

## 2011 INSTALLMENT SALE AGREEMENT

This 2011 INSTALLMENT SALE AGREEMENT (the “2011 Installment Sale Agreement”), dated as of May 17, 2011, by and between the LAGUNA COUNTY SANITATION DISTRICT, a county sanitation district duly organized and existing under and by virtue of the laws of the State of California (the “District”), and the COUNTY OF SANTA BARBARA, a political subdivision duly organized and existing under and by virtue of the laws of the State of California (the “County”);

### WITNESSETH:

WHEREAS, the District has determined that the acquisition of the photovoltaic solar energy project (the “2011 Project”) for its sanitation system is necessary and proper for District purposes and uses under the terms of applicable law and is for the common benefit of the District as a whole; and

WHEREAS, the County has determined to acquire and sell the 2011 Project to the District; and

WHEREAS, the District has determined to make installment sale payments as hereinafter described to the County for the purchase of the 2011 Project and the costs of the design, acquisition and construction thereof and the incidental costs and expenses related thereto paid by the County; 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 the 2011 Installment Sale 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 the 2011 Installment Sale Agreement;

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

### ARTICLE I

#### DEFINITIONS

**Section 1.01. 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 opinion or report or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein:

Accountant's Report

“Accountant's Report” means the opinion of an Independent Certified Public Accountant.

Acquisition Account

“Acquisition Account” means the acquisition account established pursuant to the Tax Certificate.

Board of Directors

“Board of Directors” means the Board of Directors of the District.

Closing Date

“Closing Date” means \_\_\_\_\_, 2011.

County

“County” means the County of Santa Barbara, a political subdivision duly organized and existing under and by virtue of the laws of the State of California.

Code

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder.

Debt Service

“Debt Service” means, for any Fiscal Year, the sum of that portion of the Installment Payments required to be made at the times provided in the Parity Obligations that would have accrued during such Fiscal Year if such Installment Payments were deemed to accrue daily in equal amounts from, in each case, the next preceding Installment Payment Date of interest or principal or the date of the pertinent Parity Obligation, as the case may be; provided, that

(a) if the Installment Payments due under any such Parity Obligations bear interest payable pursuant to a variable interest rate formula, the interest rate on such Parity Obligations for periods when the actual interest rate cannot yet be determined, shall be assumed to be equal to the greater of (i) the actual rate on the date of calculation, or if such Parity Obligations are not yet outstanding, the initial rate (if then established and binding), (ii) if the Parity Obligations have been outstanding for at least twelve months, the average rate over the twelve months immediately preceding the date of calculation, and (iii)(1) if interest on such Parity Obligations is excludable from gross income under the applicable provisions of the Internal Revenue Code, the most recently published “Bond Buyer 25 Bond Revenue Index” (or comparable index if no longer published) or (2) if interest is not so excludable, the interest rate on direct U.S. Treasury obligations with comparable maturities plus fifty (50) basis points; and

(b) if 20% or more of the original principal of such Installment Payments due under such Parity Obligations is not due until the final stated maturity of such Installment Payments due under such Parity Obligations, such principal may, at the option of the District, be treated as if it were due based upon a level amortization of such principal over the term of such Installment Payments or twenty-five (25) years, whichever is greater.

#### Default Rate

“Default Rate” means \_\_\_\_% per annum.

#### Direct Subsidy Payments

“Direct Subsidy Payments” means the cash subsidy payments from the United States Treasury under Section 54A or 6431 of the Code.

#### District

“District” means the Laguna County Sanitation District, a county sanitation district duly organized and existing under and by virtue of the laws of the State of California.

#### Environmental Laws

“Environmental Laws” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and the Asset Conservation, Lender Liability, and Deposit Insurance Act of 1996, 42 U.S.C. §9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Solid and Hazardous Waste Amendments of 1984, 42 U.S. C. §9601 et seq.; the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. §1251 et seq.; the Toxic Substances Control Act of 1976, 15 U.S.C. §2601 et seq.; the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. §11001 et seq.; the Clean Air Act of 1966, as amended 42 U.S.C. §7401 et seq.; the National Environmental Policy Act of 1975, 42 U.S.C. §4321 et seq.; the Rivers and Harbours Act of 1899, 33 U.S.C. §401 et seq.; the Endangered Species Act of 1973, as amended 16 U.S.C. §1531 et seq.; the Occupational Safety and Health Act of 1970, as amended 29 U.S.C. §651 et seq.; and the Safe Drinking Water Act of 1974, as amended 42 U.S.C. §300(f) et seq.; and all rules, regulations and guidance promulgated or published thereunder, and any state, regional, country or local statute, law, rule, regulation or ordinance relating to public health, safety or the environment, including, without limitation, those relating (i) to releases, discharges, emissions or disposals to air, water, land or ground water, (ii) to the use, handling or disposal of polychlorinated biphenyls (PCB’s), asbestos or urea formaldehyde, (iii) to the treatment, storage, disposal or management of Hazardous Substances (including, without limitation petroleum, crude oil or any fraction thereof) and any other solid, liquid or gaseous substance, exposure to which is prohibited, limited or regulated, or may or could pose a hazard to the adjacent or surrounding property, (iv) to the exposure of persons to toxic, hazardous, or other controlled, prohibited or regulated substances, (v) to the transportation, storage, disposal, management or release of gaseous or liquid substances, and any regulations, order, injunction, judgment, declaration, notice or demand issued thereunder.

### Event of Default

“Event of Default” means an event described in Section 7.01.

### Fiscal Year

“Fiscal Year” means the period beginning on July 1 of each year and ending on the next succeeding June 30, or any other annual accounting period hereafter selected and designated by the Board of Directors as the Fiscal Year of the District.

### Generally Accepted Accounting Principles

“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 and the Governmental Accounting Standards Board or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Financial Accounting Standards Board or its successor.

### Gross Revenues

“Gross Revenues” means all gross income and revenue received by the District from the ownership and operation of the System, determined in accordance with Generally Accepted Accounting Principles, including, without limiting the generality of the foregoing, (a) Direct Subsidy Payments, (b) all income, rents, rates, fees, connection fees, charges or other moneys derived from the services, facilities and commodities sold, furnished or supplied through the facilities of the System, (c) the earnings on and income derived from the investment of such income, rents, rates, fees, charges or other moneys, and (d) the proceeds derived by the District directly or indirectly from the sale, lease or other disposition of a part of the System as permitted in the Installment Sale Agreement; *provided, however*, that the term “Gross Revenues” shall not include customers’ deposits or any other deposits subject to refund until such deposits have become the property of the District.

### Hazardous Substance

“Hazardous Substance” means any substance identified as hazardous under any of the Environmental Laws; *provided, however*, that Hazardous Substances shall not include cleaning and other maintenance-related materials and supplies in type and quantity customary for the System which are being used in a customary and safe manner.

