the System Revenue Fund shall be set aside by the City at the following times for the transfer to the following respective special funds in the following order of priority; and all moneys in each of such funds shall be held in trust and shall be applied, used and withdrawn only for the purposes set forth in this Section and, as to funds held under the Trust Agreement, the Trust Agreement.

(a) Installment Payments. Not later than each Installment Payment Date, the City shall, from the moneys in the System Revenue Fund, transfer to the Trustee the Installment Payment due and payable on that Installment Payment Date. The City shall also, from the moneys in the System Revenue Fund, transfer when due to the applicable trustee for deposit in the respective payment fund, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, any Parity Obligation Payments in accordance with the provisions of the applicable Parity Obligations.

(b) Reserve Fund. On or before the first Business Day of each month, the City shall, from the remaining moneys in the System Revenue Fund, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, transfer to the Trustee as provided in Section 3.04 of the Trust Agreement for deposit in the Reserve Fund in accordance with the Trust Agreement and to the applicable trustee for such other debt service reserve funds, if any, as may have been established in connection with Parity Obligations that sum, if any, necessary to restore: (i) the Reserve Fund to an amount equal to the Reserve Fund Requirement and otherwise replenish the Reserve Fund for any withdrawals (including draws upon the Reserve Policy) to pay the Installment Payments due hereunder; and (ii) necessary to restore such other debt service reserve funds for Parity Obligations to an amount

equal to the amount required to be maintained therein; *provided* that payments to restore the Reserve Fund after a withdrawal may be made in monthly installments equal to 1/12 of the aggregate amount needed to restore the Reserve Fund to the Reserve Fund Requirement as of the date of the withdrawal. To the extent that draws on the Reserve Fund are from the Reserve Policy as permitted under the definition of Reserve Fund Requirement in the Trust Agreement, transfers hereunder to restore the Reserve Fund shall be made to reimburse the provider of the Reserve Policy to the extent the Reserve Policy is reinstated.

The City shall be obligated to make payments to the Certificate Insurer for draws on the Reserve Policy only to the extent of draws on the Reserve Fund relating to this Agreement. Interest shall accrue and be payable on draws under the Reserve Policy and all related reasonable expenses incurred by the Certificate Insurer from the date of payment by the Certificate Insurer at the Late Payment Rate. "Late Payment Rate" means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by [JP Morgan Chase Bank (N.A.)] at its principal office in the City of New York, as its prime or base lending rate ("Prime Rate") (any change in such Prime Rate to be effective on the date such change is announced by [JP Morgan Chase Bank (N.A.)]) plus 3%, and (ii) the then applicable highest rate of interest on the unpaid principal component of the Installment Payments and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. In the event [JP Morgan Chase Bank (N.A.)] ceases to announce its Prime Rate publicly, Prime Rate shall be the publicly announced prime or base lending rate of such national bank as the Certificate Insurer shall specify. Repayment of draws and payment of expenses and accrued interest thereon at the Late Payment Rate (collectively, "Policy Costs") shall commence in the first month following each draw, and each such monthly payment shall be in an amount at least equal to 1/12 of the aggregate of Policy Costs related to such draw (provided that the City may repay the Policy Costs in full at any time during this period).

If the City shall fail to pay any Policy Costs in accordance with the requirements set forth above, the Certificate Insurer shall be entitled to exercise any and all legal and equitable remedies available to it, including those provided hereunder and under the Trust Agreement other than (i) acceleration of the maturity of the principal component of the Installment Payments or (ii) remedies which would adversely affect Owners of the Certificates.

For purposes of the additional Parity Debt test in Section 5.3(c) and the rate covenant in Section 6.8(b), System Net Revenues shall provide at least one times coverage of the Policy Costs then due and owing in addition to the other coverage requirements therein.

(c) Surplus. Moneys on deposit in the System Revenue Fund not necessary to make any of the payments required above in a Fiscal Year may be expended by the City at any time for any purpose permitted by law, including but not limited to payments with respect to Subordinate Obligations and deposits to the Rate Stabilization Fund.

Section 5.3. Additional Parity Debt. The City may at any time enter into or otherwise incur Parity Debt in addition to the obligations under this Agreement and the Parity Payment Obligations under the Prior Agreements; *provided*:

(a) The City shall be in compliance with all agreements, conditions, covenants and terms contained in this Agreement required to be observed or performed by it, and a Certificate of the City to that effect shall have been filed with the Trustee (with the consent of the Certificate Insurer this condition shall not apply where the purpose of the proposed Parity Debt is to cure such non-compliance).

(b) Any debt service reserve fund established for such Parity Debt shall satisfy the following criteria: (i) such debt service reserve fund shall be held by an independent trustee (who may be other than the Trustee); (ii) the required amount of such debt service reserve fund shall not exceed the lesser of the maximum annual debt service of such Parity Debt (calculated on the basis of a year ending on the principal payment date of such Parity Debt) or the maximum amount permitted under the Code, *provided* that, if such Parity Debt is a loan from a governmental agency, then a debt service reserve fund shall be established in the amount, if any, required or permitted by such governmental agency; and (iii) the City shall not be required to replenish withdrawals from such debt service reserve fund on terms less favorable to the City than the terms for replenishing the Reserve Fund pursuant to Section 5.2(b).

(c) The System Net Revenues for the last completed Fiscal Year or any 12 consecutive months within the last 18 months preceding the date of entry into or incurrence of such Parity Debt, as shown by a Certificate of the City on file with the Trustee, plus an allowance for increased System Net Revenues arising from any increase in the rates, fees and charges of the System which was duly adopted by the City Council of the City prior to the date of the entry into or incurrence of such Parity Debt but which, during all or any part of such 12 month period, was not in effect, in an amount equal to the amount by which the System Net Revenues would have been increased if such increase in rates, fees and charges had been in effect during the whole of such 12 month period, as shown by a Certificate of the City on file with the Trustee, shall have produced a sum equal to at least 110 percent of the Maximum Annual Debt Service as calculated after the entry into or incurrence of such Parity Debt; *provided*, that in the event that all or a portion of such Parity Debt is to be issued for the purpose of refunding and retiring any Parity Debt then outstanding, interest and principal payments on the Parity Debt to be so refunded and retired from the proceeds of such Parity Debt being issued shall be excluded from the foregoing computation of Maximum Annual Debt Service; *provided further*, that the City may at any time enter into or incur Parity Debt without compliance with the foregoing conditions if the Annual Debt Service for each Fiscal Year during which such Parity Debt is outstanding will not be increased by reason of the entry into or incurrence of such Parity Debt; and *provided further*, an adjustment shall be made in the amount of System Net Revenues as provided in Section 5.4. The provisions of this subsection are subject to the requirements of the fourth paragraph of Section 5.2(b).

Nothing contained in this Section shall limit the issuance of any revenue bonds, notes or other evidences of indebtedness or the entry into any installment purchase agreement by the City payable from the System Net Revenues and secured by a lien and charge on the System Net Revenues if, after the issuance of such revenue bonds or entry into such installment purchase

agreement, all of the Installment Payments shall have been fully paid or provision has been made therefor in accordance with Section 9.1. Furthermore, nothing contained in this Section shall limit the issuance or incurrence of any Subordinate Obligations.

Section 5.4. Rate Stabilization Fund. The City has heretofore established a special fund known as the "Rate Stabilization Fund" which shall be held and maintained by the City until all Installment Payments have been fully paid or provision has been made therefor in accordance with Section 9.1. The City may, subject to the provisions of Section 5.2, during or within 210 days after a Fiscal Year, transfer surplus System Net Revenues attributable to such Fiscal Year (on the basis of Generally Accepted Accounting Principles) from the System Revenue Fund to the Rate Stabilization Fund. The City may at any time transfer moneys from the Rate Stabilization Fund to the System Revenue Fund. Notwithstanding anything to the contrary provided herein, System Net Revenues deposited into the Rate Stabilization Fund shall not be taken into account as System Revenues for the Fiscal Year to which such deposited System Net Revenues are attributable for purposes of the calculations in Sections 5.3 and 6.8(b) and amounts withdrawn from the Rate Stabilization Fund and deposited into the System Revenue Fund may be taken into account as System Revenues for purposes of the calculations required under Sections 5.3 and 6.8(b) for the Fiscal Year in which such deposit is made; *provided that*, for purposes of the calculation required under Section 6.8(b), the amount of System Net Revenues before any credits for transfers from the Rate Stabilization Fund to the System Revenue Fund may not be less than 100% of Annual Debt Service for such Fiscal Year. The amounts in the Rate Stabilization Fund shall be invested in the Authorized Investments.

ARTICLE VI

COVENANTS OF THE CITY

Section 6.1. Punctual Payment. The City will punctually pay the Installment Payments in strict conformity with the terms hereof and will faithfully satisfy, observe and perform all agreements, conditions, covenants and terms hereof.

Section 6.2. Legal Existence. The City will use all means legally available to maintain its existence.

Section 6.3. Against Encumbrances. The City will not mortgage or otherwise encumber, pledge or place any charge or lien upon System Revenues. The City will not mortgage or otherwise encumber, pledge or place any lien or charge upon any of the System Net Revenues on a parity with the pledge securing the payment of the Installment Payments except for Parity Obligations as provided herein. The City will not issue or incur any obligations secured by System Net Revenues senior to the Parity Debt. The City may at any time issue any Subordinate Obligations.

Section 6.4. Against Sale or Other Disposition of the System. The City will not sell or otherwise dispose of the System or any part thereof essential to the proper operation of the System or to the maintenance of the System Net Revenues, unless the Installment Payments have been fully paid or provision has been made therefor in accordance with Section 9.1. The City will not enter into any lease or agreement which impairs the operation of the System or any part

thereof necessary to secure adequate System Net Revenues for the payment of the Parity Debt, or which would otherwise impair the rights of the Owners with respect to the System Net Revenues or the operation of the System.

Section 6.5. Maintenance and Operation of System. The City will maintain and preserve the System in good repair and working order at all times and will operate the System in an efficient and economical manner.

Section 6.6. Insurance.

(a) To the extent such insurance is available for reasonable premiums from a reputable insurance company, the City will procure and maintain at all times insurance on the System against such risks (including accident to or destruction of the System) and in such amounts as are usually insured in connection with operations in California similar to the System; *provided*, that such insurance coverage may be satisfied under a self-insurance program which is actuarially sound.

(b) The City shall procure and maintain or cause to be procured and maintained public liability insurance covering claims against the City (including its city council, officers and employees) for bodily injury or death, or damage to property occasioned by reason of the City's operations, including any use of the System, and such insurance shall afford protection in such amounts as are usually covered in connection with operations in California similar to the System; *provided*, that such insurance coverage may be satisfied under a self-insurance program which is actuarially sound.

(c) The provisions of this subsection (c) are subject to the requirements of the Prior Agreements with respect to the application of Net Proceeds consisting of insurance payments. If all or any part of the System shall be damaged or destroyed, the Net Proceeds realized by the City as a result thereof shall be deposited by the City with the Trustee in a special fund which the Trustee shall establish as needed in trust and applied by the City to the cost of acquiring and constructing repairs, replacements, additions, betterments, extensions or improvements to the System if (A) the City first secures and files with the Trustee a Certificate of the City showing (i) the loss in annual System Revenues, if any, suffered, or to be suffered, by the City by reason of such damage or destruction, (ii) a general description of the repairs, replacements, additions, betterments, extensions or improvements to the System then proposed to be acquired and constructed by the City from such proceeds, and (iii) an estimate of the System Revenues to be derived after the completions of such repairs, replacements, additions, betterments, extensions or improvements; and (B) the Trustee has been furnished a Certificate of the City, certifying that the System Revenues after such repair, replacement, addition, betterment, extension or improvement of the System will sufficiently offset on a timely basis the loss of System Revenues resulting from such damage or destruction so that the ability of the City to pay all Parity Debt when due will not be substantially impaired, and such Certificate of the City shall be final and conclusive, and any balance of such proceeds not required by the City for such purpose shall be deposited in the System Revenue Fund and applied as provided in Section 5.2; *provided*, that if the foregoing conditions are not met, then such proceeds shall be deposited with the Trustee and applied to make Installment Payments and Parity Obligation Payments as they shall become due ratably without any discrimination or preference; *provided further* that the foregoing procedures

for the application of Net Proceeds consisting of insurance payments shall be subject to any similar provisions for Parity Debt on a pro rata basis.

If such damage or destruction has had no effect, or at most an immaterial effect, upon the System Revenues and the security of the Parity Debt, and a Certificate of the City to such effect has been filed with the Trustee, then the City shall forthwith deposit such proceeds in the System Revenue Fund, to be applied as provided in Section 5.2.

Section 6.7. Eminent Domain Proceeds. The provision of this Section are subject to the requirements of the Prior Agreements with respect to the application of the Net Proceeds consisting of awards under eminent domain proceedings. If all or any part of the System shall be taken by eminent domain proceedings, the Net Proceeds realized by the City therefrom shall be deposited by the City with the Trustee in a special fund which the Trustee shall establish as needed in trust and applied by the City to the cost of acquiring and constructing additions, betterments, extensions or improvements to the System if (A) the City first secures and files with the Trustee a Certificate of the City showing (i) the loss in annual System Revenues, if any, suffered, or to be suffered, by the City by reason of such eminent domain proceedings, (ii) a general description of the additions, betterments, extensions or improvements to the System then proposed to be acquired and constructed by the City from such proceeds, and (iii) an estimate of the additional System Revenues to be derived from such additions, betterments, extensions or improvements; and (B) the Trustee has been furnished a Certificate of the City, certifying that such additional System Revenues will sufficiently offset on a timely basis the loss of System Revenues resulting from such eminent domain proceedings so that the ability of the City to pay all Parity Debt when due will not be substantially impaired, and such Certificate of the City shall be final and conclusive, and any balance of such proceeds not required by the City for such purpose shall be deposited in the System Revenue Fund and applied as provided in Section 5.2, *provided*, that if the foregoing conditions are not met, then such proceeds shall be deposited with the Trustee and applied to make Installment Payments and Parity Obligation Payments as they shall become due ratably without any discrimination or preference; *provided further* that the foregoing procedures for the application of Net Proceeds consisting of awards under eminent domain proceedings shall be subject to any similar provisions for Parity Debt on a pro rata basis.

If such eminent domain proceedings have had no effect, or at most an immaterial effect, upon the System Revenues and the security of the Parity Debt, and a Certificate of the City to such effect has been filed with the Trustee, then the City shall forthwith deposit such proceeds in the System Revenue Fund, to be applied as provided in Section 5.2.

Section 6.8. Amounts of Rates, Fees and Charges.

(a) The City will, at all times until all Installment Payments have been fully paid or provision has been made therefor in accordance with Section 9.1, fix, prescribe and collect rates, fees and charges and manage the operation of the System for each Fiscal Year so as to yield System Revenues at least sufficient, after making reasonable allowances for contingencies and errors in the estimates, to pay the following amounts during such Fiscal Year:

- (i) All current Operation and Maintenance Costs.

(ii) The Installment Payments, all other Parity Obligation Payments and all payments on Subordinate Obligations as they become due and payable.

(iii) All payments required for compliance with the terms of the Trust Agreement and hereof, including restoration of the Reserve Fund to an amount equal to the Reserve Fund Requirement.

(iv) All payments to meet any other obligations of the City which are charges, liens or encumbrances upon, or payable from, the System Revenues.

(b) In addition to the requirements of the foregoing subsection (a) of this Section, the City will, at all times until all Installment Payments have been fully paid or provision has been made therefor in accordance with Section 9.1, to the maximum extent permitted by law, fix, prescribe and collect rates, fees and charges and manage the operation of the System for each Fiscal Year so as to yield System Net Revenues during such Fiscal Year equal to at least 110% per cent of the Annual Debt Service in such Fiscal Year; *provided*, an adjustment shall be made to the amount of System Net Revenues as provided in Section 5.4.

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

Section 6.9. Enforcement of and Performance Under Contracts. The City shall enforce all material provisions of any contracts to which it is a party, an assignee, successor in interest to a party or third-party beneficiary, in any case where such contracts provide for material payments or services to be rendered to the System. Further, the City will comply with, keep, observe and perform all material agreements, conditions, covenants and terms, express or implied, required to be performed by it, contained in all contracts affecting or involving the System, to the extent that the City is a party thereto.

Section 6.10. Collection of Charges, Fees and Rates. The City will have in effect at all times rules and regulations requiring each user of the System to pay the applicable charges, fees and rates and providing for the billing thereof and for a due date and a delinquency date for each bill. In each case where such bill remains unpaid in whole or in part after it becomes delinquent, the City will enforce the collection procedures contained in such rules and regulations.

Section 6.11. No Free Service. The City will not permit any part of the System or any facility thereof to be used or taken advantage of free of charge by any corporation, firm or person, or by any public agency (including the State of California and any city, county, public agency, political subdivision, public corporation or agency or any thereof), unless otherwise required by law or existing written agreements.

Section 6.12. Prompt Acquisition and Construction of the Project. From the moneys on deposit in the Improvement Fund and other moneys available therefor in the System Revenue Fund, the City will acquire and construct the Project with all practicable dispatch, and such

acquisition and construction will be made in an expeditious manner and in conformity with the law so as to complete the same as soon as possible.

Section 6.13. Payment of Claims. The City will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the System or upon the System Revenues or any part thereof, or upon any funds held by the Trustee, or which might impair the security of the Installment Payments; *provided*, that nothing herein contained shall require the City to make any such payments so long as the City in good faith shall contest the validity of any such claims and such nonpayment will not materially adversely affect the City's ability to perform its obligations hereunder.

Section 6.14. Books of Record and Accounts; Financial Statements. The City will keep proper books of record and accounts in which complete and correct entries shall be made of all transactions relating to the System, the System Revenue Fund and all other accounts or funds established pursuant hereto, and upon request will provide information concerning such books of record and accounts to the Trustee.

The City will prepare annually, not later than one hundred eighty (180) days after the close of each Fiscal Year, until all Installment Payments have been fully paid or provision has been made therefor in accordance with Section 9.1, an audited financial statement of the City relating to the System Revenue Fund and all other accounts or funds established pursuant hereto for the preceding Fiscal Year prepared by an Independent Certified Public Accountant, showing the balances in each such account or fund as of the beginning of such Fiscal Year and all deposits in and withdrawals from each such account or fund during such Fiscal Year and the balances in each such account or fund as of the end of such Fiscal Year, which audited financial statement shall include a statement as to the manner and extent to which the City has complied with the provisions hereof as it relates to such accounts and funds. The City will furnish a copy of such audited financial statement to the Trustee, the Certificate Insurer and to the Information Services upon request, and will furnish such reasonable number of copies thereof to investment bankers, security dealers and others interested in the Certificates.

Section 6.15. Payment of Taxes and Other Charges and Compliance with Governmental Regulations. The City will pay and discharge all taxes, service charges, assessments and other governmental charges which may hereafter be lawfully imposed upon the System or any properties owned by the City, or upon the System Revenues, when the same shall become due; *provided*, that nothing herein contained shall require the City to make any such payments so long as the City in good faith shall contest the validity of any such taxes, service charges, assessments or other governmental charges and such nonpayment will not materially adversely affect the City's ability to perform its obligations hereunder.

The City will duly comply with all applicable state, federal and local statutes and all valid regulations and requirements of any governmental authority relative to the operation of the System or any part thereof, but the City shall not be required to comply with any regulations or requirements so long as the validity or application thereof shall be contested in good faith and such noncompliance will not materially adversely affect the City's ability to perform its obligations hereunder.

Section 6.16. Tax Covenants and Matters.

(a) General. The City hereby covenants, for the benefit of the Corporation and the owners and beneficial owners of the Certificates that, notwithstanding any other provisions of this Agreement, they shall not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of interest evidenced and represented by the Certificates under Section 103 of the Code. The City shall not, directly or indirectly, use or permit the use of proceeds of the Certificates or any of the property financed with proceeds of the Certificates, or any portion thereof, by any person other than a governmental unit (as such term is used in Section 141 of the Code) in such manner or to such extent as would result in the loss of exclusion from gross income for federal income tax purposes of interest evidenced and represented by the Certificates.

(b) Arbitrage. The City shall not, directly or indirectly, use or permit the use of any proceeds of any Certificates, or of any property financed thereby, or other funds of the City, or take or omit to take any action, that would cause the Certificates to be "arbitrage bonds" within the meaning of Section 148 of the Code. To that end, the City shall comply with all requirements of Section 148 of the Code and all regulations of the United States Department of the Treasury issued thereunder to the extent such requirements are, at the time, in effect and applicable to the Certificates.

(c) Federal Guarantee. The City shall not make any use of the proceeds of the Certificates or any other funds of the City, or take or omit to take any other action, that would cause the Certificates to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

(d) Compliance with Tax Certificate. In furtherance of the foregoing tax covenants of this Section, the City covenants that it will comply with the provisions of the Tax Certificate, which is incorporated herein as if fully set forth herein. These covenants shall survive payment in full or defeasance of the Certificates.

Section 6.17. Rebate Fund.

(a) Establishment. Pursuant to the Trust Agreement, the Trustee will hold in the Rebate Fund any amounts required to satisfy the requirement to make rebate payments to the United States pursuant to Section 148 of the Code and the Treasury Regulations promulgated thereunder. Such amounts shall be governed by this Section, Section 6.16, Section 3.07 of the Trust Agreement and by the Tax Certificate, unless and to the extent that the City delivers to the Trustee a Favorable Opinion of Bond Counsel with respect to any departure from such requirements. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust for payment to the United States Treasury.

(i) Computation of Rebate Amount. Within 55 days of the end of each fifth Bond Year (as such term is defined in the Tax Certificate), and each Bond Year in which funds remain on deposit in the Improvement Fund relating to the City, the City shall calculate or cause to be calculated the amount of "rebate amount," in accordance with Section 148(f)(2) of the Code and Section 1.148-3 of the Treasury Regulations (taking

into account any applicable exceptions with respect to the computation of the “rebate amount,” described, if applicable, in the Tax Certificate (e.g., the temporary investments exceptions of Section 148(f)(4)(A)(ii) or Section 148(f)(4)(B) of the Code, the expenditure requirements of Section 148(f)(4)(B) or Section 148(f)(4)(C) of the Code or Section 1.148-7(d) of the Treasury Regulations, the exception for certain “small governmental issuers” as set forth in Section 148(f)(4)(D) of the Code, and taking into account whether the election pursuant to Section 148(f)(4)(C)(vii) of the Code (the “1½% Penalty”) has been made)), for this purpose treating the last day of the applicable Bond Year as a computation date, within the meaning of Section 1.148-1(b) of the Treasury Regulations.

(ii) Transfer of Moneys. Within 55 days of the end of each such fifth Bond Year, the City shall deposit to the Rebate Fund from System Revenues as an Operation and Maintenance Cost, if and to the extent required so that the balance in the Rebate Fund shall equal the “rebate amount” so calculated in accordance with this Section.

(b) Deficiencies in the Rebate Fund. In the event that, prior to the time of any payment required to be made from the Rebate Fund, the amount in the Rebate Fund is not sufficient to make such payment when such payment is due, the City shall calculate or cause to be calculated the amount of such deficiency and deposit from System Revenues as an Operation and Maintenance Cost, an amount equal to such deficiency prior to the time such payment is due.

(c) Record Keeping. The City shall retain records of all determinations made hereunder until six years after payment in full of the Installment Payments.

(d) Survival of Defeasance. Notwithstanding anything in this Agreement to the contrary, the obligation to comply with the requirements of this Section shall survive the payment in full of the Installment Payments or provision for such payment in accordance with Section 9.1.

Section 6.18. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Agreement, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an Agreement Event of Default; however, any Participating Underwriter or any Owner or beneficial owner of the Certificates may take such actions as described under the Continuing Disclosure Certificate to cause the City to comply with its obligations under this Section.

Section 6.19. Further Assurances. The City will adopt, make, execute and deliver any and all such further documents, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof.

Section 6.20. Reimbursement of Certificate Insurer and Other Provisions Relating to the Certificate Insurer.

(a) The City agrees to pay or reimburse the Certificate Insurer any and all charges, fees, costs and expenses which the Certificate Insurer may reasonably pay or incur in connection with (i) the administration, enforcement, defense or preservation of any rights or security in

respect of this Agreement or the Trust Agreement, (ii) the pursuit of any remedies under the Trust Agreement or this Agreement or otherwise afforded by law or equity, (iii) the violation by the City of any law, rule or regulation, or any judgment, order or decree applicable to it or (iv) any litigation or other dispute in connection with the Trust Agreement or this Agreement or the transactions contemplated thereby, other than amounts resulting from the failure of the Certificate Insurer to honor its obligations under Certificate Insurance Policy; *provided* that the foregoing obligation shall be strictly limited to defaults with respect to the City. The Certificate Insurer shall have the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of the Trust Agreement or this Agreement.

(b) The City will provide the Certificate Insurer with its annual budget within 30 days of its adoption and its annual audited financial statements within 210 days after the end of the City's Fiscal Year.

(c) The City shall not enter into an interest rate swap agreement with respect to payment obligations payable from System Revenues without the prior consent of the Certificate Insurer.

ARTICLE VII

PREPAYMENT OF INSTALLMENT PAYMENTS

Section 7.1. Prepayment. The City shall have the right at any time or from time to time from any available funds to prepay all or any part of the Installment Payments; provided that any prepayment of a principal component of the Installment Payments to be applied to the prepayment or defeasance of Certificates shall be in an amount sufficient to provide for such prepayment or defeasance of Certificates in Authorized Denominations and otherwise in accordance with the provisions of the Trust Agreement. The Corporation shall accept such prepayments when the same are tendered by the City. All prepayments of Installment Payments made by the City pursuant to this Section shall be deposited upon receipt with the Trustee in the appropriate account in the Debt Service Fund specified by the City. All amounts in the Prepayment Account shall be applied to the payment, prepayment or provision for the payment, of Outstanding Certificates in the manner and subject to the terms and conditions set forth in the Trust Agreement as directed in a Certificate of the City.

With respect to prepayments of Installment Payments pursuant to this Section, the City shall determine which Installment Payments are to be prepaid, including the principal component of the Installment Payment due on each Installment Payment Date to be paid or prepaid with such prepayments, and, subject to the provisions of this Section, the date on which each such prepayment is to be made. Before making any prepayment pursuant to this Section, the City shall give written notice to the Corporation specifying the date on which the prepayment will be paid, which date shall be not less than fifty (50) days from the date such notice is given; provided, that notwithstanding any such prepayment, the City shall not be relieved of its obligations hereunder, including specifically its obligations under Article IV, until all Installment Payments shall have been fully paid or provision for payment thereof shall have been made pursuant to Section 9.1.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES OF THE CORPORATION

Section 8.1. Events of Default and Acceleration of Maturities. There shall be an Agreement Event of Default if one or more of the following shall happen, that is to say --

- (1) if default shall be made by the City in the due and punctual payment of any Installment Payment or any other Parity Debt when and as the same shall become due and payable;
- (2) if default shall be made by the City in the performance of any of the other agreements or covenants required herein to be performed by it, and such default shall have continued for a period of thirty (30) days after the City shall have been given notice in writing of such default by the Corporation or the Trustee; *provided* that such default shall not constitute an Agreement Event of Default hereunder if the City shall commence to cure such default within such thirty (30) day period and thereafter diligently and in good faith shall proceed to cure such default within a reasonable period of time;
- (3) if the City shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with or without the consent of the City seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the City or of the whole or any substantial part of its property; or
- (4) if payment of the principal of any Parity Debt is accelerated in accordance with its terms;

then, and in each and every such case during the continuance of an Agreement Event of Default specified in clauses (3) and (4) above, the Corporation shall, and for any other Agreement Event of Default the Corporation may (and at the direction of the Certificate Insurer, shall), by notice in writing to the City, declare all unpaid principal components of the Installment Payments and the accrued interest thereon to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable; *provided* that any such declaration of acceleration shall be subject to the prior written consent of the Certificate Insurer. This subsection however, is subject to the condition that if, at any time after all unpaid principal components of the Installment Payments and the accrued interest thereon shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the City shall deposit with the Corporation a sum sufficient to pay the unpaid principal components and interest components of the Installment Payments then due and payable (other than the principal components of the Installment Payments and the accrued interest thereon due and payable solely by reason of such declaration), with interest on

such overdue Installment Payments at the highest rate applicable to the remaining unpaid principal component of the Installment Payments, and the reasonable expenses of the Corporation, the Trustee and the Certificate Insurer shall have been paid or provision deemed by the Corporation, the Trustee or the Certificate Insurer, as applicable, to be adequate shall have been made therefor, and any and all other Agreement Events of Default shall have been made good or cured to the satisfaction of the Corporation and the Certificate Insurer or provision deemed by the Corporation and the Certificate Insurer to be adequate shall have been made therefor, then and in every such case the Corporation and the Certificate Insurer, by written notice to the City, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

Section 8.2. Application of Funds Upon Acceleration. Upon the date of the declaration of acceleration as provided in Section 8.1, all System Revenues thereafter received shall be applied in the following order (subject to the applicable provisions of Prior Agreements) -

First, to the payment, without preference or priority, and in the event of any insufficiency of such System Revenues ratably without any discrimination or preference, of the fees, costs and expenses of the Corporation and Trustee and the trustee for any other Parity Debt, if any, in carrying out the provisions of this article, including reasonable compensation to accountants and counsel and similar costs with respect to Parity Debt;

Second, to the payment of Operation and Maintenance Costs;

Third, to the payment of all unpaid principal components of the Installment Payments and the unpaid principal amount of all other Parity Debt and the accrued interest thereon, with interest on the overdue Installment Payments at the highest rate of interest applicable to the unpaid principal components of the Installment Payments and, with respect to such other Parity Debt, as required by the terms of such other Parity Debt; and

Fourth, to the Certificate Insurer, any amounts owed pursuant to Sections 5.2(b), 6.20 and 8.1. and to amounts due to any provider of credit enhancement for other Parity Debt.

Section 8.3. Other Remedies of the Corporation. In addition to remedies elsewhere provided in this Agreement, upon the continuance of an Agreement Event of Default, the Corporation shall have the right with the written consent of the Certificate Insurer and shall at the direction of the Certificate Insurer:

(a) by mandamus or other action or proceeding or suit at law or in equity, to enforce its rights against the City or any director, officer or employee thereof, and to compel the City or any such director, officer or employee to perform and carry out its or his duties under applicable law and the agreements and covenants required to be performed by it or him contained herein;

(b) by suit in equity, to enjoin any acts or things which are unlawful or violate the rights of the Corporation;

(c) by suit in equity, to require the City and its directors, officers and employees to account as the trustee of an express trust; or

(d) by mandamus or other action or proceeding or suit at law or in equity, to pursue any other remedy now or hereafter existing in law or in equity or by statute or otherwise to enforce the performance of the City's obligations hereunder and to otherwise protect the Corporation's rights and interests in connection with this Agreement.

Notwithstanding anything contained herein, the Corporation shall have no security interest in or mortgage on the Project, the System or other facilities of the City or any other real property of the City and no default hereunder shall result in the loss of the Project, the System or other facilities of the City or any other real property of the City.

Section 8.4. Non-Waiver. Nothing in this article or in any other provision hereof shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the Installment Payments to the Corporation at the respective due dates from the System Net Revenues, the System Revenue Fund and the other funds pledged for such payment, or shall affect or impair the right of the Corporation, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein.

A waiver of any default or breach of duty or contract by the Corporation shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Corporation to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Corporation by applicable law or by this article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Corporation.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Corporation, the City and the Corporation shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 8.5. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Corporation is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by any other law.

Section 8.6. Notices. Notwithstanding any other provision hereof, the Trustee shall immediately notify the Certificate Insurer if at any time there are insufficient moneys to make any Installment Payments as required and immediately upon the occurrence of any Agreement Event of Default hereunder.

ARTICLE IX

DISCHARGE OF OBLIGATIONS

Section 9.1. Discharge of Installment Payments. The principal component of any Installment Payment, and the interest component of the Installment Payments on such principal

component, shall be deemed paid and all obligations of the City with respect thereto shall cease and terminate (except for payment from deposited funds and Defeasance Securities as provided in Article IX of the Trust Agreement) when the Certificates evidencing an ownership interest in such principal component of the Installment Payments and the interest thereon, have been paid or deemed paid in accordance with the applicable provisions of Article IX of the Trust Agreement.

Section 9.2. Accounting and Discharge Instruments. After the payment, or provision for the payment as provided in Section 9.1, of all Installment Payments and prepayment premiums, if any, and payment in full of all fees and expenses of the Corporation and the Trustee, the Corporation, upon request of the City, shall cause an accounting for such period or periods as may be requested by the City to be prepared and filed with the City and the Corporation shall execute and deliver to the City all such instruments as may be necessary or desirable to evidence such total discharge and satisfaction of this Agreement.

ARTICLE X

MISCELLANEOUS

Section 10.1. Liability of City Limited to System Revenues. Notwithstanding anything contained herein, the City shall not be required to advance any moneys derived from any source of income other than the System Revenues, the System Revenue Fund and the other funds provided herein for the payment of the Installment Payments or for the performance of any agreements or covenants required to be performed by it contained herein. The City may, however, advance moneys for any such purpose so long as such moneys are derived from a source legally available for such purpose and may be legally used by the City for such purpose.

The obligation of the City to make the Installment Payments and any other payments hereunder is a special obligation of the City payable solely from the System Net Revenues, and does not constitute a debt of the City or of the State of California or of any political subdivision thereof in contravention of any constitutional or statutory debt limitation or restriction.

Section 10.2. Successor Is Deemed Included in all References to Predecessor. Whenever either the City or the Corporation is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the City or the Corporation, and all assignees of the City or the Corporation permitted hereunder. All agreements and covenants required hereby to be performed by or on behalf of the City or the Corporation shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 10.3. Waiver of Personal Liability. No director, officer or employee of the City shall be individually or personally liable for the payment of the Installment Payments or be subject to any personal liability by reason of the execution of this Agreement or the execution and delivery of the Certificates.

Section 10.4. Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect

hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to "Articles," "Sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words "hereby", "herein," "hereof," "hereto," "herewith" and other words of similar import refer to this Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

Section 10.5. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the City or the Corporation shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof. The City and the Corporation hereby declare that they would have executed this Agreement, and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof, irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 10.6. Assignment. The City may not assign this Agreement or any of its obligations hereunder without the prior consent of the Corporation and any such assignment without such consent shall be null and void. The City acknowledges and agrees that the Installment Payments, and certain of the Corporation's rights under this Agreement will be assigned to the Trustee and pledged under the Trust Agreement to the payment of the Certificates. The City consents to such assignment.

Section 10.7. California Law. THE INSTALLMENT PURCHASE AGREEMENT SHALL BE CONSTRUED AND GOVERNED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITH RESPECT TO CONTRACTS ENTERED INTO AND TO BE PERFORMED IN CALIFORNIA..

Section 10.8. Effective Date. This Agreement shall become effective upon its execution and delivery, and shall terminate when the provisions of Section 9.2 have been satisfied.

Section 10.9. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

Section 10.10. Indemnification of Corporation. To the fullest extent permitted by law, the City agrees to indemnify, hold harmless and defend the Corporation and the Trustee, and each of their respective officers, governing board members, directors, officials, employees, attorneys and agents (collectively, the "Indemnified Parties"), against any and all losses, damages, claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under federal or state securities laws or any other statutory law or at common law or otherwise arising out of or based upon or in any way relating to:

(i) the Trust Agreement, this Agreement or the execution or amendment thereof or in connection with transactions contemplated thereby, including the execution and delivery of the Certificates;

(ii) any act or omission of the City or any of its agents, contractors, servants, employees or licensees in connection with this Agreement or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, construction or development of, the Project or any part thereof;

(iii) any lien or charge upon payments by the City to the Corporation and the Trustee hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Corporation or the Trustee in respect of any portion of the Project;

(iv) any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof;

(v) the defeasance and/or redemption, in whole or in part, of the Certificates;

(vi) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact furnished in writing by the City contained in any offering statement or document for the Certificates or any of the documents relating to the Certificates to which the City is a party, or any omission or alleged omission from any offering statement or document for the Certificates of any material fact necessary to be stated therein in order to make the statements made therein by the City, in the light of the circumstances under which they were made, not misleading;

(vii) the Trustee's acceptance or administration of the trust of the Trust Agreement, or the exercise or performance of any of its powers or duties thereunder or under any of the documents relating to the Certificates to which it is a party; except (a) in the case of the foregoing indemnification of the Trustee or any of their respective officers, members, directors, officials, employees, attorneys and agents, to the extent such damages are caused by the negligence or willful misconduct of such Indemnified Party; or (b) in the case of the foregoing indemnification of the Corporation or any of its officers, members, directors, officials, employees, attorneys and agents, to the extent such damages are caused by the willful misconduct of such Indemnified Party. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the City, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; *provided* that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the City shall pay the reasonable

fees and expenses of such separate counsel; *provided, however*, that such Indemnified Party may only employ separate counsel at the expense of the City if in its judgment a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

The rights of any persons to indemnify hereunder and rights to payment of fees and reimbursement of expenses pursuant to Section 4.2 shall survive the final payment or defeasance of the Certificates and in the case of the Trustee any resignation or removal. The provisions of this Section shall survive the termination of this Agreement.

Section 10.11. Amendments. This Agreement may only be amended in accordance with the terms of Trust Agreement. Any Rating Agency rating the Certificates shall receive notice of each amendment to this Agreement and a copy thereof at least 15 days in advance of its execution. The Certificate Insurer shall be provided with a full transcript of all proceedings relating to any amendment or supplement hereto.

IN WITNESS WHEREOF, the parties hereto have executed and attested this Agreement by their officers thereunto duly authorized as of the day and year first written above.

CITY OF LODI

By: _____
City Manager

Attest:

City Clerk

APPROVED:

Interim City Attorney

LODI PUBLIC IMPROVEMENT
CORPORATION

By: _____
President

Attest:

Secretary of the Corporation

APPROVED:

Attorney for the Corporation

EXHIBIT A

DESCRIPTION OF THE PROJECT

The Project consists of the following additions, betterments, extensions, replacements and improvements to the System:

- Equipment for Phase 2 of the upgrade of the White Slough Water Pollution Control Facility, including tertiary filters, UV disinfection equipment and aeration panels.
- Installation of the above equipment along with associated equipment, structures and appurtenances.
- Land acquired in connection with improvements and buffer zones for the White Slough Water Pollution Control Facility.
- Equipment and other improvements associated with Phase 3 of the White Slough Water Pollution Control Facility Improvement Project.
- Improvements to the wastewater collection system and support facilities.
- Engineering, environmental, legal and other expenses associated with the above improvements.

The Project shall also include such other betterments, extensions, replacements and improvements to the System as shall be specified in a Certificate of the City delivered to the Trustee accompanied by a Favorable Opinion of Bond Counsel with respect to the payment of the Costs of such additional betterments, extensions, replacements and improvements with the proceeds of the Certificates.