### Independent Certified Public Accountant

“Independent Certified Public Accountant” means any certified public accountant or firm of such accountants duly licensed and entitled to practice and practicing as such under the laws of the State, appointed and paid by the District or County, and who, or each of whom:

(A) is in fact independent according to the Statement of Auditing Standards No. 1 and not under the domination of the District;

(B) does not have a substantial financial interest, direct or indirect, in the operations of the District; and

(C) is not connected with the District as a director, officer or employee of the District, but who may be regularly retained to audit the accounting records of and make reports thereon to the District.

Installment Payments; 2011 Installment Payments

“Installment Payments” means the installment sale, rental or other periodic payments scheduled to be paid by the District under and pursuant to the Parity Obligations, including the 2011 Installment Payments. “2011 Installment Payments” means the Installment Payments scheduled to be paid by the District under and pursuant hereto.

Installment Payment Date; 2011 Installment Payment Date

“Installment Payment Date” means any date on which Installment Payments are scheduled to be paid by the District under and pursuant to any Contract. “2011 Installment Payment Date” means any date on which 2011 Installment Payments are scheduled to be paid by the District under and pursuant hereto.

Insurance Consultant

“Insurance Consultant” means (a) the Risk Manager for the District or (b) any insurance consultant or firm of insurance consultants generally recognized to be well qualified in insurance consulting matters relating to sanitation and other municipal systems.

Interest Payment Date

“Interest Payment Date” means a date on which an interest installment of the 2011 Installment Payment is due and payable, being May 1 and November 1 of each year to which reference is made, commencing on November 1, 2011.

Maintenance and Operation Costs

“Maintenance and Operation Costs” means the reasonable and necessary costs paid or incurred by the District for maintaining and operating the System, determined in accordance with Generally Accepted Accounting Principles, including all reasonable expenses of management and repair and other expenses necessary to maintain and preserve the System in good repair and working order, and including all administrative costs of the District 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, and including all other reasonable and necessary costs of the District or charges required to be paid by it to comply with the terms hereof or of any resolution authorizing the execution of any Parity Obligation or of such Parity Obligation, such as compensation, reimbursement and indemnification of the other party to such Parity Obligation and the Purchaser and fees and expenses of Independent Certified Public Accountants and Insurance Consultants, but excluding in all cases depreciation, replacement and obsolescence charges or reserves therefor, amortization of intangibles and intergovernmental

transfers by the District which are not reimbursements or payments for overhead or other administrative expenses incurred by the District.

#### Material Adverse Effect

“Material Adverse Effect” means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business or operations of the District, or (b) the ability of the District to carry out its business as of the date of this 2011 Installment Sale Agreement or as proposed herein to be conducted or to meet or perform its obligations under this 2011 Installment Sale Agreement on a timely basis.

#### Matters Contested in Good Faith

“Matters Contested in Good Faith” means the imposition of charges, assessments, taxes or other payments, the application of any laws, rules, regulations or policies, or any other matters (a) then being contested in good faith by appropriate proceedings diligently and continuously pursued, (b) of which the Purchaser has been notified in writing and is being kept informed in such detail as the Purchaser may from time to time reasonably request, (c) the enforcement of which is effectively stayed during the period of the contest and (d) with respect to which either (i) adequate reserves in the nature of a cash deposit or pledge of securities, or a payment bond of a corporate surety in the face amount equal to the total amount in controversy, reasonably satisfactory to the Purchaser, have been furnished or (ii) adequate provision therefor, reasonably satisfactory to the Purchaser, has been reserved on the financial statements of the District.

#### Maximum Annual Debt Service

“Maximum Annual Debt Service” means the greatest total Debt Service payable in any Fiscal Year during the period commencing with the next ensuing Fiscal Year and terminating with the Fiscal Year in which payments are due under the last outstanding Contract.

#### Maximum Annual 2011 Installment Payments

“Maximum Annual 2011 Installment Payments” means the greatest total 2011 Installment Payments payable in any 2011 Installment Payment Year during the period commencing with the then current 2011 Installment Payment Year and terminating with the 2011 Installment Payment Year ending on May 1, \_\_\_\_.

#### Net Revenues

“Net Revenues” means for any period of computation, the amount of the Gross Revenues during such period less the amount of Maintenance and Operation Expenses during such period.

#### Opinion of Counsel

“Opinion of Counsel” means a written opinion of counsel of recognized national standing in the field of law relating to municipal bonds, appointed by the District.

Parity Obligations

“Parity Obligations” means all installment sale contracts, loan agreements, capital leases, repayment agreements or similar obligations of the District authorized and executed by the District under and pursuant to applicable law, the interest and principal and prepayment premium, if any, payments under and pursuant to which are payable from Net Revenues on a parity with the payment of the 2011 Installment Payments, including, but not limited to, the State Loan.

Person

“Person” means an individual, partnership, corporation (including a business trust), limited liability company, trust, unincorporated association, joint venture or other entity.

Project, 2011 Project

“Project” means any additions, betterments, extensions or improvements to the System designated by the Board of Directors as a Project, the design, acquisition or construction of which (together with the incidental costs and expenses related thereto) is to be financed by the proceeds of any Parity Obligations. “2011 Project” means the capital improvements described in Exhibit A hereto and such additions, substitutions and deletions as shall be specified in a Certificate of the District stating that such additions, substitutions or deletions constitute the 2011 Project.

Purchase Price

“Purchase Price” means the principal amount plus the interest thereon owed by the District to the County under the conditions and terms hereof for the repayment of the costs of the design, acquisition and construction of the 2011 Project and the incidental costs and expenses related thereto paid by the County.

Purchaser

“Purchaser” means Wells Fargo Bank, National Association.

Revenue Fund

“Revenue Fund” means the Laguna County Sanitation Enterprise Fund maintained pursuant to Section 3.02.

Sanitation Service

“Sanitation Service” means the sanitation collection service furnished, made available or provided by the System.

### Subordinate Obligations

“Subordinate Obligations” mean obligations of the District authorized and executed by the District under applicable law, the payments under and pursuant to which are payable from Net Revenues, subject and subordinate to the payment of the 2011 Installment Payments and to the payment of Parity Obligations. Such obligations may be payable from any fund established for the purpose of paying debt service on such Subordinate Obligations.

### State Loan

“State Loan” means the Loan Contract between the State Water Resources Control Board and the District, dated August 16, 2001.

### System

“System” means properties and assets, real and personal, tangible and intangible, of the District, now or hereafter existing, used or pertaining to sanitation collection, including all additions, extensions, expansions, improvements and betterments thereto and equipments thereof, together with any other properties or assets hereafter determined by the Board of Directors to be part of the System.

### 2011 Installment Payment Year

“2011 Installment Payment Year” means the twelve-month period ending on May 1 of each year.

### 2011 Installment Sale Agreement

“2011 Installment Sale Agreement” means this installment sale agreement by and between the District and the County, dated as of May 17, 2011, as originally executed and as it may from time to time be amended or supplemented in accordance herewith.