EXHIBIT B

PRINCIPAL COMPONENTS OF INSTALLMENT PAYMENTS

The principal components of the Installment Payments shall consist of the sum of the following amounts, with each said principal component being payable on the 15th day of the month preceding the date for such principal component set forth below and with each such principal component bearing interest at the interest rate per annum set forth below:

Due Date

Principal Component

Interest Rate

EXHIBIT C

SCHEDULE OF INSTALLMENT PAYMENTS AS OF DELIVERY DATE

As of the Delivery Date, the Installment Payments consist of the following amounts of principal components and interest components and are payable on Installment Payment Dates which are the 15th day of the month preceding each of the dates set forth below:

<u>Date</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Total</u>
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TRUST AGREEMENT

by and between

LODI PUBLIC IMPROVEMENT CORPORATION

and

UNION BANK OF CALIFORNIA, N.A.,

as Trustee

Dated as of May 1, 2004

Relating to

City of Lodi
Wastewater System Revenue
Certificates of Participation
2004 Series A

TRUST AGREEMENT

THIS TRUST AGREEMENT, dated as of May 1, 2004 (the "Trust Agreement"), by and between the LODI PUBLIC IMPROVEMENT CORPORATION, a nonprofit, public benefit corporation duly organized and existing under and by virtue of the laws of the State of California (the "Corporation"), and UNION BANK OF CALIFORNIA, N.A., a national banking association duly organized and existing under and by virtue of the laws of the United States of America (the "Trustee");

WITNESSETH:

WHEREAS, the Corporation is a nonprofit, public benefit corporation duly organized and existing under and pursuant to the laws of the State of California; and

WHEREAS, the Corporation is authorized and empowered to assist the City of Lodi, a municipal corporation duly organized and existing under the laws of the State of California, in connection with the financing of additions, betterments, extensions, replacements and improvements to its System (capitalized terms used herein and not otherwise defined shall have the meanings assigned such terms pursuant to Section 1.01 hereof); and

WHEREAS, in order to provide for the acquisition by the City of the additions, betterments, extensions, replacements and improvements to the System constituting the Project, the City and the Corporation have entered into the Agreement; and

WHEREAS, pursuant to the Agreement the City is to make certain Installment Payments to the Corporation; and

WHEREAS, the City has determined that the consummation of the transactions contemplated by the Agreement is necessary and proper for City purposes and is for the common benefit of the City as a whole; and

WHEREAS, the Installment Payments and all of the Corporation's rights and privileges under the Agreement (other than rights to indemnification and expenses) have been assigned and transferred by the Corporation to the Trustee pursuant to this Trust Agreement; and

WHEREAS, in consideration of such assignment and the execution and entering into of this Trust Agreement, the Trustee has agreed to execute and deliver the Certificates, with each Certificate evidencing a proportionate ownership interest in the Installment Payments; and

WHEREAS, the Corporation has determined that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Trust Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the execution and delivery of this Trust Agreement have been in all respects duly authorized;

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants herein, and for other valuable consideration, the parties hereto do hereby covenant and agree, as follows:

ARTICLE I

DEFINITIONS; EQUAL SECURITY

Section 1.01 **Definitions.** Unless the context otherwise requires, the terms defined in this section shall, for all purposes hereof and of any Supplemental Trust Agreement and of any certificate, opinion, request or other document herein or therein mentioned, have the meanings herein specified such definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein.

“Agreement” means the Installment Purchase Agreement, dated as of ____1, 2004, between the City and the Corporation, as originally executed and as it may from time to time be amended or supplemented in accordance herewith.

“Agreement Event of Default” means an event described in Section 8.1 of the Agreement.

“Annual Debt Service” means, for any Fiscal Year, the sum of (1) the interest accruing on all Parity Debt during such Fiscal Year, assuming that all such Parity Debt is retired as scheduled, plus (2) the principal amount (including principal due as sinking fund installment payments) allocable to all Parity Debt in such Fiscal Year, calculated as if such principal amounts were deemed to accrue daily during such Fiscal Year in equal amounts from, in each case, the immediately preceding payment date for such principal or, with respect to the initial principal payment date for such Parity Debt, the date of delivery of such Parity Debt (provided that principal shall not be deemed to accrue for greater than a 365-day period prior to any principal payment date), as the case may be, to the next succeeding payment date for principal, provided, that the following adjustments shall be made to the foregoing amounts in the calculation of Annual Debt Service:

(A) with respect to any Parity Debt bearing or comprising interest at other than a fixed interest rate, the rate of interest used to calculate Annual Debt Service shall be (i) with respect to such Parity Debt then outstanding, one hundred ten per cent (110%) of the greater of (1) the daily average interest rate on such Parity Debt during the twelve (12) calendar months next preceding the date of such calculation (or the portion of such twelve (12) calendar months that such Parity Debt has borne interest) or (2) the most recent effective interest rate on such Parity Debt prior to the date of such calculation or (ii) with respect to Parity Debt then proposed to be issued, the then current Municipal Market Data General Obligation Yield for a maturity comparable to the maturity of the applicable Parity Debt as published in The Bond Buyer (or if The Bond Buyer or such yield is no longer published, such other published similar index as shall be selected by the City);

(B) with respect to any issue or series of Parity Debt having twenty-five per cent (25%) or more of the aggregate principal amount thereof due in any one Fiscal Year, Annual

Debt Service shall be calculated as if the interest on and principal of the Parity Debt of such issue or series were being paid in substantially equal annual amounts over the term of such Parity Debt; provided, however that the full amount of scheduled payments of interest and principal of such Parity Debt shall be included in Annual Debt Service if the date of calculation is within 24 months of the date on which such twenty-five percent (25%) or more of aggregate principal amount becomes due;

(C) with respect to any Parity Debt or portions thereof bearing no interest but which are sold at a discount and which discount accretes with respect to such Parity Debt or portions thereof, such accreted discount shall be treated as due when scheduled to be paid;

(D) Annual Debt Service shall not include interest on Parity Debt which is to be paid from amounts constituting capitalized interest;

(E) if an interest rate swap agreement is in effect with respect to, and is payable on a parity with, any Parity Debt, no amounts payable under such interest rate swap agreement in addition to debt service payable with respect to such Parity Debt shall be included in the calculation of Annual Debt Service unless, in the applicable Fiscal Year, the sum of (i) the interest payable on such Parity Debt, plus (ii) the amounts payable by the City under such interest rate swap agreement, less (iii) the amounts receivable by the City under such interest rate swap agreement, is greater than the interest payable on such Parity Debt, in which case the net amount of payments to be made by the City under such interest rate swap agreement that exceed the interest to be paid on such Parity Debt shall be included in such calculation, and for this purpose, the variable amount under any such interest rate swap agreement shall be determined in accordance with the procedure set forth in subparagraph (A) of this definition; and

(F) Repayment Obligations payable on a parity with Parity Debt shall be deemed to be payable at the scheduled amount due under such Repayment Obligation and for this purpose, the variable interest amount included in any such Repayment Obligation shall be determined in accordance with the procedure set forth in subparagraph (A) of this definition.

“Authorized Denomination” means \$5,000 or any integral multiple thereof.

“Beneficial Owners” means those individuals, partnerships, corporations or other entities for whom the Direct Participants have caused DTC to hold Book-Entry Certificates.

“Bond Counsel” means any attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations of states and political subdivisions, selected by the City and duly admitted to practice law before the highest court of any state of the United States of America.

“Book-Entry Certificates” means the Certificates registered in the name of the nominee of DTC, or any successor securities depository for the Certificates, as the registered owner thereof pursuant to the terms and provisions of Section 2.13 hereof.

“Business Day” means any day other than a Saturday, a Sunday or a day on which banks located in the city where the Corporate Trust Office is located, are required or authorized to remain closed.

“Certificate Insurance Policy” means the policy or policies of municipal bond insurance issued by the Certificate Insurer with respect to the Certificates.

“Certificate of Completion” means a City Certificate certifying that all Costs of the Project to be paid from the Improvement Fund have been disbursed or reserved.

“Certificate Insurer” means _____ and its successors and assigns.

“Certificate of the City” means an instrument in writing signed by the Mayor, the City Manager or the Director of Finance of the City, or by any other officer of the City duly authorized by the City for that purpose, such authorization to be evidenced by a certificate verifying the specimen signatures of such officers at the request of the Trustee.

“Certificate of the Corporation” means an instrument in writing signed by the President of the Corporation or by any other officer of the Corporation duly authorized by the Corporation for that purpose.

“Certificate Payment Date” means, with respect to each Certificate, the applicable date set forth in Section 2.02(a) hereof.

“Certificate Register” means the books for the registration and transfer of the Certificates kept by the Trustee pursuant to Section 2.10 hereof.

“Certificates” means the City of Lodi Wastewater System Revenue Certificates of Participation, 2004 Series A, evidencing the proportionate interests of the owners thereof in the Installment Payments, executed and delivered by the Trustee pursuant to this Trust Agreement and then Outstanding under this Trust Agreement.

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

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations of the United States Department of the Treasury issued thereunder, and in this regard reference to any particular section of the Code shall include reference to all successors to such section of the Code.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement executed by the City with respect to the Certificates.

“Corporate Trust Office” means, with respect to the Trustee, the principal corporate trust office of the Trustee in San Francisco, California or such other office designated by the Trustee from time to time.

“Corporation” means the Lodi Public Improvement Corporation, a nonprofit, public benefit corporation duly organized and existing under and by virtue of the laws of the State of California.

“Cost” means, with respect to the Project, the costs, expenses and liabilities paid or incurred or to be paid or incurred by the City in connection with the planning, engineering, designing, acquiring, constructing, installing, and financing of the Project or any portion thereof, and the obtaining of all governmental approvals, certificates, permits and licenses with respect thereto, including, but not limited to, the cost of any demolitions or relocations necessary in connection therewith, any good faith or other similar payment or deposits, the cost of acquisition by or for the City of real and personal property or any interests therein, costs of physical construction and costs of the City incidental to such construction or acquisition, all costs relating to injury and damage claims, the costs of any indemnity or surety bonds and premiums on insurance, including obligations to a stock, mutual or reciprocal insurance company or exchange, preliminary investigation and development costs, engineering fees and expenses, contractors’ fees and expenses, the costs of labor, materials, equipment and utility services and supplies, legal fees and expenses, administration and general overhead expenses and costs of keeping accounts and making reports required by this Trust Agreement prior to or in connection with the completion of construction, and all federal, state and local taxes and payments in lieu of taxes legally required to be paid in connection with the Project during the period of construction thereof and shall include reimbursements to the City for any of the above items theretofore paid by or on behalf of the City. It is intended that this definition of Cost be broadly construed to encompass all costs, expenses and liabilities of the City which are chargeable to the capital accounts of the Project in accordance with generally accepted accounting principles.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the City or the Corporation and related to the authorization, execution and delivery of the Agreement, this Trust Agreement and the sale of the Certificates, including, but not limited to, costs of preparation and reproduction of documents, costs of rating agencies and costs to provide information required by rating agencies, filing and recording fees, initial fees and charges of the Trustee, legal fees and charges, fees and disbursements of consultants and professionals, fees and expenses of the underwriter, fees and charges for preparation, execution and safekeeping of the Certificates, fees of the Corporation and any other cost, charge or fee in connection with the original execution and delivery of the Certificates.

“Cost of Issuance Fund” means the fund so designated established pursuant to Section 3.06 hereof.

“Debt Service Fund” means the fund by that name established pursuant to Section 3.02 hereof.

“Defeasance Securities” mean the following:

- A. United States Treasury Certificates, Notes and Bonds (including State and Local Government Series).
- B. Direct obligations of the Treasury which have been stripped by the Treasury itself, CATS, TIGRS and similar securities.

- C. Resolution Funding Corp. (“REFCORP”) Only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form are acceptable.
- D. Pre-refunded municipal bonds rate “Aaa” by Moody’s and “AAA” by S&P. If however, the issue is only rated by S&P (i.e., there is no Moody’s rating), then the pre-refunded bonds must have been pre-refunded with cash, direct United States or United States guaranteed obligations, or “AAA” rated pre-refunded municipals to satisfy this condition.
- E. Obligations issued by the following agencies which are backed by the full faith and credit of the United States:
 - 1. United States Export-Import Bank
Direct obligations or fully guaranteed certificates of beneficial ownership
 - 2. Farmers Home Administration (“FmHA”)
Certificates of beneficial ownership
 - 3. Federal Financing Bank
 - 4. General Services Administration
Participation certificates
 - 5. United States Maritime Administration
Guaranteed Title XI financing
 - 6. United States Department of Housing and Urban Development
Project Notes
Local Authority Bonds
New Communities Debentures – United States government guaranteed debentures
United States Public Housing Notes and Bonds – United States government guaranteed public housing notes and bonds.

“Delivery Date” means _____, 2004.

“Direct Participants” means those broker-dealers, banks and other financial institutions from time to time for which DTC holds the Certificates as securities depository.

“DTC” means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the New York Banking Law, or any successor securities depository for the Certificates.

“Favorable Opinion of Bond Counsel” means, with respect to any action requiring such an opinion, an Opinion of Counsel from a Bond Counsel to the effect that such action, in and of itself, will not adversely affect the Tax-exempt status of interest evidenced and represented by the Certificates.

“Fiscal Year” means the period beginning on July 1 of each year and ending on the last day of June of the next succeeding year, or any other twelve month period selected and designated as the official Fiscal Year of the City.

“Fitch” means Fitch, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors or assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the services of a municipal securities rating agency, then “Fitch” shall be deemed to refer to any other nationally recognized municipal securities rating agency rating Parity Obligations at the Request of the City.

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

“Improvement Fund” means the fund by that name established pursuant to Section 3.05 hereof.

“Independent Certified Public Accountant” means any firm of certified public accountants appointed by the City, which is independent of the City and the Corporation pursuant to the Statement on Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

“Information Services” means Financial Information, Inc.’s “Daily Called Bond Service,” 30 Montgomery Street, 10th Floor, Jersey City, New Jersey 07302; Fitch “Called Bond Department,” 5250 Center Drive, Suite 150, Charlotte, NC 28217; S&P “Called Bond Record,” 55 Water Street, New York, New York 10041; or, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other services providing information with respect to called bonds as the City may designate in a Certificate of the City delivered to the Trustee.

“Installment Payment Date” means the fifteenth day of the month prior to each Interest Payment Date, or if said date is not a Business Day, then the preceding Business Day.

“Installment Payments” means the Installment Payments of interest and principal scheduled to be paid by the City pursuant to Section 4.2 of the Agreement.

“Interest Account” means the account by that name in the Debt Service Fund established pursuant to Section 3.03 hereof.

“Interest Payment Date” means April 1 and October 1 of each year commencing October 1, 2004.

“Maximum Annual Debt Service” means, as of any date of calculation, the largest Annual Debt Service during the period from the date of such calculation through the final maturity date of all Parity Debt.

“Moody’s” means Moody’s Investors Service, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the services of a municipal securities rating agency, then the term “Moody’s” shall be deemed to refer to any other nationally recognized municipal securities rating agency selected by the City.

“Net Proceeds” means, when used with respect to any casualty insurance or condemnation award, the proceeds from such insurance or condemnation award remaining after payment of all expenses (including attorneys’ fees) incurred in the collection of such proceeds.

“1991 Prior Agreement” means the Installment Sale Agreement, dated as of December 1, 1991 between the Corporation and the City, as the same may be amended and supplemented.

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

“Opinion Counsel” means a written opinion signed by an attorney or firm of attorneys selected by the City and duly admitted to practice law before the highest court of any state of the United States of America.

“Outstanding,” means when used as of any particular time with respect to the Certificates, means (subject to the provisions of Section 7.02 hereof) all Certificates theretofore executed and delivered by the Trustee under this Trust Agreement except:

(1) Certificates theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation;

(2) Certificates for the payment or prepayment of which funds or Defeasance Securities, together with interest earned thereon, in the necessary amount shall have theretofore been deposited with the Trustee (whether upon or prior to the maturity or prepayment date of such Certificates) pursuant to Article IX hereof, provided that, if such

Certificates are to be prepaid prior to maturity, notice of such prepayment shall have been given as provided in Section 2.06 hereof or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

(3) Certificates in lieu of or in exchange for which other Certificates shall have been executed and delivered by the Trustee.

“Owner” means any person who shall be the registered owner of any Certificate.

“Parity Debt” means the Installment Payments and any Parity Obligations.

“Parity Obligation Payments” means the payments scheduled to be paid by the City under and pursuant to the Parity Obligations, which payments are secured by a pledge of System Net Revenues on a parity with the Installment Payments as provided herein.

“Parity Obligations” means all obligations of the City authorized and executed by the City, other than the Installment Payments, the Parity Obligation Payments under which are secured by a pledge of the System Net Revenues on a parity with the Installment Payments as provided herein, including but not limited to any Repayment Obligations secured by System Net Revenues on a parity with the Installment Payments.

“Participating Underwriter” shall have the meaning ascribed thereto in the Continuing Disclosure Agreement.

“Permitted Investments” mean any of the following obligations if and to the extent that they are permissible investments of funds of the City:

A. Direct obligations of the United States (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States.

B. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States (stripped securities are only permitted if they have been stripped by the agency itself):

1. Farmers Home Administration (“FmHA”)
Certificates of beneficial ownership
2. Federal Housing Administration Debentures (“FHA”)
3. General Services Administration
Participation certificates

4. Government National Mortgage Association ("GNMA")
GNMA - guaranteed mortgage-backed bonds
GNMA - guaranteed pass-through obligations (participation certificates) (not acceptable for certain cash-floor sensitive issues)
5. United States Maritime Administration
Guaranteed Title XI financing
6. United States Department of Housing and Urban Development
Project Notes
Local Authority Bonds

C. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit United States government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

1. Federal Home Loan Bank System
Senior debt obligations
2. Federal Home Loan Mortgage Corporation ("FHLMC")
Participation Certificates
Senior debt obligations
3. Federal National Mortgage Association ("FNMA")
Mortgage-backed securities and senior debt obligations (excluded are stripped mortgage securities which are valued greater than par on the portion of unpaid principal)
4. Student Loan Marketing Association
Senior debt obligations
5. Resolution Funding Corporation obligations (only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form are acceptable)
6. Farm Credit System
Consolidated system-wide bonds and notes

D. Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of "AAAm-G," "AAA-m" or "AA-m" and if rated by Moody's rated "Aaa," "Aa1" or "Aa2," including funds for which the Trustee or any of its affiliates (including any holding company, subsidiaries, or other affiliates) provides investment advisory or other management services, provided such funds satisfy the criteria herein contained.

E. Certificates of deposit secured at all times by collateral described in (A) and/or (B) above. Such certificates must be issued by commercial banks (including affiliates of the Trustee), savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral.

F. Certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Trustee and its affiliates) which are fully insured by FDIC, including BIF and SAIF.

G. Investment Agreements, including Guaranteed Investment Agreements, Forward Purchase Agreements and Reserve Fund Put Agreements acceptable to the Certificate Insurer.

H. Commercial paper rated, at the time of purchase, "Prime - 1" by Moody's and "A-1" or better by S&P.

I. Bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies.

J. Federal funds or bankers acceptances with a maximum term of one year of any bank (including those of the Trustee and its affiliates) which has an unsecured, uninsured and unguaranteed obligation rating of "Prime - 1" or "A3" or better by Moody's and "A-1" or "A" or better by S&P.

K. Repurchase Agreements for 30 days or less must follow the following criteria. Repurchase Agreements which exceed 30 days must be acceptable to the Certificate Insurer Repurchase agreements provide for the transfer of securities from a dealer bank or securities firm (seller/borrower) to a municipal entity (buyer/lender), and the transfer of cash from a municipal entity to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the municipal entity in exchange for the securities at a specified date.

1. Repurchase agreements must be between the municipal entity and a dealer bank or securities firm
 - a. Primary dealers on the Federal Reserve reporting dealer list which are rated "A" or better by S&P and Moody's, or
 - b. Banks rated "A" or above by S&P and Moody's.
2. The written repurchase agreements contract must include the following:
 - a. Securities which are acceptable for transfer are:
 - (l) Direct United States governments, or

(2) Federal agencies backed by the full faith and credit of the United States government (and FNMA & FHLMC)

b. The term of a repurchase agreement may be up to 30 days

c. The collateral must be delivered to the municipal entity, trustee (if trustee is not supplying the collateral) or third party acting as agent for the trustee (if the trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities).

d. Valuation of Collateral

(l) The securities must be valued weekly, marked-to-market at current market price plus accrued interest

(a) The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by municipality, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.

3. A legal opinion must be delivered to the municipal entity to the effect that the repurchase agreement meets guidelines under state law for legal investment of public funds.

L. Any state administered pool investment fund in which the City is statutorily permitted or required to invest will be deemed a permitted investment, including, but not limited to the Local Agency Investment Fund in the treasury of the State.

“Person” means an individual, corporation, firm, association, partnership, trust, or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

“Pledge Law” mean Section 5451 of the Government Code of the State of California and in each case all laws amendatory thereof or supplemental thereto.

“Prepayment Account” means the account by that name in the Debt Service Fund established pursuant to Section 3.03 hereof.

“Principal Account” means the account by that name in the Debt Service Fund established pursuant to Section 3.03 hereof.

“Prior Agreements” mean the 1991 Prior Agreement and the 2003 Prior Agreement.

“Project” means the additions, betterments, extensions, replacements and improvements to the System described or provided for in Exhibit A to the Agreement.

“Purchase Price” means the principal components of the Installment Payments plus interest on the unpaid portion of such principal components owed by the City to the Corporation under the terms of the Agreement as provided in Section 4.1 of the Agreement.

“Rate Stabilization Fund” means the fund by that name referred to in Section 5.4 of the Agreement.

“Rating Agencies” mean Moody’s, S&P and Fitch, and their respective successors or assigns, or any other nationally recognized securities rating agency or agencies rating the Certificates or any outstanding Parity Obligations at the request of the City.

“Rebate Fund” means the fund by that name established pursuant to Section 3.05 of this Trust Agreement and provided for in Section 6.17 of the Agreement.

“Record Date” means the fifteenth day of the month prior to an Interest Payment Date whether or not a Business Day.

“Repayment Obligation” means the reimbursement obligation or any other payment obligation of the City under a written agreement between the City and a credit provider to reimburse the credit provider for amounts paid pursuant to a credit facility for the payment of the principal amount or purchase price of and/or interest on any Parity Debt.

“Representation Letter” means the letter of representation to The Depository Trust Company, New York, New York, from the City.

“Reserve Fund” means the fund by that name established pursuant to Section 3.04 hereof.

“Reserve Fund Requirement” means with respect to the Certificates, as of any date of determination, the least of (a) ten percent (10%) of the initial offering price to the public of the Certificates as determined under the Code, or (b) the greatest Annual Debt Service with respect to the Installment Payments in any Fiscal Year during the period commencing with the Fiscal Year in which the determination is being made and terminating with the last Fiscal Year in which any Installment Payment is due, or (c) one hundred twenty-five percent (125%) of the sum of the Annual Debt Service with respect to the Installment Payments for all Fiscal Years during the period commencing with the Fiscal Year in which such calculation is made (or if appropriate, the first full Fiscal Year following the execution and delivery of the Certificates) and terminating with the last Fiscal Year in which any Installment Payment is due, divided by the number of such Fiscal Years, all as computed and determined by the City and specified in writing to the Trustee; provided, that such requirement (or any portion thereof) may be provided by the Reserve Policy.

“Reserve Policy” means the debt service reserve policy issued by the Certificate Insurer which shall be deposited in the Reserve Fund pursuant to Section 3.04 hereof to satisfy the initial Reserve Fund Requirement upon the execution and delivery of the Certificates.

“S&P” means Standard & Poor’s Ratings Service, a corporation duly organized and existing under and by virtue of the laws of the State of New York, and its successors or assigns, except that if such entity shall be dissolved or liquidated or shall no longer perform the services of a municipal securities rating agency, then “S&P” shall be deemed to refer to any other nationally recognized municipal securities rating agency rating Parity Obligations at the Request of the City.

“Securities Depositories” mean: The Depository Trust Company, 711 Stewart Avenue, Garden City, New York 11530, Fax (516) 227-4039 or 4190; or, in accordance with then-current guidelines of the Securities and Exchange Commission, such other securities depositories as the Corporation may designate in a Certificate of the Corporation to the Trustee.

“State” means the State of California.

“Subordinate Obligations” means the obligations of the City that are payable from System Net Revenues on a basis that is subordinate to the payment of Parity Debt.

“Supplemental Trust Agreement” means any trust agreement then in full force and effect which has been duly executed and delivered by the Corporation and the Trustee amendatory hereof or supplemental hereto; but only if and to the extent that such Supplemental Trust Agreement is specifically authorized hereunder.

“System” means the whole and each and every part of the system of the City for the collection, treatment and disposal of wastewater, including the portion thereof existing on the date hereof, and including all additions, betterments, extensions and improvements to such system or any part thereof hereafter acquired or constructed.

“System Net Revenues” means for any period System Revenues less Operation and Maintenance Costs for such period; provided that certain adjustments in the amount of System Net Revenue for a Fiscal Year may be made in connection with amounts deposited in and transferred from the Rate Stabilization Fund as provided in Section 5.4 of the Agreement.

“System Revenue Fund” means the fund by that name referred to in Section 5.2 of the Agreement.

“System Revenues” means all gross income and revenue received or receivable by the City from the ownership or operation of the System, determined in accordance with Generally Accepted Accounting Principles, including all fees (including connection fees), rates, charges and all amounts paid under any contracts received by or owed to the City in connection with the operation of the System and all proceeds of insurance relating to the System and investment income allocable to the System and all other income and revenue howsoever derived by the City from the ownership or operation of the System or arising from the System. System Revenues for any Fiscal Year shall include, for the purposes permitted by the Agreement, amounts transferred to the System Revenue Fund from the Rate Stabilization Fund during such Fiscal Year.

"Tax Certificate" means the Tax Certificate and Agreement, dated the date of the original execution and delivery of the Certificates, with respect to the requirements of certain provisions of the Code, as such certificate may from time to time be modified or supplemented in accordance with the terms thereof, including all exhibits attached thereto.

"Tax-exempt" means, with respect to interest on any obligations of a state or local government, including the Interest Installments evidenced by the Certificates, that such interest is excluded from gross income for federal income tax purposes (other than in the case of a holder of any such obligation who is a substantial user of the facilities financed with such obligations or a related person within the meaning of Section 147(a) of the Code) whether or not such interest is includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating tax liabilities, including any alternative minimum tax or environmental tax, under the Code.

"Trust Agreement" means this Trust Agreement, as originally executed and as it may from time to time be amended or supplemented in accordance with its terms.

"Trustee" means Union Bank of California, N.A., acting in its capacity as trustee under and pursuant to this Trust Agreement, and its successors and assigns.

"Trust Event of Default" means, with respect to this Trust Agreement, an event described in Section 8.01 hereof.

"2003 Prior Agreement" means the Installment Purchase Agreement, dated as of October 1, 2003, between the City and the California Statewide Communities Development Authority, as the same may be amended and supplemented.

"Written Request of the City" means an instrument in writing signed by the Mayor, the City Manager or the Finance Director of the City or their designee, or by any other officer of the City duly authorized by the City for that purpose, such authorization to be evidenced at the request of the Trustee by a certificate verifying the specimen signatures of such officers.

"Written Request of the Corporation" means an instrument in writing signed by the President of the Corporation or by any other officer of the Corporation duly authorized by the Corporation for that purpose.

Section 1.02 **Rules of Construction**. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. All references herein to "articles," "sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words "hereby," "herein," "hereof," "hereto," "herewith," "hereunder" and other words of similar import refer to this Trust Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

References in this Trust Agreement and the Agreement to the principal or principal amount of Certificates shall refer to the principal component of the Installment Payments as to which such Certificates evidences a proportionate ownership interest. References in this Trust Agreement and the Agreement to interest on Certificates or interest borne by Certificates shall

refer to the interest component of the Installment Payments on the principal component of the Installment Payments as to which such Certificates evidence proportionate ownership interests.

Section 1.03 **Equal Security**. In consideration of the acceptance of the Certificates by the Owners thereof, this Trust Agreement shall be deemed to be and shall constitute a contract between the Corporation and the Owners from time to time of all Certificates authorized, executed and delivered hereunder and then Outstanding to secure the full and final payment of the interest, and principal and prepayment premiums, if any, evidenced by the Certificates which may from time to time be authorized, executed and delivered hereunder, subject to the agreements, conditions, covenants and provisions contained herein; and all agreements and covenants set forth herein to be performed by or on behalf of the Trustee shall be for the equal and proportionate benefit, protection and security of all Owners without distinction, preference or priority as to security or otherwise of any Certificates over any other Certificates by reason of the number or date thereof or the time of authorization, execution or delivery thereof or for any cause whatsoever, except as expressly provided herein or therein.

ARTICLE II

THE CERTIFICATES

Section 2.01 **The Certificates**. (a) The Trustee is hereby authorized and directed to execute and deliver the Certificates in the aggregate principal amount of \$ _____, evidencing proportionate ownership interests in the Installment Payments. The Certificates shall be designated "City of Lodi Wastewater System Revenue Certificates of Participation 2004 Series A".

Section 2.02 **General Terms of the Certificates**. (a) Each Certificate shall be dated the Delivery Date, and shall mature (subject to prior prepayment and acceleration) on its Certificate Payment Date. The Certificates shall have Certificate Payment Dates on the dates and in the principal amounts (evidencing principal components of the Installment Payments coming due on the Installment Payment Date immediately preceding each such Certificate Payment Date) and shall bear interest (evidencing the interest components of the Installment Payments with respect to the related principal components of Installment Payments and based on a 360-day year consisting of twelve 30-day months) as set forth in the following schedule:

Certificate Payment Date (____)1	Principal Amount	Interest Rate
2005		
2006		
2007		
2008		
2009		
2010		
2011		
2012		
2013		

Certificate Payment Date ()	Principal Amount	Interest Rate
2014		
2015		
2016		
2017		
2018		
2019		
2020		
2021		
2022		
2023		
2024		

(b) The Certificates shall evidence interest with respect to the related principal components of the Installment Payments from the Interest Payment Date next preceding the date of execution thereof, unless such date of execution is after a Record Date and on or before the following Interest Payment Date, in which event they shall evidence interest from such Interest Payment Date, or unless such date of execution is on or before the Record Date for the first Interest Payment Date for the Certificates, in which event such Certificate shall evidence interest from the Delivery Date; provided, that if at the time of execution of any Outstanding Certificate, interest evidenced by such Certificate is then in default, such Certificate shall evidence interest from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Certificate.

(c) The Certificates shall be delivered only in Authorized Denominations. The Certificates shall be issued in substantially the form set forth in Exhibit A of this Trust Agreement with such variations, insertions or omissions for the Certificates as are appropriate and not inconsistent therewith and shall conform generally to the rules and regulations of any governmental authority or usage or requirement of law with respect thereto. The Certificates shall be numbered from one upward and may bear such additional letters, numbers, legends or designations as the Trustee determines are desirable. The Certificates may be printed, lithographed or typewritten.

(d) The principal of and premium, if any, and interest on the Certificates shall be payable in lawful money of the United States of America. Payment of interest on each Certificate shall be made on each Interest Payment Date to the Person appearing on the Certificate Register as the Owner thereof on the applicable Record Date, such interest to be paid by the Trustee (i) to such Owner by check mailed by first class mail on the Interest Payment Date, to such Owner's address as it appears on the Certificate Register or at such other address as has been furnished to the Trustee in writing by such Owner not later than the applicable Record Date, or (ii) upon written request at least three Business Days prior to the applicable Record Date, to the Owner of Certificates aggregating not less than \$1,000,000 in principal amount, by wire transfer in immediately available funds to an account maintained in the United States as such Owner shall specify in its written notice; except, in each case, that if and to the extent that there shall be a default in the payment of the interest due on such Interest Payment Date, such

defaulted interest shall be paid to the Owners in whose name the Certificates are registered at the close of business on the fifth Business Day next preceding the date of payment of such defaulted interest. The principal of and premium, if any, on the Certificates shall be payable by check of the Trustee upon surrender thereof at the Corporate Trust Office of the Trustee.

(e) The Certificates shall be subject to prepayment as provided in Section 2.04 hereof.

Section 2.03 **Procedure for the Delivery of Certificates.** The Trustee is hereby authorized to execute and deliver the Certificates to the purchaser thereof upon the Written Request of the Corporation and upon receipt of the proceeds of the sale thereof to be wired to the Trustee and receipt of the Certificate Insurance Policy, the Reserve Policy, a Certificate of the City stating that the conditions of Section 4.08(b) of the 1991 Prior Agreement to the Installment Payments constituting Parity Debt (as defined in the 1991 Prior Agreement) are satisfied, and a Certificate of the City stating that the conditions of Section 5.3 of the 2003 Prior Agreement to the Installment Payments constituting Parity Debt (as defined in the 2003 Prior Agreement) are satisfied.

Upon receipt of the proceeds of the sale of the Certificates from the purchaser thereof in the amount of \$ _____ (representing an aggregate principal amount of \$ _____, plus a premium of \$ _____, less an Underwriter's discount of \$ _____, less \$ _____ as the premium for the Certificate Insurance Policy and less \$ _____ as the premium for the Reserve Policy to be wired by such purchaser to the Certificate Insurer), the Trustee shall set aside and deposit such proceeds in the following respective accounts or funds:

(a) The Trustee shall deposit the sum of \$ _____ in the Costs of Issuance Fund; and

(b) The Trustee shall deposit the balance of such proceeds in the Improvement Fund.

Section 2.04 **Prepayment.**

(a) **Optional Prepayment.** The Certificates maturing on and prior to October 1, _____ are not subject to optional prepayment prior to their stated maturity dates. The Certificates maturing on and after October 1, _____ are subject to optional prepayment prior to their stated maturity dates on any date on and after October 1, _____, as a whole or in part, at the option of the City, from any source of available funds at the following prepayment prices (computed upon the principal amount of the Certificates or portions thereof to be prepaid) plus unpaid accrued interest thereon to the date fixed for prepayment:

Prepayment Period (both dates inclusive)	Prepayment Price
October 1, _____ through September 30, _____	%

October 1, ____ through September 30, ____	%
October 1, ____ and thereafter	100%

(b) Mandatory Prepayment. The Certificates maturing on October 1, ____ are subject to mandatory prepayment prior to maturity, in part by lot, commencing on October 1, ____ and on each October 1 thereafter to and including October 1, ____, from principal components of Installments Payments made by the City on the Installment Payment Date next preceding such October 1, at a prepayment price equal to the principal amount of the Certificates to be prepaid, plus unpaid accrued interest thereon to the date fixed for prepayment, without a prepayment premium. To the extent that the amount of the principal components of the Installment Payments due with respect to any such October 1 has been reduced pursuant to Section 4.2 of the Agreement, then the principal amount of Certificates maturing on October 1, ____ which are subject to mandatory prepayment pursuant to this subsection (b) on such October 1 shall be reduced by the same amount.

Section 2.05 Selection of Certificates for Prepayment.

If less than all Outstanding Certificates with the same Certificate Payment Date are to be prepaid at any one time, the Trustee shall select the Certificates or the portions of the Certificates and Certificate Payment Date to be prepaid by lot in a manner which the Trustee deems to be fair. For purposes of selecting Certificates to be prepaid, Certificates with the same Certificate Payment Date shall be deemed to be composed of five thousand dollars (\$5,000) multiples and any such multiple of principal amount as may be separately prepaid, subject to the requirement that the unpaid balance of any Certificate prepaid in part must be in an Authorized Denomination.

Section 2.06 Notice of Prepayment.

Notice of prepayment of Certificates shall be mailed by the Trustee, not less than thirty (30) nor more than sixty (60) days prior to the prepayment date to (i) the respective Owners of the Certificates designated for prepayment at their addresses appearing in the Certificate Register, (ii) the Securities Depositories and (iii) one or more Information Services. Notice of prepayment to the Securities Depositories and the Information Services shall be given by registered mail, certified mail, overnight delivery or facsimile transmission or by such other method acceptable to such institutions. Each notice of prepayment shall state the date of such notice, the prepayment price, the place of prepayment (including the name and appropriate address of the Trustee), the CUSIP number (if any) of the Certificates to be prepaid, and, if less than all of the Certificates of any one maturity are to be prepaid, the distinctive certificate numbers of the Certificates of such maturity to be prepaid and, in the case of Certificates to be prepaid in part only, the respective portions of the principal amount thereof to be prepaid. Each such notice shall also state that on said date there will become due and payable on each of said Certificates the prepayment price thereof and in the case of a Certificate to be prepaid in part only, the specified portion of the principal amount thereof to be prepaid, with accrued and unpaid interest thereof to the prepayment date, and that from and after such prepayment date interest

thereon shall cease to accrue, and shall require that such Certificates be then surrendered at the address of the Trustee specified in the prepayment notice. Failure to receive such notice shall not invalidate any of the proceedings taken in connection with such prepayment. The failure to receive such notice nor any defect therein shall affect the sufficiency of such prepayment.

In the event of prepayment of Certificates with optional prepayments of Installment Payments pursuant to Section 3.02 of the Agreement, the Trustee shall mail a notice of prepayment upon receipt of a Written Request of the City but only after the City shall file a Certificate of the City with the Trustee that on or before the date set for prepayment, the City will deposit with or otherwise make available to the Trustee for deposit in the Debt Service Fund the money required for payment of the prepayment price, including accrued interest thereon, of all Certificates then to be called for prepayment (or the Trustee determines that money will be deposited with or otherwise made available to it in sufficient time for such purpose), together with the estimated expense of giving such notice.

If notice of prepayment has been duly given as aforesaid and money for the payment of the prepayment price of the Certificates called for prepayment is held by the Trustee, then on the prepayment date designated in such notice the Certificates (or portions thereof) so called for prepayment shall become due and payable, and from and after the prepayment date so designated interest on such Certificates shall cease to accrue, such Certificates (or portions thereof) shall cease to be entitled to any benefit or security under this Trust Agreement and the Owners of such Certificates shall have no rights in respect thereof except to receive payment of the prepayment price thereof from the moneys held by the Trustee for such purpose, and such moneys are hereby pledged to such payment.

All Certificates prepaid pursuant to the provisions of this Section shall be cancelled and destroyed by the Trustee and shall not be redelivered.

Section 2.07 **Execution of Certificates.** The Certificates shall be executed by the Trustee by the manual signature of an authorized officer or signatory of the Trustee.

Section 2.08 **Transfer and Payment of Certificates.** Any Certificate may, in accordance with its terms, be transferred in the Certificate Register by the Person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Certificates at the Corporate Trust Office of the Trustee for cancellation accompanied by delivery of a duly executed written instrument of transfer in a form acceptable to the Trustee. Whenever any Certificate or Certificates shall be surrendered for transfer, the Trustee shall execute and deliver to the transferee a new Certificate or Certificates of the same Certificate Payment Date evidencing and representing a like aggregate principal amount in authorized denominations. The Trustee shall require the payment by the Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer as a condition precedent to the exercise of such privilege. Services rendered and reasonable expenses incurred by the Trustee, including the cost of printing any new Certificate, in connection with a transfer pursuant to this Section shall be paid by the City.