**ARTICLE II**  
**THE 2011 PROJECT**

**Section 2.01. Design, Acquisition, Construction and Sale of the 2011 Project.**

The County hereby agrees to design, acquire and construct the 2011 Project for, and to sell the 2011 Project to, the District. In order to implement this provision, the County hereby appoints the District as its agent for the purpose of such design, acquisition and construction, and the District hereby agrees to enter into such engineering, design and construction contracts and purchase orders as may be necessary to provide for the complete design, acquisition and construction of the 2011 Project. The District hereby agrees that as such agent it will cause the acquisition and construction of the 2011 Project to be diligently completed after the deposit of funds in the Acquisition Account and that it will use its best efforts to cause the design, acquisition and construction of the 2011 Project to be completed as soon as reasonably practicable. The County hereby agrees to sell, and hereby sells, the 2011 Project to the District. The District hereby agrees to purchase, and hereby purchases, the 2011 Project from the County on the terms and conditions specified herein. Notwithstanding the foregoing, it is hereby expressly understood and agreed that the County shall be under no liability of any kind or character whatsoever for the payment of any costs or expenses incurred by the District (whether as agent for the County or otherwise) for the acquisition and construction of the 2011 Project and that all such costs and expenses shall be paid by the District, regardless of whether the funds deposited in the Acquisition Account are sufficient to cover all such costs.

**ARTICLE III**  
**2011 INSTALLMENT PAYMENTS**

**Section 3.01. Purchase Price.**

- (a) The Purchase Price to be paid by the District to the County hereunder is the sum of the principal amount of the District's obligation hereunder plus the interest to accrue on the unpaid balance of such principal amount from the date hereof over the term hereof, subject to prepayment as provided in Section 3.03.
- (b) The principal amount of the Purchase Price to be paid by the District to the County hereunder is Four Million One Hundred Seventy Thousand dollars (\$4,170,000).
- (c) The interest to accrue on the unpaid balance of such principal amount shall be paid by the District as and shall constitute interest paid on the principal amount of the District's Purchase Price obligation hereunder.
- (d) Interest on the unpaid balance of the principal amount of the Purchase Price shall accrue, from May \_\_, 2011, at \_\_% per annum. Interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months. Principal and interest shall be payable in the amounts and on the dates set forth on the installment payment schedule attached hereto as Exhibit B.

**Section 3.02. Payment of 2011 Installment Payments.** The District shall, subject to prepayment as provided in Section 3.03, pay the County the Purchase Price, without offset or deduction of any kind, by paying the principal installments of the 2011 Installment Payments semiannually on each May 1 and November 1, commencing November 1, 2011, together with interest installments of the 2011 Installment Payments on each May 1 and November 1, commencing November 1, 2011.

The obligation of the District to pay the Purchase Price by paying the 2011 Installment Payments is, subject to Section 8.01, absolute and unconditional, and until such time as the 2011 Installment Payments shall have been paid in full (or provision for the payment thereof shall have been made pursuant to Section 7.01), the District will not discontinue or suspend any 2011 Installment Payments required to be paid by it under this section when due, whether or not the System or any part thereof is operating or operable, or its use is suspended, interfered with, reduced, curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party to any agreement for any cause whatsoever.

In order to carry out and effectuate the obligation of the District contained herein to pay the Purchase Price by paying the 2011 Installment Payments, the District agrees and covenants that all Gross Revenues received by it shall be deposited when and as received in trust in the Laguna County Sanitation Enterprise Fund, which fund has been established by the District and is hereby pledged and a security interest is granted therein and which fund the District agrees and covenants to maintain so long as any 2011 Installment Payments remain unpaid, and all money on deposit in the Revenue Fund shall be applied and used only as provided herein. The District shall pay all Maintenance and Operation Costs (including amounts reasonably required to be set aside in contingency reserves for Maintenance and Operation Costs the payment of which is not then immediately required) from the Revenue Fund as they become due and payable, and all remaining money on deposit in the Revenue Fund shall be set aside and deposited by the District at the following times in the following order of priority:

On or before each date on which a 2011 Installment Payment becomes due and payable under this 2011 Installment Sale Agreement, the District shall, from the money in the Revenue Fund, transfer to the County, or the Purchaser, as applicable, a sum equal to the 2011 Installment Payments becoming due and payable under this 2011 Installment Sale Agreement on such due date, except that no such deposit need be made to the extent the County then holds money for such purpose available to pay the 2011 Installment Payment becoming due and payable under this 2011 Installment Sale Agreement on such date. The District shall also, from such remaining moneys in the Revenue Fund, pay to the party entitled thereto or transfer or cause to be transferred to any applicable debt service or other payment fund or account for any Parity Obligations, without preference or priority between transfers made pursuant to this sentence and the preceding sentence, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, on the dates specified in the proceedings relating to such Parity Obligations, the sum or sums required to be paid or deposited in such debt service or other payment fund or account with respect to principal, premium, if any, and interest on Parity Obligations in accordance with the terms of such Parity Obligations.

After making the foregoing transfers hereinabove required to be made, or, if sooner, at such time as amounts remaining on deposit in the Revenue Fund shall be sufficient to make the remaining transfers hereinabove required to be made in such Fiscal Year with respect to 2011 Installment Payments and Parity Obligations, the District shall apply any remaining money in the Revenue Fund for any lawful purpose of the District, including without limitation, payment of any Subordinate Obligations.

The District shall distribute Net Revenues available for Outstanding 2011 Installment Payments and debt service on all Outstanding Parity Obligations on a pro rata basis without regard to whether each such Parity Obligations has a funded debt service reserve or a surety bond or other similar funding instrument.

**Section 3.03. Prepayment of 2011 Installment Payments.** (a) The District may prepay from any source of available funds as a whole or in part on any date, on or after May 1, 2013, all or any part of the principal amount of the unpaid 2011 Installment Payments, in such order of prepayment as the District may determine (or, if the District fails to designate the order of prepayment, in inverse order of Installment Payment Date and by lot within an Installment Payment Date), at a prepayment price equal to the sum of the principal amount prepaid, plus accrued interest to the date of prepayment, plus a premium of \$20,000.