The Trustee may deem and treat the registered owner of any Certificates as the absolute owner of such Certificates for the purpose of receiving payment of the principal and interest and

prepayment premium, if any, evidenced thereby and for all other purposes, whether such Certificates shall be overdue or not, and the Trustee shall not be affected by any notice or knowledge to the contrary; and payment of the interest and principal and prepayment premium, if any, evidenced by such Certificates shall be made only to such registered owner, which payments shall be valid and effectual to satisfy and discharge liability on such Certificates to the extent of the sum or sums so paid.

The Trustee shall not be required to register the transfer of any Certificate during the period commencing on the date 15 days preceding the selection of Certificates for prepayment and ending on the date of mailing of notice of such prepayment, or any Certificate which has been selected for prepayment in whole or in part, from and after the day of mailing of a notice of prepayment of such Certificates selected for prepayment in whole or in part.

Section 2.09 **Exchange of Certificates.** Certificates may be exchanged at the Corporate Trust Office of the Trustee for Certificates evidencing and representing a like aggregate principal amount of Certificates of the same Certificate Payment Date of other Authorized Denominations. The Trustee shall require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange as a condition precedent to the exercise of such privilege. Services rendered and reasonable expenses incurred by the Trustee, including the cost of printing any new Certificate, in connection with an exchange pursuant to this Section shall be paid by the City.

The Trustee shall not be required to exchange any Certificate during the period commencing on the date 15 days preceding the selection of Certificates for prepayment and ending on the date of mailing of notice of such prepayment, or any Certificate which has been selected for prepayment in whole or in part, from and after the day of mailing of a notice of prepayment of such Certificates to the date of prepayment thereof.

Section 2.10 **Certificate Registration Books.** The Trustee will keep at its Corporate Trust Office sufficient books for the registration and transfer of the Certificates which shall at all times be open to inspection by the Corporation during regular business hours with reasonable prior notice, and upon presentation for such purpose the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer the Certificates in such books as hereinabove provided.

Section 2.11 **Mutilated, Destroyed, Stolen or Lost Certificates.** If any Certificate shall become mutilated the Trustee, at the expense of the Owner, shall thereupon execute and deliver a new Certificate of like tenor and amount in exchange and substitution for the Certificate so mutilated, but only upon surrender to the Trustee of the Certificate so mutilated. Every mutilated Certificate so surrendered to the Trustee shall be cancelled and destroyed.

If any Certificate shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to the Trustee and indemnity satisfactory to the Trustee shall be given, the Trustee, at the expense of the Owner, shall thereupon execute and deliver a new Certificate of like tenor in lieu of and in substitution for the Certificate so lost, destroyed or stolen.

The Trustee may require payment of a reasonable sum for each new Certificate delivered under this Section and of the expenses which may be incurred by the Corporation and the Trustee in the premises. Any Certificate executed and delivered under the provisions of this Section in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits of this Trust Agreement with all other Certificates secured by this Trust Agreement. The Trustee shall not be 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.

Section 2.12 **Temporary Certificates.** The Certificates executed and delivered under this Trust Agreement may be initially executed and delivered in temporary form exchangeable for definitive Certificates when ready for delivery. The temporary Certificates may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Trustee, shall be in fully registered form and may contain such reference to any of the provisions of this Trust Agreement as may be appropriate. Every temporary Certificate shall be executed and delivered by the Trustee, upon the same conditions and terms and in substantially the same manner as definitive Certificates. If the Trustee executes and delivers temporary Certificates it will execute and furnish definitive Certificates and thereupon the temporary Certificates may be surrendered, for cancellation, in exchange therefor at the Corporate Trust Office of the Trustee, and the Trustee shall deliver in exchange for such temporary Certificates definitive Certificates evidencing and representing an equal aggregate principal amount of Certificates of authorized denominations. Until so exchanged, the temporary Certificates shall be entitled to the same benefits under this Trust Agreement as definitive Certificates delivered hereunder.

Section 2.13 **Use of Book-Entry System for Certificates.**

(a) The Certificates initially shall be delivered in the form of a single executed fully registered securities certificate for each stated Certificate Payment Date, in the aggregate principal amount of the Certificates of such Certificate Payment Date. Upon initial delivery, the ownership of all such Certificates shall be registered in the registration records maintained by the Trustee pursuant to Section 2.10 hereof in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), or such other nominee as DTC shall request pursuant to the Representation Letter. The Trustee may treat DTC (or its nominee) as the sole and exclusive owner of the Certificates registered in its name for the purposes of payment of the principal amount or prepayment price and interest on such Certificates, selecting the Certificates or portions thereof to be prepaid, giving any notice permitted or required to be given to Owners hereunder, registering the transfer of Certificates, obtaining any consent or other action to be taken by Owners of the Certificates and for all other purposes whatsoever; and the Trustee shall not be affected by any notice to the contrary. Neither the Trustee nor the Corporation shall have any responsibility or obligation to any Participant (which shall mean, for purposes of this Section, securities brokers and dealers, banks, trust companies, clearing corporations and other entities, some of whom directly or indirectly own DTC), any person claiming a beneficial ownership interest in the Certificates under or through DTC or any Participant, or any other person which is not shown on the registration records as being an Owner of Certificates, with respect to (i) the accuracy of any records maintained by DTC or any

Participant, (ii) the payment by DTC or any Participant of any amount in respect of the principal amount or prepayment price of or interest on the Certificates (iii) any notice which is permitted or required to be given to Owners of Certificates hereunder, (iv) the selection by DTC or any Participant of any person to receive payment in the event of a partial prepayment of the Certificates, or (v) any consent given or other action taken by DTC as Owner of Certificates. The Trustee shall pay all principal amount and prepayment price of and interest on the Certificates only at the times, to the accounts, at the addresses and otherwise in accordance with the Representation Letter, and all such payments shall be valid and effective to satisfy fully and discharge the principal amount and prepayment price of and interest on the Certificates to the extent of the sum or sums so paid. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of its then existing nominee, the Certificates will be transferable to such new nominee in accordance with subsection (c) of this Section.

(b) In the event that the Corporation determines that the beneficial owners of the Certificates should obtain securities certificates, the Trustee shall, upon the written instruction of the Corporation, so notify DTC, whereupon DTC shall notify the Participants of the availability through DTC of securities certificates. In such event, the Certificates will be transferable in accordance with subsection (c) of this Section. DTC may determine to discontinue providing its services with respect to the Certificates at any time by giving written notice of such discontinuance to the Corporation and the Trustee and discharging its responsibilities with respect thereto under applicable law. In such event, the Certificates will be transferable in accordance with subsection (c) of this Section. Whenever DTC requests the Corporation and the Trustee to do so, the Trustee and the Corporation will cooperate with DTC in taking appropriate action after reasonable notice to arrange for another securities depository to maintain custody of all certificates evidencing the Certificates then Outstanding. In such event, the Certificates will be transferable to such securities depository in accordance with subsection (c) of this Section, and thereafter, all references in this Trust Agreement to DTC or its nominee shall be deemed to refer to such successor securities depository and its nominee, as appropriate.

(c) In the event that any transfer or exchange of Certificates is authorized under subsection (a) or (b) of this Section, such transfer or exchange shall be accomplished upon receipt by the Trustee from the registered owner of the Certificates to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee, all in accordance with the applicable provisions of Sections 2.08 and 2.09 hereof. In the event Certificates are delivered to Owners other than Cede & Co., its successor as nominee for DTC as Owner of all the Certificates, another securities depository as Owner of all the Certificates, or the nominee of such successor securities depository, the provisions of Sections 2.08 and 2.09 hereof shall also apply to, among other things, the registration, exchange and transfer of the Certificates and the method of payment of principal amount or prepayment price of and Interest Installments evidenced by the Certificates.

ARTICLE III

FUNDS AND ACCOUNTS

Section 3.01 **Installment Payments Held in Trust.** The Installment Payments and any Additional Payments to be deposited in the Reserve Fund shall be held in trust by the Trustee for the benefit of the Owners from time to time of the Certificates, but shall nonetheless be disbursed, allocated and applied solely for the uses and purposes provided herein.

Section 3.02 **Deposit of Installment Payments.** The Trustee hereby agrees to establish, maintain and hold in trust the "City of Lodi Wastewater System Revenue Certificates of Participation, 2004 Series A Debt Service Fund" (the "Debt Service Fund") for so long as any Certificates shall be Outstanding hereunder. All Installment Payments, including any prepayments thereof pursuant to Section 7.1 of the Agreement, received by the Trustee shall be immediately deposited in the Debt Service Fund and shall be disbursed and applied only as hereinafter provided.

Section 3.03 **Establishment and Maintenance of Accounts in the Debt Service Fund.** Subject to the provisions of Section 5.03, all money in the Debt Service Fund shall be set aside by the Trustee in the following respective special accounts within the Debt Service Fund (each of which is hereby created and each of which the Trustee hereby agrees and covenants to maintain) in the following order of priority:

- (a) Interest Account,
- (b) Principal Account, and
- (c) Prepayment Account

All money in each of such accounts shall be held in trust by the Trustee for the benefit of the Owners and shall be applied, used and withdrawn only for the purposes hereinafter authorized in this Section.

(d) **Interest Account.** On each Interest Payment Date, commencing on October 1, 2004, and on each other date when interest on the Certificates becomes due and payable, whether upon prepayment, acceleration or otherwise, the Trustee shall set aside from the Debt Service Fund and deposit in the Interest Account that amount of money which is equal to the amount of interest on the Certificates becoming due and payable on such Interest Payment Date.

No deposit need be made to the Interest Account on any date if the amount contained therein is at least equal to the aggregate amount of interest on the Certificates becoming due and payable on such date.

All money in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest as it shall become due and payable (including accrued interest on Certificates purchased or prepaid prior to their respective Certificate Payment Date).

(e) Principal Account. On each Certificate Payment Date, and on each date on which any Certificate is to be prepaid in accordance with this Trust Agreement, the Trustee shall set aside from the Debt Service Fund and deposit in the Principal Account an amount of money equal to the principal amount of the Outstanding Certificates maturing on such date and the principal amount of Certificates subject to mandatory sinking fund prepayment from payments of a principal amount of Installment Payments on such date plus any prepayment premium payable in connection with the prepayment of such Certificates on such date.

No deposit need be made to the Principal Account on any date if the amount contained therein is at least equal to the aggregate principal amount of Outstanding Certificates maturing and subject to mandatory sinking fund prepayment on such date.

All money in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal amount of Certificates as they mature or are prepaid from mandatory sinking fund prepayments.

(f) Prepayment Account. All prepayments of Installment Payments made by the City shall be deposited in the Prepayment Account and applied to the payment, including prepayment, or provision for the payment, of Outstanding Certificates as directed by the City.

Section 3.04 Reserve Fund.

(a) The Trustee shall establish, maintain and hold under this Trust Agreement a fund separate from any other fund established and maintained hereunder designated as the "City of Lodi Wastewater System Revenue Certificates of Participation 2004 Series A Reserve Fund" (the "Reserve Fund"). Moneys in the Reserve Fund shall be applied in accordance with this Section.

(b) Upon the execution and delivery of the Certificates, the Trustee shall credit the Reserve Policy to the Reserve Fund to satisfy the initial Reserve Fund Requirement with respect to the Certificates. The Trustee shall apply proceeds from draws on the Reserve Policy to the payment of principal of and interest on the Certificates as provided in subsection (c) of this Section.

(c) The Trustee hereby agrees and covenants to maintain the Reserve Fund so long as the Agreement has not been discharged in accordance with its terms or any Certificates remain Outstanding hereunder. The Trustee shall deposit in the Reserve Fund the Reserve Fund Requirement and such other amounts transferred to the Trustee by the City pursuant to Section 5.2(b) of the Agreement. Moneys on deposit in the Reserve Fund shall be transferred, and, if the amount of money then on deposit in the Reserve Fund is insufficient therefor, amounts shall be drawn on the Reserve Policy and transferred, by the Trustee to the Debt Service Fund to pay principal of and/or interest on the Certificates on each date when such principal and/or interest is due and payable in the event amounts on deposit therein are insufficient for such purposes. All investments in the Reserve Fund shall be valued on January 1 of each year beginning in January 2005. Amounts on deposit in the Reserve Fund in excess of the Reserve Fund Requirement shall, at the Written Request of the City, be withdrawn from the Reserve

Fund and transferred to the City for deposit in the System Revenue Fund established under the Agreement.

Section 3.05 **Improvement Fund.**

(a) The Trustee shall establish, maintain and hold under this Trust Agreement a fund separate from any other fund established and maintained hereunder designated as the "City of Lodi Wastewater System Revenue Certificates of Participation 2004 Series A Improvement Fund" (the "Improvement Fund"). Moneys in the Improvement Fund shall be expended for Costs of the Project in accordance with this Section.

(b) There shall be credited to the Improvement Fund the following amounts:

(1) the proceeds of sale of the Certificates required to be deposited therein pursuant to Section 2.03 hereof; and

(2) all amounts transferred to the Improvement Fund pursuant to Section 3.06 hereof; and

(3) any other funds from time to time deposited with the Trustee to pay Costs of the Project.

(c) The Trustee shall disburse moneys in the Improvement Fund from time to time to pay for Costs of the Project directly or to reimburse the City for payment thereof upon receipt by the Trustee of a Written Request of the City substantially in the form of Exhibit B hereto. The Trustee shall not be responsible for the representations made in such Requisition and may conclusively rely thereon. The Trustee shall be absolutely protected in making any disbursement from the Improvement Fund in reliance upon a Written Request of the City.

(d) Upon delivery to the Trustee and the Certificate Insurer of a Certificate of Completion, the Trustee shall withdraw all remaining moneys in the Improvement Fund (other than any moneys retained therein to pay costs not then due and payable as certified in a Certificate of the City), and shall transfer such moneys to the account in the Debt Service Fund designated in a Certificate of the City.

Section 3.06 **Cost of Issuance Fund.** (a) The Trustee shall establish, maintain and hold under this Trust Agreement a fund separate from any other fund established and maintained hereunder designated as the "City of Lodi Wastewater System Revenue Certificates of Participation 2004 Series A Cost of Issuance Fund" (the "Cost of Issuance Fund"). Moneys in the Cost of Issuance Fund shall be expended for Costs of Issuance in accordance with this Section.

(b) There shall be credited to the Cost of Issuance Fund the following amounts:

(1) the proceeds of sale of the Certificates required to be deposited therein pursuant to Section 2.03 hereof; and

(2) any other funds from time to time deposited with the Trustee to pay Costs of Issuance.

(c) The Trustee shall disburse moneys in the Cost of Issuance Fund from time to time to pay for Costs directly or to reimburse the City for payment thereof upon receipt by the Trustee of a Written Request of the City substantially in the form of Exhibit C hereto. The Trustee shall not be responsible for the representations made in such Requisition and may conclusively rely thereon. The Trustee shall be absolutely protected in making any disbursement from the Cost of Issuance Fund in reliance upon a Written Request of the City.

(d) Upon the earlier of September 1, 2004 or the Trustee's receipt of written certification from the City that all Costs of Issuance have been paid, the Trustee shall withdraw all remaining moneys in the Cost of Issuance Fund (other than any moneys retained therein to pay costs not then due and payable as certified by the City Representative), shall transfer such moneys to the Improvement Fund and shall close the Costs of Issuance Fund.

Section 3.07 Rebate Fund.

(a) The Trustee shall establish, maintain and hold under this Trust Agreement a fund separate from any other fund established and maintained hereunder designated as the "City of Lodi Wastewater System Revenue Certificates of Participation 2004 Series A Rebate Fund" (the "Rebate Fund"). Within the Rebate Fund, the Trustee shall maintain such accounts as shall be necessary to comply with the terms of the Tax Certificate. Subject to the transfer provisions provided in paragraph (e) below, all money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Tax Certificate), for payment to the government of the United States of America. None of the City, the Corporation nor the Owner of any Certificate shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section, by Section 6.17 of the Agreement and by the Tax Certificate (which is incorporated herein by reference). The Trustee shall be deemed conclusively to have complied with such provisions if it follows the directions of the City, including supplying all necessary information in the manner provided in the Tax Certificate, and shall have no liability or responsibility to enforce compliance by the City with the terms of the Tax Certificate.

(b) Upon the City's written direction, an amount shall be deposited to the Rebate Fund by the Trustee from deposits by the City if and to the extent required, so that the balance of the Rebate Fund after such deposits shall equal the Rebate Requirement. Computations of the Rebate Requirement shall be furnished by or on behalf of the City in accordance with the Tax Certificate.

(c) The Trustee shall have no obligation to rebate any amounts required to be rebated pursuant to this Section other than from moneys held in the Rebate Fund or from other moneys provided to it by the City.

(d) The Trustee shall invest all amounts held in the Rebate Fund in Investment Securities as directed by the City, which directions shall be in compliance with the restrictions

set forth in the Tax Certificate. Money shall not be transferred from the Rebate Fund except as provided in paragraph (E) below.

(e) Upon receipt of the City's written directions, the Trustee shall remit part or all of the balances in the Rebate Fund to the United States, as so directed. In addition, if the City so directs, the Trustee will deposit moneys into or transfer moneys out of the Rebate Fund from or into such accounts or funds as directed by the City's written directions; provided, however, only moneys in excess of the Rebate Requirement may be transferred out of the Rebate Fund to such other accounts or funds or to anyone other than the United States in satisfaction of the arbitrage rebate obligation. Any funds remaining in the Rebate Fund after prepayment and payment of all of the Certificates and payment and satisfaction of any Rebate Requirement, or provision made therefor satisfactory to the Trustee, shall be withdrawn and remitted to the City.

(f) Notwithstanding any other provision of this Trust Agreement, including in particular Article VII hereof, the obligation to remit the Rebate Requirement to the United States and to comply with all other requirements of this Section, Section 7.03 of the Agreement and the Tax Certificate shall survive the defeasance or payment in full of the Certificates.

Section 3.08 **Deposit and Investments of Money in Accounts and Funds.** (a) All money held by the Trustee in any of the accounts or funds established pursuant hereto shall be invested in Permitted Investments at the Written Request of the City (which shall be in compliance with Section 5.03) filed with the Trustee which such Permitted Investments shall, as nearly as practicable, mature on or before the dates on which such money is anticipated to be needed for disbursement hereunder, and the Trustee shall have no liability or responsibility for any loss resulting from any investment made in accordance herewith; provided, except for investment agreements approved by the Certificate Insurer, money in the Reserve Fund shall not be invested in any investment with a maturity extending beyond five years of the time of such investment. If no such Written Request of the City is received by the Trustee, the Trustee shall invest such money in those Permitted Investments described in clause (D) of the definition thereof. Subject to Section 5.03 hereof, all interest or profits received on any money in any fund or account held hereunder (other than the Rebate Fund) so invested shall be deposited in the Interest Account in the Debt Service Fund.

(b) The Corporation (and the City by its execution of the Agreement) acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Corporation or the City the right to receive brokerage confirmations of security transactions as they occur, the Corporation and the City specifically waive receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Corporation and the City monthly cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

(c) The Trustee or any of its affiliates may act as principal or agent, sponsor, advisor, principal, agent or manager in connection with any investments made by the Trustee hereunder. For investment purposes only, the Trustee may commingle the funds and accounts established hereunder, but shall maintain separate records relating to the investments for fund or account.

(d) The Trustee shall not be liable for any loss from any Permitted Investments acquired, held or disposed of in compliance with the Section 3.06.

(e) The Trustee may rely on the investment instructions from the City that the instructed investment is a permissible investment for the funds to be invested.

Section 3.09 **Reliance on Opinions.** The Trustee may, in performing the obligations set out in Section 3.08(a) above, rely and shall be protected in acting or refraining from acting upon an Opinion of Counsel furnished by the City.

ARTICLE IV

SECURITY FOR CERTIFICATES

Section 4.01 **Assignment of Agreement; Enforcement of Obligations; Funds and Accounts.** The Corporation hereby transfers, assigns and sets over to the Trustee all of the Installment Payments and any and all rights, title, interest and privileges it has in, to and under the Agreement (other than its rights to expenses and indemnification pursuant to the Agreement), including, without limitation, the right to collect and receive directly all of the Installment Payments and the right to enforce the provisions of the Agreement; and any 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 shall forthwith be paid by the Corporation to the Trustee. The Trustee also shall, subject to the provisions of this Trust Agreement, take all steps, actions and proceedings required to be taken as provided in any opinion of counsel delivered to it, reasonably necessary to maintain in force for the benefit of the Owners of the Certificates the Trustee's rights in and priority to the following security granted to it for the payment of the Certificates: the Trustee's rights as assignee of the Installment Payments and all of the Corporation's right, title, interest and privileges in, to and to the Agreement (other than the Corporation's rights to indemnification and expenses pursuant to the Agreement), and all other rights and property which the Trustee may receive in the future as security for the Certificates.

All of the funds and accounts held by the Trustee pursuant to this Trust Agreement shall be held in trust by the Trustee and applied solely as provided in this trust Agreement; provided, however, that notwithstanding in this Trust Agreement to the contrary, all amounts in such funds and accounts, other than the Rebate Fund, shall secure the payment of amounts due with respect to the Outstanding Certificates and in the event moneys available to the Trustee in the Debt Service Fund and the Reserve Fund are insufficient to pay when due the principal and premium of and interest on the Outstanding Certificates, the Trustee shall apply amounts in the funds and accounts held by it hereunder, other than the Rebate Fund, to such payment.

ARTICLE V

COVENANTS OF THE CORPORATION AND THE TRUSTEE

Section 5.01 **Compliance with Trust Agreement.** The Trustee will not execute or deliver any Certificates in any manner other than in accordance with the provisions hereby; and the Corporation will not suffer or permit any default by it to occur hereunder, but will faithfully comply with, keep, observe and perform all the agreements and covenants to be observed or performed by it contained herein and in the Certificates.

Section 5.02 **Observance of Laws and Regulations.** The Corporation and the Trustee will faithfully comply with, keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on them by contract, or prescribed by any law of the United States of America 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 each and every franchise, right or privilege now owned or hereafter acquired by them, including their right to exist and carry on their respective businesses, to the end that such franchises, rights and privileges shall be maintained and preserved and shall not become abandoned, forfeited or in any manner impaired.

Section 5.03 **Tax Covenants.**

(a) The Corporation hereby covenants with the Owners of the Certificates that, notwithstanding any other provisions of this Trust Agreement, it shall not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the Tax-exempt status of interest on the Certificates under Section 103 of the Code. The Corporation shall not, directly or indirectly, use or permit the use of proceeds of the Certificates or any of the property financed or refinanced with proceeds of the Certificates, or any portion thereof, by any person other than a governmental unit (as such term is used in Section 141 of the Code), in such manner or to such extent as would adversely affect the Tax-exempt status of interest on the Certificates.

(b) The Corporation shall not take any action, or fail to take any action, if any such action or failure to take action would cause the Certificates to be "private activity bonds" within the meaning of Section 141 of the Code, and in furtherance thereof, shall not make any use of the proceeds of the Certificates or any of the property financed or refinanced with proceeds of the Certificates, or any portion thereof, or any other funds of the Corporation, that would cause the Certificates to be "private activity bonds" within the meaning of Section 141 of the Code. To that end, so long as any Certificates are Outstanding, the Corporation, with respect to such proceeds and property and such other funds, will comply with applicable requirements of the Code and all regulations of the United States Department of the Treasury issued thereunder, to the extent such requirements are, at the time, applicable and in effect. The Corporation shall establish reasonable procedures necessary to ensure continued compliance with Section 141 of the Code and the continued qualification of the Certificates as "governmental bonds."

(c) The Corporation shall not, directly or indirectly, use or permit the use of any proceeds of any Certificates, or of any property financed or refinanced thereby, or other

funds of the Corporation, or take or omit to take any action, that would cause the Certificates to be "arbitrage bonds" within the meaning of Section 148 of the Code. To that end, the Corporation shall comply with all requirements of Section 148 of the Code and all regulations of the United States Department of the Treasury issued thereunder to the extent such requirements are, at the time, in effect and applicable to the Certificates.

(d) The Corporation shall not make any use of the proceeds of the Certificates or any other funds of the Corporation, or take or omit to take any other action, that would cause the Certificates to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

(e) In furtherance of the foregoing tax covenants, the Corporation covenants that it will comply with the provisions of the Tax Certificate, which is incorporated herein as if fully set forth herein. These covenants shall survive payment in full or defeasance of the Certificates.

Section 5.04 **Accounting Records and Reports.** The Trustee will keep or cause to be kept proper books of record and accounts in which complete and correct entries shall be made of all transactions made by the Trustee relating to the receipts, disbursements, allocation and application of the Installment Payments and the proceeds of the Certificates, and such books shall be available for inspection by the Corporation, at reasonable hours and under reasonable conditions. Not more than 180 days after the close of each Fiscal Year, the Trustee shall furnish or cause to be furnished to the Corporation a complete financial statement covering receipts, disbursements, allocation and application of Installment Payments received by the Trustee for such Fiscal Year. The Corporation shall keep or cause to be kept such information as required under the Tax Certificate.

Section 5.05 **Prosecution and Defense of Suits.** The Corporation will defend against every suit, action or proceeding at any time brought against the Trustee upon any claim to the extent arising out of the receipt, application or disbursement of any of the Installment Payments and the proceeds of the Certificates or to the extent involving the failure of the Corporation to fulfill its obligations hereunder; provided that the Trustee or any affected Owner at its election may appear in and defend any such suit, action or proceeding. The Corporation will indemnify and hold harmless the Trustee against any and all liability claimed or asserted by any person to the extent arising out of such failure by the Corporation, and will indemnify and hold harmless the Trustee against any attorney's fees or other expenses which it may incur in connection with any litigation to which it may become a party by reason of its actions hereunder, except for any loss, cost, damage or expense resulting from the active or passive negligence, willful misconduct or breach of duty by the Trustee. Notwithstanding any contrary provision hereof, this covenant shall remain in full force and effect even though all Certificates secured hereby may have been fully paid and satisfied.

Section 5.06 **Amendments to Agreement.** The Corporation shall not supplement, amend, modify or terminate any of the terms of the Agreement, or consent to any such supplement, amendment, or modification, without: (i) so long as the Certificate Insurer is not in default under the Certificate Insurance Policy, the prior written consent of the Certificate Insurer; or (ii) if the Certificate Insurer is in default under the Certificate Insurance Policy and such supplement, amendment, modification would materially adversely affect the interests of the

Owners of the Outstanding Certificates, the Trustee first obtains the written consent of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding to such supplement, amendment, or modification; provided, however, that no such supplement, amendment, or modification shall reduce the amount of Installment Payments to be made by the City pursuant to the Agreement, or extend the time for making such Installment Payments in any manner that would require the consent of Certificate Owners pursuant to Section 7.01(b) hereof in any manner not in compliance with Section 7.01 hereof.

Section 5.07 **Recording and Filing**. The Trustee upon receipt of a Written Request of the Corporation shall, at the expense of the Corporation, file, record, register, renew, refile and rerecord all such documents, including financing statements (or continuation statements in connection therewith), all in such manner, at such times and in such places as may be required and to the extent permitted by law in order to fully perfect, preserve and protect the security of the Owners and the rights and interests of the Trustee; provided, however, that the Trustee will not be required to execute a special or general consent to service of process, or to qualify as a foreign corporation in connection with any such filing, recording, registration, refileing or rerecording in any jurisdiction in which it is not now so subject.

Section 5.08 **Notices to Rating Agencies**. The Corporation shall provide the Rating Agencies, with copies to the City and the Certificate Insurer, with written notice upon the occurrence of: (i) the resignation or removal of the Trustee; or (ii) the acceptance of appointment as successor trustee hereunder promptly upon its becoming aware of such resignation, removal or acceptance.

Section 5.09 **Further Assurances**. Whenever and so often as reasonably requested to do so by the Trustee or any Owner, the Corporation will promptly execute and deliver or cause to be executed and delivered all such other and further assurances, documents or instruments, and promptly do or cause to be done all such other and further things as may be necessary or reasonably required in order to further and more fully vest in the Trustee and the Owners all rights, interests, powers, benefits, privileges and advantages conferred or intended to be conferred upon them hereby.

ARTICLE VI

THE TRUSTEE

Section 6.01 **The Trustee**.

(a) [Name of Trustee], as the Trustee, shall receive all money which the Corporation is required to deposit with the Trustee hereunder and for the purpose of allocating, applying and using such money as provided herein and for the purpose of paying the interest and principal and prepayment premiums, if any, evidenced by the Certificates presented for payment and for the purpose of canceling all paid or prepaid Certificates as provided herein. The Corporation agrees that it will at all times maintain a Trustee having a corporate trust office in either San Francisco, California or Los Angeles, California.

(b) The Corporation may at any time (unless there exists any Trust Event of Default as defined in Section 8.01 hereof), and upon written direction from the Certificate Insurer shall, remove the Trustee initially appointed and any successor thereto and may appoint a successor or successors thereto by an instrument in writing; provided that any such successor shall be a banking corporation or trust company doing business and having a principal office in either San Francisco, California or Los Angeles, California, having a combined capital (exclusive of borrowed capital) and surplus of at least seventy-five million dollars (\$75,000,000) and subject to supervision or examination by federal or state Corporation, acceptable to the Certificate Insurer. If such banking corporation or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining Corporation above referred to, then for the purpose of this Section the combined capital and surplus of such bank 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 may at any time resign by giving written notice of such resignation to the Corporation and the Certificate Insurer and by mailing to the Owners notice of such resignation. Upon receiving such notice of resignation, the Corporation shall promptly appoint a successor Trustee by an instrument in writing. Any removal or resignation of a Trustee and appointment of a successor Trustee shall become effective only upon the acceptance of appointment by the successor Trustee. If, within thirty (30) days after notice of the removal or resignation of the Trustee no successor Trustee shall have been appointed and shall have accepted such appointment, the removed or resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, which court may thereupon, after such notice, if any, as it may deem proper and prescribe and as may be required by law, appoint a successor Trustee having the qualifications required hereby.

(c) The Trustee shall, prior to a Trust Event of Default, and after the curing of all Events of Default that may have occurred, perform such duties and only such duties as are specifically set forth in this Trust Agreement and no implied duties or obligations shall be read into this Trust Agreement. The Trustee shall, during the existence of any Trust Event of Default (that has not been cured), exercise such of the rights and powers vested in it hereby, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

Section 6.02 Liability of Trustee.

(a) The recitals of facts, agreements and covenants herein and in the Certificates shall be taken as recitals of facts, agreements and covenants of the Corporation, and the Trustee assumes no responsibility for the correctness of the same or makes any representation as to the sufficiency or validity hereof or of the Certificates, or shall incur any responsibility in respect thereof other than in connection with the rights or obligations assigned to or imposed upon it herein, in the Certificates or in law or equity. The Trustee shall not be liable in connection with the performance of its duties hereunder except for its own active or passive negligence, willful misconduct or breach of duty.

(b) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

(c) The Trustee shall not be 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 not less than a majority in aggregate principal amount of the Certificates at the time Outstanding, 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.

(d) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it hereby at the request, order or direction of any of the Owners pursuant to the provisions hereof unless such Owners shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities that may be incurred therein or thereby. The Trustee has no obligation or liability to the Owners for the payment of interest, principal or prepayment premium, if any, evidenced by the Certificates from its own funds; but rather the Trustee's obligations shall be limited to the performance of its duties hereunder.

(e) The Trustee shall not be deemed to have knowledge of any default hereunder or default under the Agreement unless and until it shall have actual knowledge thereof or shall have received written notice thereof at its Corporate Trust Office. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Certificates or as to the existence of a default hereunder.

(f) The Trustee shall be entitled to advice of counsel and other professionals concerning all matters of trust and its duty hereunder, but the Trustee shall not be answerable for the professional malpractice of any attorney-at-law or certified public accountant in connection with the rendering of his professional advice in accordance with the terms hereof, if such attorney-at-law or certified public accountant was selected by the Trustee with due care.

(g) The Trustee shall not be concerned with or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

(h) Whether or not therein expressly so provided, every provision hereof or of the Agreement or any related documents relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this article.

(i) The Trustee shall be protected in acting upon any notice, requisition, resolution, request, consent, order, certificate, report, opinion, bond, facsimile transmission, electronic mail or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, who may be counsel of or to the Corporation, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

(j) Whenever in the administration of its rights and obligations hereunder the Trustee shall deem it necessary or desirable that a matter be established or proved prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein

specifically prescribed) may, in the absence of bad faith on the part of the Trustee, be deemed to be conclusively proved and established by a Certificate of the Corporation, which certificate shall be full warrant to the Trustee for any action taken or suffered under the provisions hereof upon the faith thereof, but in its discretion the Trustee may in lieu thereof accept other evidence of such matter or may require such additional evidence as it may deem reasonable.

(k) No provision of this Trust Agreement 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 its rights or powers.

(l) The Trustee shall have no responsibility, opinion or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the execution and delivery of the Certificates.

(m) All immunities, indemnifications and releases from liability granted herein to the Trustee shall extend to the directors, employees, officers and agents thereof.

(n) Any company 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 to which the Trustee may sell or transfer all or substantially all of its corporate trust business, so long as such company shall meet the requirements set forth in Section 6.01, 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.

(o) The Trustee may become the owner or pledgee of any Certificates with the same rights it would have if it were not Trustee.

Section 6.03 Compensation and Indemnification of Trustee. The Corporation covenants to pay to the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation for all services rendered by it in the exercise and performance of any of the powers and duties hereunder of the Trustee, and the Corporation will pay or reimburse the Trustee upon its request for all expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence, default or willful misconduct. The Corporation, to the extent permitted by law, shall indemnify, defend and hold harmless the Trustee against any loss, damages, liability or expense incurred without negligence, default or willful misconduct on the part of the Trustee arising out of or in connection with (i) the acceptance or administration of the trusts created hereby, or the exercise or performance of any of its powers or duties hereunder, or (ii) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading in any official statement or other offering circular utilized in connection with the sale of any of the Certificates, including costs and expenses (including attorneys' fees) of defending itself against any claim or liability in connection with the exercise or performance of any of its powers

hereunder. The rights of the Trustee and the obligations of the Corporation under this section shall survive the discharge of the Certificates and this Trust Agreement and the resignation or removal of the Trustee.

Section 6.04 Notices to Rating Agencies. The Trustee shall provide the Rating Agencies, with copies to the City and the Certificate Insurer, with written notice upon the occurrence of: (i) the discharge of liability on any Certificates pursuant to Section 10.02; (ii) the prepayment or purchase of all Certificates; or (iii) a material change in this Trust Agreement or the Agreement, upon its receipt of written notice of any such changes. The Trustee shall also notify any Rating Agency of any material changes to any of the documents to which the Trustee is a party, upon its receipt of written notification of any such changes.

ARTICLE VII

AMENDMENT OF THE TRUST AGREEMENT

Section 7.01 Amendment of the Trust Agreement. (a) Except as provided in subsection (b) and (c) of this Section 7.01, this Trust Agreement and the rights and obligations of the Corporation and of the Owners may be amended at any time by a Supplemental Trust Agreement which shall become binding when (i) the written consent of the Certificate Insurer if the Certificate Insurer is not in default under the Certificate Insurance Policy; or (ii) if the Certificate Insurer is in default under the Certificate Insurance Policy, the written consents of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, exclusive of Certificates disqualified as provided in Section 7.02 hereof, are filed with the Trustee; provided, that before executing any such Supplemental Trust Agreement the Trustee may first obtain at the Corporation's expense an Opinion of Counsel that such Supplemental Trust Agreement complies with the provisions of this Trust Agreement, on which opinion the Trustee may conclusively rely.

(b) No amendment to the Agreement or this Trust Agreement shall (1) extend the Certificate Payment Date of, or change the payment dates of, or reduce the rate of interest or Principal Installments, Interest Installments or prepayment premium, if any, evidenced by any Certificate without the express written consent of the Owner of such Certificate, or (2) reduce the percentage of Certificates required for the written consent to any such amendment without the express written consent of the Owners of all Outstanding Certificates, or (3) modify any rights or obligations of the Trustee without its prior written assent thereto. Copies of any amendments made to this Trust Agreement which are consented to by the Certificate Insurer shall be sent to S&P.

(c) The Trust Agreement and the rights and obligations of the Corporation and of the Owners may also be amended at any time by a Supplemental Trust Agreement which shall become binding upon adoption without the consent of any Owners, but with the prior written consent of the Certificate Insurer if the Certificate Insurer is not in default under the Certificate Insurance Policy, and only to the extent permitted by law, for any one or more of the following purposes:

- (i) to add to the agreements and covenants required herein to be performed by the Corporation other agreements and covenants thereafter to be performed by the Corporation, or to surrender any right or power reserved herein to or conferred herein on the Corporation;
- (ii) to make such provisions for the purpose of curing any ambiguity or of correcting, curing or supplementing any defective provision contained herein or in regard to questions arising hereunder which the Corporation may deem desirable or necessary and not inconsistent herewith;
- (iii) to add to the agreements and covenants required herein, such agreements and covenants as may be necessary to qualify this Trust Agreement under the Trust Indenture Act of 1939;
- (iv) to make any amendments or supplements necessary or appropriate to preserve or protect the exclusion of interest evidenced by the Certificates from gross income for federal income tax purposes under the Code or the exemption of the Interest Installments from State of California personal income taxes;
- (v) to make such amendments or supplements as may be necessary or appropriate to maintain any then current rating on the Certificates by any of the Rating Agencies;
- (vi) to add to the rights of the Trustee; or
- (vii) for any purpose that will not materially adversely affect the interests of the Owners.

Section 7.02 **Disqualified Certificates.** Certificates owned or held by or for the account of the Corporation or the City shall not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Certificates provided in this article, and shall not be entitled to consent to or take any other action provided in this article. Upon the request of the Trustee, the Corporation shall specify to the Trustee those Certificates disqualified pursuant to this Section.

Section 7.03 **Endorsement or Replacement of Certificates After Amendment.** After the effective date of any action taken as hereinabove provided, the Corporation may determine that the Certificates may bear a notation by endorsement in form approved by the Corporation as to such action, and in that case upon demand of the Owner of any Outstanding Certificates and presentation of such Owner's Certificate for such purpose at the Corporate Trust Office of the Trustee a suitable notation as to such action shall be made on such Certificate. If the Corporation shall so determine, new Certificates so modified as, in the opinion of the Corporation, shall be necessary to conform to such action shall be prepared and executed, and in that case upon demand of the Owner of any Outstanding Certificate a new Certificate or Certificates shall be

exchanged at the Corporate Trust Office of the Trustee without cost to each Owner for its Certificate or Certificates then Outstanding upon surrender of such Outstanding Certificates.