(b) The District may prepay from any source of available funds as a whole or in part on any date, following a Loss of Subsidy (as hereinafter defined), all or any part of the principal amount of the unpaid 2011 Installment Payments, in such order of prepayment as the District may determine (or, if the District fails to designate the order of prepayment, in inverse order of Installment Payment Date and by lot within an Installment Payment Date), at a prepayment price equal to the sum of the principal amount prepaid, plus accrued interest to the date of prepayment, plus a premium of \$20,000. "Loss of Subsidy" means the occurrence of any of the following: (A) legislation enacted by the Congress of the United States of America or a ruling, regulation or statement issued by the Treasury Department or the Internal Revenue Service, the effect of which (I) denies, repeals, revokes or reduces the District's applicable cash subsidy payments from the United States Treasury under Section 54A or 6431 of the Code (as currently in effect) with respect to this 2011 Installment Sale Agreement (herein referred to as "Direct Subsidy Payments") or (II) imposes one or more new substantive conditions on the receipt by the District of Direct Subsidy Payments and such conditions are unacceptable to the District; and (B) any governmental, administrative, judicial or other official action that is beyond the District's control and results in the significant reduction or loss of Direct Subsidy Payments to the District or imposes one or more new substantive conditions on the receipt by the District of Direct Subsidy Payments and such conditions are unacceptable to the District; provided, however, that in no event shall a "Loss of Subsidy" occur as the result of the District's failure or inability for reasons within its control to receive (or delay in receipt of) all or any portion of any Direct Subsidy Payment from the United States Department of Treasury or the District's failure to comply with applicable law and regulations to obtain payment of any Direct Subsidy Payment from the United States Department of Treasury, including (without limitation) any offset against any Direct Subsidy Payment as a result of other liabilities of the District to the United States Department of Treasury.

(c) Before making any prepayment pursuant to this section, the District shall give written notice to the County describing such event and specifying the date on which the prepayment will be paid and the order thereof, which date shall be not less than fifteen (15) days nor more than sixty (60) days from the date such notice is given; provided, that notwithstanding any such prepayment, the District shall not be relieved of its obligations hereunder, including specifically its obligations under this article, until the Purchase Price shall have been fully paid (or provision for payment thereof shall have been made pursuant to Article VII).

**Section 3.04. Pledge of Net Revenues.** All Net Revenues are hereby irrevocably pledged to the payment of the 2011 Installment Payments; provided, that out of the Net Revenues there may be apportioned such sums for such purposes as are permitted by this article. This pledge shall constitute a lien on the Net Revenues for the payment of the 2011 Installment Payments and Parity Obligations.

**Section 3.05. Additional Costs.** The District shall pay within thirty (30) days after demand:

(i) if an Event of Default shall have occurred, all reasonable costs and expenses of the Purchaser in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of its rights under this 2011 Installment Sale Agreement;

(ii) a fee for each amendment of this 2011 Installment Sale Agreement, consent by the Purchaser or waiver by the Purchaser under this 2011 Installment Sale Agreement, in each case in a minimum amount of \$2,500;

(iii) the reasonable fees and out of pocket expenses for counsel or other reasonably required consultants to the Purchaser in connection with advising the Purchaser as to its rights and responsibilities under this 2011 Installment Sale Agreement or in connection with responding to requests from the District for approvals, consents and waivers;

(iv) any amounts advanced by or on behalf of the Purchaser to the extent required to cure any default, Event of Default or event of nonperformance hereunder or this 2011 Installment Sale Agreement, together with interest at the Default Rate; and

(v) all reasonable fees, costs and expenses of any consultants providing services to the District or the Purchaser in accordance with this 2011 Installment Sale Agreement.

In addition, if at any time any government or political subdivision, or any agency, board, commission, department or instrumentality of either, or any court, tribunal, central bank or arbitrator governmental board or authority with jurisdiction over the Purchaser (each a "Governmental Board") shall require revenue or other documentary stamps or any other tax in connection with the execution or delivery of this 2011 Installment Sale Agreement, then, if the District lawfully may pay for such stamps, taxes or fees, the District shall pay, when due and

payable, for all such stamps, taxes and fees, including interest and penalties thereon, and the District agrees to save the Purchaser harmless from and against any and all liabilities with respect to or resulting from any delay of District in paying, or omission of District to pay, such stamps, taxes and fees hereunder.

**Section 3.06. Increased Payments.**

(a) If the Purchaser shall determine that any law or governmental guideline or governmental interpretation or application thereof by any Governmental Board charged with the interpretation or administration thereof or compliance with any request or directive of any Governmental Board now existing or hereafter adopted:

(i) subjects the Purchaser to taxation (except for taxes on the overall net income or share capital of the Purchaser) with respect to this 2011 Installment Sale Agreement or payment by the District of the Purchase Price, and fees or other amounts due from the District under this 2011 Installment Sale Agreement,

(ii) imposes, modifies or deems applicable any reserve, special deposit or similar requirement against credits or commitments to extend credit extended by, assets (funded or contingent) of, deposits with or for the account of, or other acquisitions of funds by the Purchaser,

(iii) imposes, modifies or deems applicable any capital adequacy or similar requirement (1) against assets (funded or contingent) of, or credits or commitments to extend credit extended by, the Purchaser, or (2) otherwise applicable to the obligations of the Purchaser under this 2011 Installment Sale Agreement, or

(iv) imposes upon the Purchaser any other condition or expense with respect to this 2011 Installment Sale Agreement; and the result of any of the foregoing is to increase the cost to, reduce the income receivable by, or impose any expense (including loss of margin) upon the Purchaser with respect to this 2011 Installment Sale Agreement (or in the case of any capital adequacy or similar requirement, to have the effect of reducing the rate of return on the Purchaser's capital, taking into consideration the Purchaser policies with respect to capital adequacy) by an amount which the Purchaser deems to be material to it (except for taxes on the overall net income or share capital of the Purchaser,

then the Purchaser shall from time to time notify, or cause to be notified, the District and the District of the amount determined in good faith (using any reasonable averaging and attribution methods) by the Purchaser (which determination shall be conclusive absent manifest error) to be necessary to compensate the Purchaser for such increase, reduction or imposition. Such amount shall be due and payable by the District to the Purchaser on the thirtieth (30th) day after demand. A certificate by the Purchaser as to the amount due and payable under this Section from time to time and the method of calculating such amount shall be conclusive absent manifest error and shall be provided to the District with the notice described above. In determining any such amount, the Purchaser may use any reasonable averaging and attribution methods.

**Section 3.07. Obligations Absolute.** The payment obligations of the District under this 2011 Installment Sale Agreement shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms of this 2011 Installment Sale Agreement.

## ARTICLE IV

### PARITY OBLIGATIONS

**Section 4.01. Conditions for the Execution of Parity Obligations.** The District shall not incur any obligation, the payment of which is payable from and secured by a lien and charge on the Net Revenues prior to the lien and charge on Net Revenues securing the 2011 Installment Payments under this 2011 Installment Sale Agreement. The District may at any time execute and deliver any Parity Obligation, the payment of which is payable from and secured by a lien and charge on the Net Revenues on a parity with the lien and charge on Net Revenues securing the 2011 Installment Payments due under this 2011 Installment Sale Agreement, provided:

(a) Either -

(1) as evidenced by a Certificate of the District, during the immediately preceding twelve (12) consecutive calendar months, the Net Revenues were at least equal to one hundred twenty-five percent (125%) of the Maximum Annual Debt Service for all Outstanding 2011 Installment Payments and all Outstanding Parity Obligations plus the Parity Obligation proposed to be executed; or

(2) as evidenced by a Certificate of the District, the projected Net Revenues during the first Fiscal Year in which Debt Service on the Parity Obligation is payable (other than from proceeds of the Parity Obligations), is at least equal to one hundred twenty-five percent (125%) of the Maximum Annual Debt Service for all Outstanding 2011 Installment Payments and all Outstanding Parity Obligations plus the Parity Obligation proposed to be executed;

(b) The proceeds of such Parity Obligation proposed to be executed shall be used solely to finance or refinance (including reimbursement to the District of amounts advanced for such costs) one or more additions, betterments or improvements to the System as designated by the District and to pay any incidental costs and expenses related thereto including the costs of issuance, execution or delivery of such proposed Parity Obligation;

(c) There shall have been delivered to the District an Opinion of Counsel substantially to the effect that (1) the Parity Obligation has been duly executed and delivered by the District and is a valid and binding obligation of the District, and (2) the Parity Obligation has been duly and validly authorized and issued in accordance herewith; and

(d) The District is not in default under this 2011 Installment Sale Agreement.

The projections set forth in clause (a)(2) above may take into account only rate increases for Sanitation Service adopted by the Board of Directors prior to the date of issuance of such Parity Obligations and which are scheduled to be effective during the first Fiscal Year in which Debt Service on such Parity Obligation is payable (other than from proceeds of such Parity Obligation).

Notwithstanding the foregoing provisions, neither clause (a) nor clause (b) above shall limit the ability of the District to execute any Parity Obligations at any time to refund any Outstanding 2011 Installment Payments or Outstanding Parity Obligations if the annual Debt Service for each Fiscal Year during which such Parity Obligation is Outstanding will not be increased by reason of the issuance of such Parity Obligation.

**Section 4.02. Subordinate Obligations.** The District may incur Subordinate Obligations without meeting any of the tests set forth in Section 4.01.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES

**Section 5.01. Existence and Power.** The District is a special district duly organized and existing under and by virtue of the laws of the State of California and has the power and authority to own its properties and to carry on its businesses as now being conducted and as currently contemplated to be conducted hereafter.

**Section 5.02. Due Authorization.**

(a) The District has taken all necessary action to authorize this 2011 Installment Sale Agreement, and to execute, deliver and perform its obligations under this 2011 Installment Sale Agreement.

(b) The District is duly authorized and licensed to own its property (real, personal or mixed) and to operate its business under the laws, rulings, regulations and ordinances of all federal, state and local governing bodies having the jurisdiction to license or regulate such property or business activity and the departments, agencies and political subdivisions thereof, and the District has obtained all requisite approvals of all such governing bodies required to be obtained for such purposes. All authorizations and approvals necessary for the District to enter into this 2011 Installment Sale Agreement and to perform the transactions contemplated hereby and to conduct its business activities and own its property have been obtained and remain in full force and effect and are subject to no further administrative or judicial review. No other authorization or approval or other action by, and no notice to or filing with, any governmental entity is required for the due execution, delivery and performance by the District of this 2011 Installment Sale Agreement.

**Section 5.03. Valid and Binding Obligations.** This 2011 Installment Sale Agreement has been duly executed and delivered by one or more duly authorized officers of the District and is a legal, valid and binding obligation of the District enforceable in accordance with its terms, except as such enforceability may be limited by (i) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights

generally, and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

**Section 5.04. Noncontravention; Compliance with Law.**

(a) The execution, delivery and performance of this 2011 Installment Sale Agreement in accordance with its terms does not and will not (i) exceed the authority of the District, (ii) require any consent or approval of any creditor of the District, (iii) conflict with, result in a breach of or constitute a default under any contract to which the District is a party or by which it or any of its property may be bound or (iv) result in or require the creation or imposition of any lien upon or with respect to the Net Revenues except the lien on the Net Revenues expressly created by this 2011 Installment Sale Agreement.

(b) The District is in compliance with all governmental requirements, except for noncompliance that, singly or in the aggregate, has not caused and will not cause a Material Adverse Effect on this 2011 Installment Sale Agreement or an adverse effect on the District's ability to perform its obligations hereunder.

**Section 5.05. Pending Litigation and Other Proceedings; Pending Legislation and Decisions.**

(a) There are no actions, suits or proceedings pending nor, to the best knowledge of the District, are there any actions, suits or proceedings threatened against the District, in any court or before any arbitrator of any kind or before or by any governmental or non governmental body, which, in any case, could reasonably be expected to have a Material Adverse Effect or which seeks to restrain or would otherwise have a Material Adverse Effect on the transactions contemplated hereby.

(b) As of the date of this 2011 Installment Sale Agreement, to the knowledge of the District, there is no amendment, or proposed amendment, certified for placement on a Statewide ballot, to the Constitution of the State or any State law or any administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the legislature of the State, the effect of which will materially adversely affect the execution, delivery or performance of this 2011 Installment Sale Agreement, the security for the District's obligations hereunder, or the District's ability to pay the Installment Payments when due under this 2011 Installment Sale Agreement.

**Section 5.06. Financial Statements.** The financial statements of the District as of June 30, 2010 and the auditors' reports with respect thereto, copies of which have heretofore been furnished to the Purchaser, are complete and correct and fairly present the financial condition, changes in financial position and results of operations of the District at such dates and for such periods, and were prepared in accordance with Generally Accepted Accounting Principles.

**Section 5.07. ERISA Plans.** The District has not received any notice or has any knowledge to the effect that it is not in full compliance with any of the requirements of ERISA or the Code. The employee benefit plans of the District constitute "governmental plans", as defined in ERISA.]



**Section 5.08. Defaults.**

(a) No Event of Default and no default has occurred and is continuing or exists.

(b) No defaults by the District exist under the State Loan or judgments, decrees or orders, except for defaults that, singly or in the aggregate, have not had and will not have a Material Adverse Effect.

**Section 5.09. No Material Adverse Change.** Since the most current date of the information, financial or otherwise, supplied by the District to the Purchaser:

(a) There has been no change in the assets, liabilities, financial position or results of operations of the District which might reasonably be anticipated to cause a Material Adverse Effect.

(b) The District has not incurred any obligations or liabilities which might reasonably be anticipated to cause a Material Adverse Effect.

(c) The District has not incurred material indebtedness, other than the obligations hereunder, indebtedness to the Purchaser and other than trade accounts payable arising in the ordinary course of business of the District.

**Section 5.10. Adequate Assets; Insurance.**

(a) The District possesses adequate assets and licenses as may be required to operate the System.

(b) The District currently maintains insurance of such type and in such amounts or in excess of such amounts as are customarily carried by, and insures against such risks as are customarily insured against by, businesses of like type, size and character to the District.