Section 7.04 Amendment by Mutual Consent. The provisions of this article shall not prevent any Owner from accepting any amendment as to the particular Certificates held by him, provided that due notation thereof is made on such Certificates.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES OF OWNERS

Section 8.01 Trust Events of Default; Acceleration; Waiver of Default. The following shall be Trust Events of Default hereunder: (i) an Agreement Event of Default shall happen and be continuing or (ii) the Corporation shall default in the observance of any of the covenants, agreements or conditions on its part contained in this Trust Agreement, if such default shall have continued for a period of sixty (60) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the City and the Corporation by the Trustee, or to the City, the Corporation and the Trustee by the Owners of not less than twenty-five per cent (25%) in aggregate principal amount of the Certificates at the time Outstanding.

Section 8.02 Remedies. If a Trust Event of Default shall happen and be continuing hereunder Trustee shall have the right:

(a) to exercise the remedies provided to the Corporation in the Agreement; provided, that nothing contained herein shall affect or impact the right of action of any Owner to institute suit directly against the City to enforce payment of the obligation evidenced by such Owner's Certificates;

(b) by mandamus or other action or proceeding or suit at law or in equity to enforce the Corporation's rights under the Agreement against the City or any officer or employee thereof, and to compel the City or any such officer or employee or the Corporation, as applicable, to perform or carry out its or his duties under law and the agreements and covenants required to be performed by it or him contained in the Agreement or this Trust Agreement;

(c) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Trustee;

(d) by suit in equity upon the happening of any Trust Event of Default hereunder to enforce the Corporation's rights under the Agreement and the Trustee's rights under this Trust Agreement and to require the City and its officers and employees and the Corporation to account as the trustee of an express trust; or

(e) by mandamus or other action or proceeding or suit at law or in equity, to pursue any other remedy now or hereafter existing in law or in equity or by statute or otherwise to enforce the performance of the Corporation's obligations hereunder and to otherwise protect the Trustee's rights and interests in connection with this Trust Agreement.

Section 8.03 **Non-Waiver.** A waiver of any default or breach of any duty or contract by the Trustee shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Trustee to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or any acquiescence therein, and every right or remedy conferred upon the Trustee by law or by this article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Trustee.

If any action, proceeding or suit to enforce any right or to exercise any remedy is abandoned or determined adversely to the Trustee, the Corporation, the Trustee and the City shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 8.04 **Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Trustee or the Owners is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by law.

Section 8.05 **No Liability by the City to the Owners.** Except for the payment when due of the Installment Payments and the performance of the other agreements and covenants required to be performed by it contained in the Agreement, the City shall not have any obligation or liability to the Owners with respect to this Trust Agreement or the preparation, execution, delivery or transfer of the Certificates or the disbursement of the Installment Payments by the Trustee to the Owners, or with respect to the performance by the Trustee of any right or obligation required to be performed by it contained herein.

Section 8.06 **No Liability by the Trustee to the Owners.** Except as expressly provided herein, the Trustee shall not have any obligation or liability to the Owners with respect to the payment when due of the Installment Payments by the City, or with respect to the performance by the City of the other agreements and covenants required to be performed by its contained in the Agreement.

ARTICLE IX

DEFEASANCE

Section 9.01 **Defeasance of Certificates.**

(a) **Methods.** If and when any Outstanding Certificates shall be paid and discharged in any one or more of the following ways —

(i) **Payment:** by well and truly paying or causing to be paid the principal and interest evidenced by such Certificates, together with any and prepayment premiums, as and when the same become due and payable;

(ii) Cash: by irrevocably depositing with the Trustee, in trust, at or before maturity or the date of prepayment, as applicable, an amount of cash which (together with cash then on deposit in the Debt Service Fund and the Reserve Fund, in the event of payment or provision for payment of all Outstanding Certificates) is sufficient to pay such Certificates, including all principal and interest evidenced by such Certificates, together with any and premium, as the same become due; provided, however, that if such Certificates are prepaid prior to their maturity dates, the Trustee shall have given, or shall receive irrevocable instructions to give, notice of such prepayment as provided in this Trust Agreement; or

(iii) Defeasance Securities: by irrevocably depositing with the Trustee, in trust, at or before maturity or the date of prepayment, as applicable, noncallable Defeasance Securities together with cash, if required, in such amount as will, in the opinion of an independent certified public accountant delivered to the Trustee, together with interest to accrue thereon (and, in the event of payment or provision for payment of all Outstanding Certificates moneys then on deposit in the Debt Service Fund and the Reserve Fund together with the interest to accrue thereon), be fully sufficient to pay such Certificates (including all principal and interest evidenced by such Certificates, together with any and prepayment premiums), as the same became due; provided, however, that if such Certificates are prepaid prior to their maturity dates, the Trustee shall have given, or shall receive irrevocable instructions to give, notice of such prepayment as provided in this Trust Agreement;

then, notwithstanding that any such Certificates shall not have been surrendered for payment, all obligations under this Trust Agreement of the Corporation (if any), the Trustee and the City with respect to such Certificates shall cease and terminate, except only the obligation of the Trustee to pay or cause to be paid, solely from funds deposited pursuant to paragraphs (1), (2) or (3) of this Section, as applicable, to the Owners of the Certificates not so surrendered and paid all sums due with respect to the principal and interest evidenced by such Certificates, and in the event of deposits pursuant to paragraphs (1), (2) and (3) of this Section, the Certificates shall continue to represent proportionate interests of the Owners thereof in Installment Payments under the Agreement.

If moneys or securities are deposited with and held by the Trustee as hereinabove provided, the Trustee shall mail a notice, first-class postage prepaid, to the Owners of the applicable Certificates at the addresses listed on the Certificate Register, stating that (a) moneys or Defeasance Securities are so held by it, and (b) that all obligations under this Trust Agreement with respect to such Certificates have been released in accordance with the provisions of this Section except only the obligation of the Trustee to pay or cause to be paid, solely from the funds and Defeasance Securities deposited pursuant to this Section, all sums due with respect to the principal and interest evidenced by such Certificates.

Section 9.02 Discharge of Trust Agreement. When all Certificates shall have been paid and discharged as provided in Section 9.01 (except for the right of the Owner and the obligation of the Trustee to have the money and securities mentioned therein applied to the

payment of Certificates as therein set forth), then and in that case the obligations created by this Trust Agreement shall thereupon cease, determine and become void except for the right of the Owners and the obligation of the Trustee to apply such moneys and securities to the payment of the Certificates as herein set forth and the right of the Trustee to collect any fees or expenses due hereunder and the Trustee shall turn over to the City, as an overpayment with respect to Installment Payments, all balances remaining in any of the funds or accounts held hereunder other than the Rebate Fund and moneys and Defeasance Securities held for the payment of the Certificates at maturity or on prepayment, which moneys and Defeasance Securities shall continue to be held by the Trustee in trust for the benefit of the Owners and shall be applied by the Trustee to the payment, when due, of the Installment Payments evidenced by the Certificates, and after such payment, this Trust Agreement shall become void.

Upon receipt of a Request of the City, the Trustee shall cause an accounting for such period or periods as may be requested by the City to be prepared and filed with the City and shall execute and deliver to the City all such instruments as may be necessary or desirable to evidence the discharge and satisfaction of the Agreement and this Trust Agreement.

Section 9.03 **Surviving Provisions.** Notwithstanding the satisfaction and discharge hereof, the Trustee shall retain such rights, powers and privileges hereunder as may be necessary or convenient for the payment of the principal, interest and prepayment premium, if any, on the Certificates and for the registration, transfer and exchange of the Certificates.

Section 9.04 **Payments by Certificate Insurer.** Notwithstanding anything contained in this Trust Agreement to the contrary, in the event that the Interest Installments and/or the Principal Installments evidenced by any of the Certificates shall be paid by the Certificate Insurer pursuant to the Certificate Insurance Policy, such Certificates shall remain Outstanding hereunder for all purposes, shall not be defeased or otherwise satisfied and shall not be considered paid, and the assignment and pledge hereof and all agreements, covenants and other obligations of the City under the Agreement assigned to the Trustee for the benefit of the Owners of the Certificates shall continue to exist and shall run to the benefit of the Certificate Insurer, and the Certificate Insurer shall be subrogated to the rights of such Owners.

ARTICLE X

PROVISIONS RELATING TO CERTIFICATE INSURANCE POLICY

Section 10.01 **Certificate Insurance Policy.** Notwithstanding anything to the contrary contained herein, any amount drawn under the Insurance Policy will be available only for payment of Installment Payments evidenced by the Certificates pursuant to the provisions of this Article X.

Section 10.02 **Payment Procedure Under the Certificate Insurance Policy.**

(a) In the event that, on the second Business Day, and again on the Business Day, prior to the Payment Date, the Trustee has not received sufficient moneys to pay all amounts due with respect to the Certificates due on the second following or following, as the case may be, Business Day, the Trustee shall immediately notify the Certificate Insurer or its

designee on the same Business Day by telephone or telegraph, confirmed in writing by registered or certified mail, of the amount of the deficiency.

(b) If the deficiency is made up in whole or in part prior to or on the payment date, the Trustee shall so notify the Certificate Insurer or its designee.

(c) In addition, if the Trustee has notice that any Owner has been required to disgorge Installment Payments evidenced by the Certificates to a trustee in bankruptcy or creditors or others pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such Owner within the meaning of any applicable bankruptcy laws, then the Trustee shall notify the Certificate Insurer or its designee of such fact by telephone or telegraphic notice, confirmed in writing by registered or certified mail.

Section 10.03 Trustee as Attorney-In-Fact. The Trustee is hereby irrevocably designated, appointed, directed and authorized to act as an attorney-in-fact for Owners of the Certificates as follows:

(a) if and to the extent the Trustee has not received sufficient moneys to pay the Interest Installments evidenced by the Certificates, the Trustee shall (i) execute and deliver to State Street Bank and Trust Company, N.A., or its successors under the applicable Certificate Insurance Policy (the "Insurance Paying Agent"), in form satisfactory to the Insurance Paying Agent, an instrument appointing the Certificate Insurer as agent for such Owners in any legal proceeding related to the payment of such interest and an assignment to the Certificate Insurer of the claims for interest to which such deficiency relates and which are paid by the Certificate Insurer, (ii) receive as designee of the respective Owners (and not as Trustee) in accordance with the tenor of the applicable Certificate Insurance Policy payment from the Insurance Paying Agent with respect to the claims for interest so assigned, and (iii) disburse the same to such respective Owners; and

(b) if and to the extent the Trustee has not received sufficient moneys to pay the Principal Installments evidenced by the Certificates or the Series D Certificates, the Trustee shall (i) execute and deliver to the Insurance Paying Agent in form satisfactory to the Insurance Paying Agent an instrument appointing the Certificate Insurer as agent for such Owner in any legal proceeding relating to the payment of such Principal Installment and an assignment to the Certificate Insurer of any of the Certificates surrendered to the Insurance Paying Agent of so much of the Principal Installment thereof as has not previously been paid or for which moneys are not held by the Trustee and available for such payment (but such assignment shall be delivered only if payment from the Insurance Paying Agent is received), (ii) receive as designee of the respective Owners (and not as Trustee) in accordance with the tenor of the applicable Insurance Policy payment therefor from the Insurance Paying Agent, and (iii) disburse the same to such Owners.

Section 10.04 No Discharge.

(a) Installment Payments evidenced by the Certificates disbursed by the Trustee from proceeds of the applicable Certificate Insurance Policy shall not be considered to discharge the obligation of the City with respect to such Installment Payments, and the

Certificate Insurer shall become the owner of such unpaid Certificates and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of this Article or otherwise.

(b) Irrespective of whether any such assignment is executed and delivered, the Corporation and the Trustee hereby agree for the benefit of the Certificate Insurer that: (i) they recognize that to the extent the Certificate Insurer makes payments, directly or indirectly (as by paying through the Trustee), on account of Installment Payments evidenced by the Certificates, the Certificate Insurer will be subrogated to the rights of such Owners to receive the amount of such Installment Payments evidenced by the Certificates from the City, with interest thereon as provided and solely from the sources stated in the Agreement and such Certificates; and (ii) they will accordingly pay to the Certificate Insurer the amount of Installment Payments (including principal and interest recovered under subparagraph (ii) of the first paragraph of the applicable Certificate Insurance Policy, which principal and interest shall be deemed past due and not to have been paid), with interest thereon as provided in the Agreement and such Certificates, but only from the sources and in the manner provided in the Agreement for the payment of Principal Installments and Interest Installments with respect to such Certificates to Owners, and will otherwise treat the Certificate Insurer as the owner of such rights to the amount of such principal and interest.

Section 10.05 **Rights of Certificate Insurer.** Notwithstanding anything to the contrary contained herein, so long as the Certificate Insurer is not in default under the Certificate Insurance Policy, (a) the Certificate Insurer, acting alone, shall have the right to direct all remedies upon the occurrence and during the continuance of a Trust Event of Default, (b) the Certificate Insurer shall be deemed to be the Owner of each Certificate it insures for the purpose of exercising all rights and privileges available to such Owners, (c) the Certificate Insurer shall have the right to institute any suit, action or proceeding at law or in equity under the same terms as an Owner in accordance with the applicable provisions of this Trust Agreement and (d) except for a prepayment pursuant to the terms of Section 2.07 or 2.08 of this Trust Agreement, there shall be no acceleration in the payment of principal with respect to the Certificates without the prior written consent of the Certificate Insurer.

Section 10.06 **Notices.** The Certificate Insurer shall receive copies of all notices required to be delivered to Owners or to the Trustee and, on an annual basis, copies of the City's audited financial statements and annual budget, if any. The Certificate Insurer shall receive notice of the resignation or removal of the Trustee and the appointment of a successor thereto. The Certificate Insurer shall also receive notices of any amendment to this Trust Agreement which does not require its prior consent. Copies of any amendments made to this Trust Agreement which are consented to by the Certificate Insurer, the defeasance of Certificates pursuant to Article X, and any acceleration of the maturity of the Principal Installments pursuant to Section [8.01] of the Agreement shall be sent to S&P.

ARTICLE XI

MISCELLANEOUS

Section 11.01 **Benefits of this Trust Agreement.** Nothing contained herein, expressed or implied, is intended to give to any person other than the Corporation, the Trustee, the City, the Certificate Insurer, the issuer of each Financial Guaranty and the Owners any right, remedy or claim under or by reason hereof. Any agreement or covenant required herein to be performed by or on behalf of the Corporation or any member, officer or employee thereof shall be for the sole and exclusive benefit of the Trustee, the City, the Certificate Insurer, the issuer of each Financial Guaranty and the Owners.

Section 11.02 **Provisions to Pay Financial Guaranty Issuer(s).** Notwithstanding anything to the contrary herein, this Trust Agreement may not be terminated unless provisions have been made to pay all amounts owed to the issuer of each Financial Guaranty then in effect under the terms of each such Financial Guaranty.

Section 11.03 **Successor Is Deemed Included In All References To Predecessor.** Whenever herein either the Corporation or any member, officer or employee thereof is named or referred to, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the Corporation or such member, officer or employee, and all agreements and covenants required hereby to be performed by or on behalf of the Corporation or any member, officer or employee thereof shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

Section 11.04 **Execution of Documents by Owners.** Any declaration, request or other instrument which is permitted or required herein to be executed by Owners may be in one or more instruments of similar tenor and may be executed by Owners in person or by their attorneys appointed in writing. The fact and date of the execution by any Owner or his attorney of any declaration, request or other instrument or of any writing appointing such attorney may be proved by the certificate of any notary public or other officer authorized to make acknowledgments of deeds to be recorded in the state or territory in which he purports to act that the person signing such declaration, request or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly-sworn to before such notary public or other officer. The ownership of any Certificates and the amount, Certificate Payment Date, number and date of holding the same may be proved by the Certificate Register.

Any declaration, request or other instrument or writing of the Owner of any Certificate shall bind all future Owners of such Certificate with respect to anything done or suffered to be done by the Corporation or the Trustee in good faith and in accordance therewith.

Section 11.05 **Waiver of Personal Liability.** No member, officer or employee of the Corporation shall be individually or personally liable for the payment of the Interest Installments or Principal Installments or prepayment premiums, if any, evidenced by the Certificates by reason of their delivery, but nothing herein contained shall relieve any such member, officer or employee from the performance of any official duty provided by applicable provisions of law or hereby.

Section 11.06 Content of Certificates. Every Certificate of the Corporation with respect to compliance with any agreement, condition, covenant or provision provided herein shall include (a) a statement that the person or persons making or giving such certificate have read such agreement, condition, covenant or provision and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements contained in such certificate are based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such agreement, condition, covenant or provision has been complied with; and (d) a statement as to whether, in the opinion of the signers, such agreement, condition, covenant or provision has been complied with.

Any Certificate of the Corporation may be based, insofar as it relates to legal matters, upon an Opinion of Counsel unless the person making or giving such certificate knows that the Opinion of Counsel with respect to the matters upon which his certificate may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous. Any Opinion of Counsel may be based, insofar as it relates to factual matters or information with respect to which is in the possession of the Corporation, upon a representation by an officer or officers of the Corporation unless the counsel executing such Opinion of Counsel knows that the representation with respect to the matters upon which his opinion may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous.

Section 11.07 Accounts and Funds; Business Days. Any account or fund required herein to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee either as an account or a fund, and may, for the purposes of such accounting records, any audits thereof and any reports or statements with respect thereto, be treated either as an account or a fund; but all such records with respect to all such accounts and funds shall at all times be maintained in accordance with this Trust Agreement and sound corporate trust industry practice and with due regard for the protection of the security of the Certificates and the rights of the Owners. Any action required to occur hereunder on a day which is not a Business Day shall be required to occur on the next succeeding Business Day with the same effect as if made on such non-Business Day.

Section 11.08 Notices. Unless otherwise provided herein, all notices, certificates or other communications hereunder shall be deemed sufficiently given upon actual receipt thereof when received by the City, the Corporation, the Trustee, the Certificate Insurer and the Rating Agencies, as the case may be, at the respective address provided pursuant to this Section or, if mailed by first class mail, postage prepaid, addressed to the appropriate address provided pursuant to this Section, six Business Days after deposit in the United States mail, the initial address for notices, counterparts and other communications hereunder is as follows:

If to the Corporation:

Lodi Public Improvement Corporation
c/o City of Lodi
221 West Pine Street
Lodi, California 95241-1910
Attention: City Clerk

If to the City: City of Lodi
221 West Pine Street
Lodi, California 95241-1910
Attention: City Manager

If to the Trustee: Union Bank of California, N.A.
475 Sansome Street, 12th Floor
San Francisco, CA 94111
Attention: Corporate Trust Department

If to the Certificate Insurer: _____

Attention: _____

If to S&P, to: Standard & Poor's Ratings Services
55 Water Street, 38th Floor
New York, New York 10041
Attention: Municipal Structured Group
Facsimile: (212) 438-2152
Telephone: (212) 438-2124

If to Fitch, to: Fitch, Inc.
650 California Street, 8th Floor
San Francisco, California 94018
Attention: U.S. Public Finance Group
Facsimile: (415) 732-5770
Telephone: (415) 732-5610

The City, the Trustee, the Corporation, the Certificate Insurer and the Rating Agencies may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Unless otherwise requested by the City, the Trustee, the Corporation, the Certificate Insurer or the Rating Agencies, any notice required to be given hereunder in writing may be given by any form of Electronic Notice capable of making a written record. Each such party shall file with the Trustee information appropriate to receiving such form of Electronic Notice.

Section 11.09 **CUSIP Numbers**. Neither the Corporation nor the Trustee shall be liable for any defect or inaccuracy in the CUSIP number that appears on any Certificate or in any prepayment notice relating thereto. The Trustee may, in its discretion, include in any prepayment notice relating to any of the Certificates a statement to the effect that the CUSIP numbers on the Certificates have been assigned by an independent service and are included in such notice solely for the convenience of the Owners and that neither the Corporation nor the Trustee shall be liable for any defects or inaccuracies in such numbers.