**Section 5.11. Representations as of the Closing Date.** The representations and warranties of the District contained in this Article are correct on and as of the Closing Date as though made on and as of such date; no petition by the District has at any time been filed under the United States Bankruptcy Code or under any similar act; no Event of Default has occurred and is continuing or would result from the execution of this 2011 Installment Sale Agreement; and the District has complied with all agreements and covenants and satisfied all conditions stated in this 2011 Installment Sale Agreement on its part to be performed or satisfied at or prior to the Closing Date.

**Section 5.12. Accuracy of Information.** All information, reports and other papers and data with respect to the District furnished to the Purchaser are complete and correct in all material respects. No fact is known to the District which, in the District's judgment may have a Material Adverse Effect which has not been set forth in the financial statements previously furnished to the Purchaser or in other such information, reports, papers and data or otherwise disclosed in writing to the Purchaser prior to the Closing Date.

**Section 5.13. Reliance by the Purchaser.** All representations and warranties made herein to the Purchaser are made with the understanding that the Purchaser is relying upon the accuracy of such representations and warranties.

**Section 5.14. [Anti Terrorism Laws.** The District is not in violation of any laws relating to terrorism or money laundering (“Anti Terrorism Laws”), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the “Executive Order”), and the Patriot Act;

(a) The District is not any of the following:

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(iii) a Person with which the Purchaser is prohibited from dealing or otherwise engaging in any transaction by any Anti Terrorism Law;

(iv) a Person that commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order; or

(v) a Person that is named as a “specially designated national and blocked person” on the most current list published by the Office of Foreign Asset Control (“OFAC”) or any list of Persons issued by OFAC pursuant to the Executive Order at its official website or any replacement website or other replacement official publication of such list;

(b) The District does not (i) conduct any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in subsection (a)(ii) above, (ii) deal in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti Terrorism Law.]

**Section 5.15. Environmental Matters.** The District has reviewed the effect of Environmental Laws on the System and the District, and has identified and evaluated associated liabilities and costs (including, without limitation, any capital or operating expenditures required for clean up or closure of properties presently or previously owned or operated, any capital or operating expenditures required to achieve or maintain compliance with environmental protection standards imposed by law or as a condition of any license, permit or contract, and related constraints on operating activities, including any periodic or permanent shutdown of any facility or reduction in the level of or change in the nature of operations conducted there at and any actual or potential liabilities to third parties, including employees, and any related costs and expenses). On the basis of this review, the District has reasonably concluded that it has not

failed to comply with any Environmental Laws in a manner which may reasonably be expected to have a Materially Adverse Effect on the District.

## ARTICLE VI

### COVENANTS OF THE DISTRICT

**Section 6.01. Compliance with 2011 Installment Sale Agreement.** The District will punctually pay the 2011 Installment Payments in strict conformity with the terms hereof, and will faithfully observe and perform all the agreements, conditions, covenants and terms contained herein required to be observed and performed by it, and will not terminate the 2011 Installment Sale Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the 2011 Project or the System, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of California or any political subdivision of either or any failure of the County to observe or perform any agreement, condition, covenant or term contained herein required to be observed and performed by it, whether express or implied, or any duty, liability or obligation arising out of or connected herewith or the insolvency, or deemed insolvency, or bankruptcy or liquidation of the County or any force majeure, including Acts of God, tempest, storm, earthquake, war, rebellion, riot, civil disorder, acts of public enemies, blockade or embargo, strikes, industrial disputes, lockouts, lack of transportation facilities, fire, explosion, or acts or regulations of governmental authorities.

**Section 6.02. Notices.** The District shall provide to the Purchaser written notice of any Event of Default or any claim, action, suit or proceeding before any court or other governmental entity which could reasonably be expected to have a Material Adverse Effect within 30 days of discovery thereof by the District.

**Section 6.03. Against Encumbrances.** The District will not permit any further lien on Net Revenues, except as permitted by this 2011 Installment Sale Agreement.

**Section 6.04. Against Sale or Other Disposition of Property.** The District may sell, transfer or otherwise dispose of any of the facilities of the System or any real or personal property comprising a part of the System only if such property subject to such sale, transfer or other disposition is not material to the operation of the System, or shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the System, or is no longer necessary, material or useful to the operation of the System and if such transfer will not reduce the System Revenues below the requirements to be maintained under Section 5.14.

**Section 6.05. Tax Covenants.** The District will not directly or indirectly use or permit the use of any proceeds of the obligation provided herein or any other funds of the District or take or omit to take any action that would cause such obligation to be an “arbitrage bond” within the meaning of Section 148(a) of the Code or a “federal-guaranteed obligation” within the meaning of Section 149(b) of the Code or a “private activity bond” as described in Section 141 of the Code.

To that end, as long as any 2011 Installment Payments are unpaid, the District will comply with all requirements of such sections of the Code to the extent applicable to the obligations provided herein.

**Section 6.06. Acquisition and Construction of the 2011 Project.** The District will take all necessary and appropriate steps to acquire and construct the 2011 Project, as agent of the County.

**Section 6.07. Maintenance and Operation of the System; Budgets.** The District 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 and will pay all Maintenance and Operation Costs as they become due and payable.

Not later than August 30 of each year, the District will adopt and, if requested, make available to the Purchaser, a budget approved by the Board of Directors setting forth the estimated Maintenance and Operation Costs and the estimated payments for Parity Obligations for the then current Fiscal Year; provided, that any such budget may be amended at any time during any Fiscal Year and, such amended budget shall be delivered to the Purchaser with the quarterly financial information delivered pursuant to Section 6.11(c) hereof.

**Section 6.08. Compliance with Contracts.** The District will comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by it contained in all contracts for the use of the System and all other contracts affecting or involving the System to the extent that the District is a party thereto.

**Section 6.09. Payment of Claims.** The District will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien on the Net Revenues or any part thereof prior or superior to the obligation to make the 2011 Installment Payments as provided herein or which might impair the security of the 2011 Installment Payments.

**Section 6.10. Insurance.** The District will procure and maintain such insurance relating to the System which it shall deem advisable or necessary to protect its interests and the interests of the County, which insurance shall afford protection in such amounts and against such risks as are usually covered in connection with municipal sanitation systems similar to the System; provided, that any such insurance may be maintained under a self-insurance program so long as such self-insurance is maintained in the amounts and manner usually maintained in connection with sanitation systems similar to the System and is, in the opinion of an Insurance Consultant, financially sound. The County and Purchaser acknowledge that the District is presently self-insured.

**Section 6.11. Accounting Records and Financial Statements.**

(a) The District will keep appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the System, which records shall be available for inspection by the County and the Purchaser at reasonable hours and under reasonable conditions.

(b) The District will prepare and file with the Purchaser annually within two hundred forty (240) days after the close of each Fiscal Year (commencing with the Fiscal Year ending June 30, 2011) the Comprehensive Annual Financial Report of the County, which includes financial statements of the District, for the preceding Fiscal Year prepared in accordance with generally accepted accounting principles, together with an Accountant's Report thereon.

(c) The District will prepare and file with the Purchaser within 30 days following the end of each fiscal quarter, its internally prepared financial statements, including a balance sheet and comparisons of income and expenditures against budget, together with amendments to the budget.

(d) Simultaneously with the delivery of the annual financial statements referred to in (b) of this Section, a compliance certificate signed by a principal financial officer of the District in the form attached hereto as Exhibit C.

**Section 6.12. Protection of Security and Rights of the County and the Purchaser.**

The District will preserve and protect the security hereof and the rights of the County and the Purchaser to the 2011 Installment Payments hereunder and will warrant and defend such rights against all claims and demands of all persons.

**Section 6.13. Payment of Taxes and Compliance with Governmental**

**Regulations.** The District will pay and discharge all taxes, assessments and other governmental charges which may hereafter be lawfully imposed upon the System or any part thereof when the same shall become due. The District will duly observe and conform with all valid regulations and requirements of any governmental authority relative to the operation of the System or any part thereof, but the District 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.

**Section 6.14. Amount of Rates, Fees and Charges.**

The District will at all times fix, prescribe and collect rates and charges for the Sanitation Service during each Fiscal Year which will be at least sufficient to yield Net Revenues for such Fiscal Year at least equal to one hundred twenty percent (120%) of Debt Service for such Fiscal Year. The District may make adjustments from time to time in such fees and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates and charges then in effect unless the Net Revenues from such reduced rates and charges will at all times be sufficient to meet the requirements of this Section.

**Section 6.15. Prohibition of Transfers to County.**

The District shall not permit the transfer of any revenues or funds on deposit or allocated to the Revenue Fund to the County to pay operating expenses of the County or expenses unrelated to the System without the prior written consent of the Purchaser; provided, that the District may reimburse the reasonable direct and indirect expenses of the County related to services provided by the County to the District.

**Section 6.16. Further Assurances.**

The District will adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary

or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the County of the rights and benefits provided to it herein.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**Section 7.01.** Events of Default and Acceleration of Principal. If one or more of the following Events of Default shall happen, that is to say --

- (1) if default shall be made in the due and punctual payment of any 2011 Installment Payment or of any Parity Obligation when and as the same shall become due and payable;
- (2) if default shall be made by the District in the performance of any of the other agreements or covenants contained herein required to be performed by it, and such default shall have continued for a period of sixty (60) days after the District shall have been given notice in writing of such default by the County or the Purchaser;
- (3) if default shall be made by the District in the performance of any of the agreements or covenants contained in any Parity Obligation required to be performed by it, other than as set forth in (a) above, and such default shall have continued after any notice and grace period provided by such Parity Obligation;
- (4) if the District 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 District 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 District or of the whole or any substantial part of its property;
- (5) Any material provision of this 2011 Installment Sale Agreement shall at any time for any reason cease to be the legal, valid and binding obligation of the District or shall cease to be in full force and effect, or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by the District, or the District shall renounce the same or deny that it has any further liability hereunder; or
- (6) Any court of competent jurisdiction or other governmental entity with jurisdiction to rule on the validity of any provision of this 2011 Installment Sale Agreement shall find or rule that this 2011 Installment Sale Agreement is not valid or not binding on the District; or
- (7) [Any representation or warranty made by the District under this 2011 Installment Sale Agreement shall prove to have been incorrect, false or misleading in any material respect when made.]

then and in each and every such case during the continuance of such Event of Default specified in clause (1) or (7) above, the Purchaser may, by notice in writing to the District, declare the entire principal amount of the unpaid 2011 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, anything contained herein to the contrary notwithstanding. From and after the date of such Event of Default, the unpaid 2011 Installment Payments shall bear interest at the Default Rate. This Section is subject to the condition, however, that if at any time after the entire amount of the unpaid principal amount of the 2011 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 money due shall have been obtained or entered, the District shall deposit with the Purchaser a sum sufficient to pay the unpaid amount of the 2011 Installment Payments due otherwise than as a result of such declaration and in the applicable debt service fund(s) the unpaid principal amount of any payments due under any Parity Obligation referred to in clause (1) above due and payable prior to such declaration and the accrued interest thereon, with interest on such overdue installments at the Default Rate and on the Parity Obligations in accordance with their terms, and the District shall have paid the reasonable expenses of the County, the Purchaser and any fiduciaries for Parity Obligations resulting from such declaration, and any and all other defaults known to the Purchaser (other than in the payment of the entire amount of the unpaid 2011 Installment Payments due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Purchaser or provision deemed by the Purchaser to be adequate shall have been made therefor, then and in every such case the Purchaser, by written notice to the District, 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 7.02. Other Remedies.** The Purchaser shall have the right --

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the District or any director, officer or employee thereof, and to compel the District or any such director, officer or employee to perform and carry out its or his duties under 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 County or the Purchaser; or

(c) by suit in equity upon the happening of an Event of Default to require the District and its directors, officers and employees to account as the Purchaser of an express trust.

**Section 7.03. Non-Waiver.** Nothing in this article or in any other provision hereof shall affect or impair the obligation of the District, which is absolute and unconditional, to pay the 2011 Installment Payments from the Net Revenues to the Purchaser at the respective due dates or upon prepayment, or shall affect or impair the right of the Purchaser, 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 Purchaser 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 Purchaser 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 Purchaser 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 Purchaser.

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

**Section 7.04. Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Purchaser 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.

## ARTICLE VIII

### MISCELLANEOUS

**Section 8.01. Liability of District Limited to Net Revenues.** Notwithstanding anything contained herein, the District shall not be required to advance any moneys derived from any source of income other than the Net Revenues for the payment of the 2011 Installment Payments or for the performance of any agreements or covenants required to be performed by it contained herein. The District 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 District for such purpose.

The obligation of the District to make the 2011 Installment Payments is a special obligation of the District payable solely from the Net Revenues as provided herein, and does not constitute a debt of the District or of the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction.

**Section 8.02. Benefits of 2011 Installment Sale Agreement.** Nothing contained herein, expressed or implied, is intended to give to any person other than the County, the District or the Purchaser any right, remedy or claim under or pursuant hereto, and any agreement or covenant required herein to be performed by or on behalf of the County or the District or the Purchaser shall be for the sole and exclusive benefit of the other parties.

**Section 8.03. Successor Is Deemed Included in all References to Predecessor.** Whenever either the County or the District or the Purchaser 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 County or the District or the Purchaser, and all agreements and covenants



required hereby to be performed by or on behalf of the County or the District or the Purchaser shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

**Section 8.04. Waiver of Personal Liability.** No director, officer or employee of the District shall be individually or personally liable for the payment of the 2011 Installment Payment, but nothing contained herein shall relieve any director, officer or employee of the District from the performance of any official duty provided by any applicable provisions of law or hereby.