Section 11.10 **Partial Invalidity**. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the Corporation or the

Trustee shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof or of the Certificates, and the Owners shall retain all the benefit, protection and security afforded to them under any applicable provisions of law. The Corporation and the Trustee hereby declare that they would have executed and delivered this Trust Agreement and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized the execution and delivery of the Certificates pursuant hereto irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 11.11 California Law. This Trust Agreement shall be construed and governed in accordance with the laws of the State of California.

Section 11.12 Execution in Several Counterparts. This Trust Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Corporation and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the Lodi Public Improvement Corporation has caused this Trust Agreement to be signed in its name by its President and [Name of Trustee], in token of its acceptance of the trusts created hereunder, has caused this Trust Agreement to be signed by one of the officers thereunder duly authorized, all as of the day and year first above written.

LODI PUBLIC IMPROVEMENT
CORPORATION

By: _____
President

Attest:

Secretary to the Corporation

APPROVED:

Attorney for the Corporation

UNION BANK OF CALIFORNIA, N.A.,
as Trustee

By: _____
Authorized Officer

EXHIBIT A

FORM OF CERTIFICATE

CITY OF LODI
WASTEWATER SYSTEM REVENUE
CERTIFICATE OF PARTICIPATION
2004 Series A
Evidencing a Proportionate
Interest of the Owner Hereof in Certain
Installment Payments to be made by the
CITY OF LODI

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City of Lodi or its agent 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.

No. R- _____ \$ _____

Interest Rate	Certificate Payment Date	Dated Date	CUSIP
%	____ 1, _____	_____ 1, _____	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \$ _____

THIS IS TO CERTIFY AND THIS CERTIFICATE EVIDENCES that the registered owner of this Certificate set forth above is the owner of a proportionate interest in certain installment payments (the "Installment Payments") to be made by the City of Lodi, a municipal corporation organized and existing under and by virtue of the Constitution and laws of the State of California (the "City") under and pursuant to that certain Installment Purchase Agreement (the "Agreement"), dated as of May 1, 2004, by and between the City and the Lodi Public Improvement Corporation (the "Corporation"). All of the rights to receive such Installment Payments have been assigned by the Corporation to Union Bank of California, N.A., as trustee (and together with any successor trustee thereunder, the "Trustee") under that certain Trust Agreement (the "Trust Agreement"), dated as of May 1, 2004, between the Corporation and the Trustee. Capitalized terms used in this Certificate not otherwise defined herein shall have the meanings given such terms in the Trust Agreement.

The registered owner of this Certificate is entitled to receive, subject to the terms of the Agreement, on the Certificate Payment Date set forth above, the principal amount set forth above, representing the registered owner's proportionate share of the principal component of Installment Payments becoming due and payable with respect to such Certificate Payment Date. The principal evidenced hereby is payable in lawful money of the United States of America upon surrender of this Certificate at the Corporate Trust Office of the Trustee. The registered owner of this Certificate as shown in the registration books maintained by the Trustee as of the close of business on the applicable Record Date is entitled to receive such registered owner's proportionate share of the interest component the Installment Payments evidenced by this Certificate (representing interest on the principal component of the Installment Payments owned by the registered owner hereof) at the interest rate set forth above from the Interest Payment Date next preceding the date of execution hereof by the Trustee; unless such date of execution is after a Record Date and on or before the following Interest Payment Date, in which event from such Interest Payment Date; or unless such date of execution is on or before September 15, 2004, in which event from the Dated Date specified above; provided that if at the time of such execution of this Certificate, interest evidenced by this Certificate is then in default, interest shall be payable from the Interest Payment Date to which the interest evidenced by this Certificate has previously been paid or made available for payment. Interest evidenced by this Certificate due on or before the Certificate Payment Date shall be payable in lawful money of the United States of America, by check mailed on such Interest Payment Date by first-class mail to the registered owner hereof; provided, that if the registered owner hereof shall be the owner of one million dollars (\$1,000,000) or more in aggregate principal amount of Certificates, upon the written request of the registered owner hereof received by the Trustee at least three Business Days prior to the applicable Record Date (which request shall remain in effect until rescinded in writing by such registered owner), interest shall be paid by wire transfer in immediately available funds.

Interest with respect to the Certificates will be paid on each Interest Payment Date provided that if any Interest Payment Date is not a Business Day, such interest shall be mailed or wired as provided above on the next succeeding Business Day and no interest shall accrue from the date when due. Interest Payment Date means each April 1 and October 1, commencing October 1, 2004. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

This Certificate is one of the duly authorized certificates of participation designated "City of Lodi Wastewater System Revenue Certificates of Participation 2004 Series A" (the "Certificates") aggregating _____ Million _____ Hundred _____ Thousand dollars (\$ _____) in principal amount, which have been executed and delivered by the Trustee under and pursuant to the provisions of a Trust Agreement, dated as of _____ 1, 2004 (the "Trust Agreement") between the Corporation and the Trustee. The obligation of the City to make the Installment Payments is a special obligation of the City payable solely from the System Net Revenues of the City's wastewater system as provided in the Agreement. The general fund of the City is not liable for, and neither the faith and credit nor the taxing power of the City is pledged to, the payment of the Installment Payments under the Agreement. The City has outstanding obligations, and may, as provided in the Agreement, incur other obligations, payable from the System Net Revenues on a parity with the Installment Payments.

In the Agreement, the City has certified that all acts, conditions and things required by the Constitution and statutes of the State of California to have been performed, to have happened and to exist precedent to and in connection with the execution and delivery of the Agreement, have been performed, have happened and do exist in regular and due time, form and manner as required by law.

Copies of the Agreement and the Trust Agreement are on file at the Corporate Trust Office of the Trustee and reference is hereby made to the Agreement and the Trust Agreement and to any and all amendments thereof and supplements thereto for a description of the agreements, conditions, covenants and terms of the Certificates, for the nature, extent and manner of enforcement of such agreements, conditions, covenants and terms, for the rights and remedies of the registered owners of the Certificates with respect thereto and for the other agreements, conditions, covenants and terms upon which the Certificates are executed and delivered thereunder.

The Certificates maturing on and prior to October 1, ____ are not subject to optional prepayment prior to their stated maturity dates. The Certificates maturing on and after October 1, ____ are subject to optional prepayment prior to their stated maturity dates on any date on and after October 1, ____, as a whole or in part, at the option of the City, from any source of available funds at the following prepayment prices (computed upon the principal amount of the Certificates or portions thereof to be prepaid) plus unpaid accrued interest thereon to the date fixed for prepayment:

Prepayment Period (both dates inclusive)	Prepayment Price
October 1, ____ through September 30, ____	%
October 1, ____ through September 30, ____	%
October 1, ____ and thereafter	100%

The Certificates maturing on October 1, ____ are subject to mandatory prepayment prior to maturity, in part by lot, commencing on October 1, ____ and on each October 1 thereafter to and including October 1, ____, from principal components of Installments Payments made by the City on the immediately preceding Installment Payment Date, at a prepayment price equal to the principal amount of the Certificates to be prepaid, plus unpaid accrued interest thereon to the date fixed for prepayment, without a prepayment premium. To the extent that the amount of the principal components of the Installment Payments due with respect to any such October 1 has been reduced pursuant to the Agreement, then the principal amount of Certificates maturing on October 1, ____ which are subject to mandatory prepayment on such October 1 shall be reduced by the same amount.

This Certificate is transferable on the books required to be kept for that purpose at the Corporate Trust Office of the Trustee by the Person in whose name it is registered, in person or by his duly authorized attorney, upon payment of the charges provided in the Trust Agreement, and upon surrender of this Certificate for cancellation accompanied by delivery of a duly executed written instrument of transfer in a form acceptable to the Trustee, and thereupon a new Certificate or Certificates evidencing a like aggregate principal amount in authorized denominations will be delivered to the transferee. This Certificate may be exchanged at the Corporate Trust Office of the Trustee, upon payment of the charges provided in the Trust Agreement, for Certificates evidencing a like aggregate principal amount of Principal Installments payable on the same Certificate Payment Date of other authorized denominations. The Trustee may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of the interest and principal and prepayment premium, if any, evidenced hereby and for all other purposes, whether this Certificate shall be overdue or not, and the Trustee shall not be affected by any notice or knowledge to the contrary; and payment of the interest and principal and prepayment premium, if any, evidenced by this Certificate shall be made only to such registered owner, which payments shall be valid and effectual to satisfy and discharge liability on this Certificate to the extent of the sum or sums so paid.

The Trustee has no obligation or liability to the Certificate owners for the payment of the interest or principal or the prepayment premiums, if any, evidenced by the Certificates; but rather the Trustee's sole obligations are those stated in the Trust Agreement.

No member, officer or employee of the City or the Corporation shall be individually or personally liable for the payment of the interest or principal or prepayment premiums, if any, evidenced by the Certificates or by reason of their delivery, but nothing herein contained shall relieve any such member, officer or employee from the performance of any official duty provided by applicable provisions of law or hereby.

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, but no such amendment shall (1) extend the Certificate Payment Date of this Certificate, or change the payment dates of, or reduce the rate of interest or principal or prepayment premium, if any, evidenced hereby, without the express written consent of the registered owner hereof, or (2) reduce the percentage of Certificates required for the written consent to any amendment, or (3) modify any rights or obligations of the Trustee without its prior written assent thereto.

The Trust Agreement prescribes the manner in which it may be discharged and after which the Certificates shall no longer be secured by or entitled to the benefits of the Trust Agreement.

IN WITNESS WHEREOF, this Certificate has been executed by the manual signature of an authorized signatory of the Trustee as of the date below.

EXECUTION
DATE: _____

UNION BANK OF CALIFORNIA, N.A.,
as Trustee

By: _____
Authorized Signatory

STATEMENT OF INSURANCE

_____ (the "Certificate Insurer") has issued a policy containing the following provisions, such policy being on file at the office of [Name of Trustee] in Los Angeles, California.

The Certificate Insurer, in consideration of the payment of the premium and subject to the terms of this policy, hereby unconditionally and irrevocably guarantees to any owner, as hereinafter defined, of the following described obligations, the full and complete payment required to be made by or on behalf of the City to [Name of Trustee], as Trustee, or its successor (the "Trustee") of an amount equal to (i) the principal (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest evidenced by the Certificates (as that term is defined below) as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional prepayment or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed hereby shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law. The amounts referred to in clauses (i) and (ii) of the preceding sentence shall be referred to herein collectively as the "Insured Amounts." "Certificates" shall mean:

\$ _____
CITY OF LODI
WASTEWATER SYSTEM REVENUE
CERTIFICATE OF PARTICIPATION
2004 Series A
Evidencing a Proportionate Interest
of the Owner Thereof in Certain Installment
Payments to be made by the City of Lodi, California

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by the Certificate Insurer from the Trustee or any owner of an Certificate the payment of an Insured Amount for which is then due, that such required payment has not been made, the Insurer on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with State Street Bank and Trust Company, N.A., in New York, New York, or its successor, sufficient for the payment of any such Insured Amounts which are then due. Upon presentment and surrender of such Certificates or presentment of such other proof of ownership of the Certificates, together with any appropriate instruments of assignment to evidence the assignment of the Insured Amounts due on the Certificates as are paid by the Insurer, and appropriate instruments to effect the appointment of the Certificate Insurer as an agent for such owners of the Certificates in any legal proceeding related to payment of Insured Amounts on the Certificates, such instruments being in a form satisfactory to State Street Bank and Trust Company, N.A., State Street Bank

and Trust Company, N.A. shall disburse to such owners or the Trustee payment of the Insured Amounts due on such Certificates, less any amount held by the Trustee for the payment of such Insured Amounts and legally available therefor. This policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Certificate.

As used herein, the term "owner" shall mean the registered owner of any Certificate as indicated in the registration books maintained by the Trustee, the City or any designee of the City for such purpose. The term owner shall not include the City or any party whose agreement with the City constitutes the underlying security for the Certificates.

Any service of process on the Certificate Insurer may be made to the Certificate Insurer at its officers located at _____ and such service of process shall be valid and binding.

This policy is non-cancelable for any reason. The premium on this policy is not refundable for any reason including the payment prior to maturity of the Certificates.

In the event the Certificate Insurer were to become insolvent, any claims arising under a policy of financial guaranty insurance are excluded from coverage by the California Insurance Guaranty Association, established pursuant to Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1 of the California Insurance Code.

[FORM OF ASSIGNMENT TO APPEAR ON CERTIFICATES]

For value received the undersigned hereby sells, assigns and transfers unto _____
_____ (Taxpayer Identification Number: _____) the within Certificate and
all rights thereunder, and hereby irrevocably constitutes and appoints _____
attorney to transfer the within Certificate on the books kept for registration thereof, with full
power of substitution in the premises.

Dated: _____

Note: The signature to this Assignment must correspond with the name as written on the face of
the Certificate in every particular, without alteration or enlargement or any change
whatever.

Signature Guaranteed: _____

Notice: Signature must be guaranteed by an eligible guarantor institution.

EXHIBIT B

FORM OF IMPROVEMENT FUND REQUISITION

[Name of Trustee], as Trustee
[address of Trustee]
Attention: [_____]

RE: Disbursement from the Improvement Fund pursuant to Section 3.05 of the Trust Agreement (the "Trust Agreement"), dated as of _____ 1, 2004, by and between [Name of Trustee], as trustee (the "Trustee") and the Lodi Public Improvement Corporation (the "Corporation")

REQUISITION NO. _____

Amount; Payee. You are hereby instructed to pay to: _____
at _____ from the Improvement Fund established pursuant to the Trust Agreement the sum of \$_____ for the following-described Costs of the Project (as such terms are defined in the Trust Agreement) (describe expenditure):

_____ This cost has been properly incurred, is a proper charge against the Improvement Fund and has not been the basis of any previous disbursements.

_____ Check here if all Costs of the Project have been paid and the Trustee is directed to undertake transfers from the Improvement Fund pursuant to Section 3.05 of the Trust Agreement.

Very truly yours,

CITY OF LODI

By: _____
City Representative

EXHIBIT C

FORM OF COST OF ISSUANCE FUND REQUISITION

[Name of Trustee], as Trustee
[address of Trustee]
Attention: [_____]

RE: Disbursement from the Cost of Issuance Fund pursuant to Section 3.06 of the Trust Agreement (the "Trust Agreement"), dated as of _____ 1, 2004, by and between [Name of the Trustee], as trustee (the "Trustee") and the Lodi Public Improvement Corporation (the "Corporation")

REQUISITION NO. _____

Amount; Payee. You are hereby instructed to pay to: _____
at _____ from the Cost of Issuance Fund established pursuant to
the Trust Agreement the sum of \$ _____ for the following-described Costs of Issuance (as
defined in the Trust Agreement) (describe expenditure):

These costs have been properly incurred, are a proper charge against the Cost of Issuance Fund and has not been the basis of any previous disbursements.

_____ Check here if all Cost of Issuance have been paid and the Trustee is directed to undertake transfers from the Cost of Issuance Fund pursuant to Section 3.06 of the Trust Agreement.

Very truly yours,

CITY OF LODI

By: _____
City Representative

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RESOLUTION NO. LPIC2004-01

A RESOLUTION OF THE LODI PUBLIC IMPROVEMENT CORPORATION
APPROVING THE FORMS AND AUTHORIZING THE EXECUTION AND DELIVERY OF
AN INSTALLMENT PURCHASE CONTRACT AND A TRUST AGREEMENT IN
CONNECTION WITH CITY OF LODI WASTEWATER SYSTEM REVENUE
CERTIFICATES OF PARTICIPATION, 2004 SERIES A; AND APPROVING AND
AUTHORIZING CERTAIN OTHER MATTERS RELATED THERETO

WHEREAS, the City of Lodi, a municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of California (the "City") owns and operates a municipal wastewater system (the "System"), to provide for the collection, treatment, and disposal of wastewater; and

WHEREAS, the City proposes to make certain additions, betterments, extensions, replacements, and improvements to the System (the "Project"); and

WHEREAS, the Lodi Public Improvement Corporation (the "Corporation") is a nonprofit public benefit corporation formed for the purpose of assisting the City in financing capital improvements such as the Project; and

WHEREAS, the Corporation has agreed to assist the City by acquiring or causing the acquisition of the Project and selling the Project to the City pursuant to the terms of an Installment Purchase Contract (the "Installment Purchase Contract"); and

WHEREAS, pursuant to the Installment Purchase Contract, the City will be obligated to make installment payments (the "Installment Payments") to the Corporation as the purchase price of the Project; and

WHEREAS, the Corporation will assign certain of its rights under the Installment Purchase Agreement, including its rights to receive the Installment Payments to Union Bank of California, N.A. (the "Trustee") pursuant to a Trust Agreement (the "Trust Agreement") between the Corporation and the Trustee; and

WHEREAS, pursuant to the Trust Agreement, the Trustee is to execute and deliver City of Lodi Wastewater System Revenue Certificates of Participation, 2004 Series A (the "Certificates"), evidencing the proportionate interests of the owners thereof in the Installment Payments; and

WHEREAS, the proceeds of the sale of the Certificates are to be applied, among other things, to the costs of the Project as provided in the Trust Agreement; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LODI PUBLIC IMPROVEMENT CORPORATION, AS FOLLOWS:

Section 1. The Board of Directors of the Corporation hereby specifically finds and determines it is desirable and furthers the Corporation's public purpose to assist the City in the financing of the Project as provided in the Installment Purchase Contract and the Trust Agreement and that the statements, findings and determinations of the Corporation set forth above and in the preambles of the documents approved herein are true and correct.

Section 2. The Installment Purchase Contract, in the form presented at this meeting and on file with the Secretary of the Corporation, and the performance by the Corporation of its obligations thereunder, are hereby approved. The President and the Treasurer of the Corporation, each acting singly, are hereby authorized and directed, for and in the name and on behalf of the Corporation, to execute and deliver to the City the Installment Purchase Contract in substantially said form, with such changes therein as such officer executing such document may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. The Trust Agreement, in the form presented at this meeting and on file with the Secretary of the Corporation, and the performance of by the Corporation of its obligations thereunder, are hereby approved. The President or the Treasurer of the Corporation, each acting singly, are hereby authorized and directed, for and in the name and on behalf of the Corporation, to execute and deliver to the Trustee the Trust Agreement in substantially said form, with such changes therein as such officer executing such document may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. The Secretary of the Corporation is hereby authorized and directed to attest the signatures of the President and the Treasurer of the Corporation, as may be required or appropriate, in connection with the execution and delivery of the Installment Purchase Contract, the Trust Agreement and the Certificates.

Section 5. Each officer of the Corporation is hereby authorized and directed, acting singly, to do any and all things and to execute and deliver any and all documents which they may deem necessary or desirable in order to consummate the transactions authorized hereby and to consummate the sale, execution and delivery of the Certificates and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Installment Purchase Contract the Trust Agreement and the Certificates; and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 6. This Resolution shall take effect immediately upon its passage.

Dated: April 27, 2004

I hereby certify that Resolution No. LPIC2004-01 was passed and adopted by the Board of Directors in a special meeting held April 27, 2004, by the following vote:

AYES: DIRECTORS – Beckman, Hitchcock, Howard, Land, and President Hansen
NOES: DIRECTORS – None
ABSENT: DIRECTORS – None
ABSTAIN: DIRECTORS – None


SUSAN J. BLACKSTON
City Clerk

Approved As to Form:


Stephen Schwabauer
Interim City Attorney