**Section 8.05. 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,” “Exhibits” and other subdivisions or clauses are to the corresponding articles, sections, exhibits, subdivisions or clauses hereof; and the words “hereby,” “herein,” “hereof,” “hereto,” “herewith” and other words of similar import refer to the 2011 Installment Sale Agreement as a whole and not to any particular article, section, exhibit, subdivision or clause hereof.

**Section 8.06. 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 County or the District 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 County and the District hereby declare that they would have executed the 2011 Installment Sale 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 8.07. Assignment.** The 2011 Installment Sale Agreement and any rights hereunder shall be assigned by the County to the Purchaser as provided in the Purchase Agreement; to which assignment the District hereby expressly acknowledges and consents.

**Section 8.08. Net Contract.** The 2011 Installment Sale Agreement shall be deemed and construed to be a net contract, and the District shall pay absolutely net during the term hereof the 2011 Installment Payments and all other payments required hereunder, free of any deductions and without abatement, diminution or set-off whatsoever.

**Section 8.09. California Law.** The 2011 Installment Sale Agreement shall be construed and governed in accordance with the laws of the State of California.

**Section 8.10. Indemnification.** The District shall, to the extent then permitted by law, indemnify, protect, hold harmless, save and keep harmless the County and its supervisors, officers and employees and the Purchaser and its directors, officers and employees from and against any and all liability, obligations, losses, claims and damages whatsoever, regardless of

the cause thereof, and expenses in connection therewith, including, without limitation, counsel fees and expenses, penalties and interest arising out of or as the result of the entering into of the 2011 Installment Sale Agreement, the acquisition, construction, installation and use of the 2011 Project and each portion thereof or any accident in connection with the operation, use, condition or possession of the 2011 Project or any portion thereof resulting in damage to property or injury to or death to any person including, without limitation, any claim alleging latent and other defects, whether or not discoverable by the District, the County or the Purchaser; any claim arising out of the Environmental Laws; any claim for patent, trademark or copyright infringement; and any claim arising out of strict liability in tort. The indemnification arising under this section shall continue in full force and effect notwithstanding the full payment of all obligations hereunder or the termination hereof for any reason.

**Section 8.11. Funds.** Any fund required to be established and maintained herein by the District may be established and maintained in the accounting records of the District either as an account or a fund, and may, for the purpose 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 any such fund shall at all times be maintained in accordance with sound accounting practice.

**Section 8.12. Notices.** All written notices to be given hereunder shall be given by mail to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time, namely:

If to the District: Laguna County Sanitation District  
105 East Anapamu Street  
Santa Barbara, California 93101  
Attention: Treasurer-Tax Collector

with a copy to: County Counsel

If to the County: County of Santa Barbara  
105 East Anapamu Street  
Santa Barbara, California 93101  
Attention: Treasurer-Tax Collector

with a copy to: County Counsel

If to the Purchaser: Wells Fargo Bank, N.A.  
707 Wilshire Blvd., 11<sup>th</sup> Floor  
Los Angeles, California 90017  
Attention: Lynn Love

**Section 8.13. Effective Date.** The 2011 Installment Sale Agreement shall become effective upon its execution and delivery, and shall terminate when the Purchase Price shall have been fully paid.

**Section 8.14. Amendment or Termination.** Without the prior written consent of the Purchaser, the District and the County will not alter, modify or cancel, or agree or consent to alter, modify or cancel this 2011 Installment Sale Agreement.

**Section 8.15. Execution in Counterparts.** The 2011 Installment Sale 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.

IN WITNESS WHEREOF, the parties hereto have executed and attested the 2011 Installment Sale Agreement by their officers thereunto duly authorized as of the day and year first written above.

LAGUNA COUNTY SANITATION DISTRICT

By \_\_\_\_\_

COUNTY OF SANTA BARBARA

By \_\_\_\_\_

[SEAL]

**ATTEST:**

Chandra L. Wallar,  
Clerk of the Board of Supervisors

By \_\_\_\_\_

**APPROVED AS TO ACCOUNTING FORM:**

Robert W. Geis, C.P.A.,  
Auditor-Controller

By \_\_\_\_\_

**APPROVED AS TO FORM:**

Dennis A. Marshall,  
County Counsel

By \_\_\_\_\_

**APPROVED AS TO FORM:**

Ray Aromatorio,  
Risk Program Administrator

By \_\_\_\_\_

**APPROVED AS TO FORM:**

Dennis A. Marshall

By \_\_\_\_\_

Michael R. Ledbetter, Deputy,  
Counsel for District

## **EXHIBIT A**

### **THE 2011 PROJECT**

The 2011 Project consists of the Photovoltaic Solar Energy Project acquired pursuant to the Agreement For Services of Independent Contractor, dated February 1, 2011, as amended, by and between the Laguna County Sanitation District and Premier Power Renewable Energy.

**EXHIBIT B**

**INSTALLMENT PAYMENT SCHEDULE**

**Payment Date**

**Principal Installment**

**Interest Amount**

**EXHIBIT C**

**COMPLIANCE CERTIFICATE**

TO: WELLS FARGO BANK, NATIONAL ASSOCIATION, as Purchaser

Reference is made to the Installment Sale Agreement dated as of May 17, 2011 (the "Installment Sale Agreement"), entered into by and between the LAGUNA COUNTY SANITATION DISTRICT, a county sanitation district duly organized and existing under and by virtue of the laws of the State of California (the "District"), and the COUNTY OF SANTA BARBARA, a political subdivision duly organized and existing under and by virtue of the laws of the State of California (the "County"). Section references herein relate to the Installment Sale Agreement unless stated otherwise.

This Certificate is delivered in accordance with Section 6.11(d) of the Installment Sale Agreement by the undersigned, a principal financial officer of the District.

1. Events of Default. To the best of my knowledge, no Event of Default or Default has occurred [or if an Event of Default or Default has occurred, describe the default and any remedial steps taken or proposed to correct such event or condition].

2. Section 6.14 Calculations. The rates and charges for the Sanitation Service during the current Fiscal Year will be at least sufficient to yield Net Revenues for such Fiscal Year at least equal to one hundred twenty percent (120%) of Debt Service for such Fiscal Year.

3. Parity Debt. The District has[/has not] issued any Parity Debt during the preceding period. [If District has issued Parity Debt, attach calculation of debt service coverage ratio required by Section 4.01).]

Date:

Laguna County Sanitation District

By: \_\_\_\_\_  
Name:  
Title:

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**2011 INSTALLMENT SALE AGREEMENT**

**by and between the**

**LAGUNA COUNTY SANITATION DISTRICT,  
as Purchaser**

**and the**

**COUNTY OF SANTA BARBARA,  
as Seller**

**for the**

**LAGUNA COUNTY SANITATION DISTRICT  
PHOTOVOLTAIC SOLAR ENERGY PROJECT**

**Dated as of May 17, 2011**

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