

---

---

**SECOND INSTALLMENT SALE AGREEMENT**

**by and between the**

**COUNTY OF SANTA BARBARA**

**and**

**MONTECITO RETIREMENT ASSOCIATION**

**Dated as of March 1, 2012**

---

---

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 101. Definitions .....2  
Section 102. Rules of Construction .....8

ARTICLE II

RECITALS; REPRESENTATIONS AND WARRANTIES OF THE BORROWER

Section 201. Status and Powers of the County .....10  
Section 202. Status and Powers of the Borrower .....10  
Section 203. Purpose of Agreement.....10  
Section 204. No Merger .....10  
Section 205. Representations and Warranties of the Borrower Merger .....10

ARTICLE III

SALE OF THE FACILITIES

Section 301. Sale of the Facilities .....13  
Section 302. Title.....13  
Section 303. Grant of Right of Entry .....13

ARTICLE IV

INSTALLMENT PAYMENTS; ADDITIONAL PAYMENTS; SECURITY

Section 401. Installment Payments .....14  
Section 402. Additional Payments; Reimbursement.....14  
Section 403. Interest Component .....15  
Section 404. Payment in Lawful Money; No Set-Off .....15  
Section 405. Gross Revenue Account .....16  
Section 406. Obligations of the Borrower Unconditional; Net Contract .....17  
Section 407. Prepayment .....17  
Section 408. Further Security for Installment Payments; Deed of Trust .....18

ARTICLE V

COVENANTS

Section 501. Maintenance of Corporate Existence of the Borrower; Consolidation, Merger, Sale or  
Transfer Under Certain Conditions .....19  
Section 502. Licensing.....19  
Section 503. Debt Coverage .....19  
Section 504. Limitation on Encumbrances.....19  
Section 505. Limitation on Indebtedness .....19  
Section 506. Limitation on Disposition of Property, Plant and Equipment .....19  
Section 507. Accounting Records and Financial Statements.....20  
Section 508. Liquidity Covenant.....21  
Section 509. Tax-Exempt Status of the Purchase Payments.....21  
Section 510. Tax Covenants .....21  
Section 511. Prohibited Uses.....21  
Section 512. Indemnification of County.....21  
Section 513. Maintenance and Operation of the Facilities .....22  
Section 514. Taxes, Assessments Other Governmental Charges and Utility Charges.....23  
Section 515. Insurance Required .....23  
Section 516. Worker’s Disability Compensation Act .....23  
Section 517. Insurers; Policy Forms and Loss Payees .....23  
Section 518. Disposition of Insurance and Condemnation Proceeds .....24  
Section 519. Prosecution and Defense of Suits.....25  
Section 520. Recordation and Filing .....26  
Section 521. Waiver of Laws.....26

Section 522. Power to Enter Into Agreement .....	26
Section 523. Further Assurances .....	26
Section 524. Environmental Indemnity.....	26

ARTICLE VI

DISCLAIMER OF WARRANTIES; ASSIGNMENT; AMENDMENT

Section 601. Disclaimer of Warranties.....	27
Section 602. Assignment .....	27
Section 603. Amendment .....	27

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 701. Events of Default Defined .....	29
Section 702. Acceleration.....	30
Section 703. Remedies .....	30
Section 704. Remedies Not Exclusive.....	31
Section 705. No Additional Waiver Implied by One Waiver .....	31
Section 706. Status Quo Ante.....	31
Section 707. Agreement to Pay Attorneys' Fees and Expenses .....	31

ARTICLE VIII

ADMINISTRATIVE PROVISIONS

Section 801. Preservation and Inspection of Documents .....	32
Section 802. Parties of Interest.....	32
Section 803. No Recourse Under Agreement.....	32
Section 804. Notices .....	32
Section 805. Binding Effect.....	33
Section 806. Severability .....	33
Section 807. Headings.....	33
Section 808. Applicable Law.....	33
Section 809. Form of Certification of Officers .....	33
Section 810. Business Days .....	33
Section 811. Execution in Counterpart.....	34

EXHIBIT A: DESCRIPTION OF REAL PROPERTY

EXHIBIT B: INSTALLMENT PAYMENTS

## SECOND INSTALLMENT SALE AGREEMENT

THIS SECOND INSTALLMENT SALE AGREEMENT (the "Second Installment Sale Agreement"), dated as of March 1, 2012, is by and between the COUNTY OF SANTA BARBARA (herein called the "County"), a political subdivision organized and existing under the laws of the State of California, and MONTECITO RETIREMENT ASSOCIATION, Santa Barbara County, California (herein called the "Borrower"), a nonprofit public benefit corporation organized and existing under the laws of the State of California;

WITNESSETH:

In consideration of the mutual covenants hereinafter contained and for other valuable consideration, the parties hereto do hereby agree as follows:

## ARTICLE I

### DEFINITIONS AND RULES OF CONSTRUCTION

Section 101. Definitions. Unless the context clearly otherwise requires, all capitalized terms used herein shall have the following meanings:

*"Accountants"* means a firm of independent certified public accountants of favorable reputation selected by the Borrower.

*"Additional Payments"* means the payments so designated and required to be made by the Borrower pursuant to Section 402 of this Second Installment Sale Agreement.

*"Annual Debt Service"* means, for each Fiscal Year, the aggregate amount (without duplication) of principal and Interest Expense scheduled to become due in that Fiscal Year on all Long-Term Indebtedness.

*"Annual Installment Payment Requirement"* means an amount equal to the aggregate Installment Payments payable in any Fiscal Year.

*"Balloon Indebtedness"* means Long-Term Indebtedness 25% or more of the principal of which becomes due (either by maturity or mandatory redemption) or may be tendered for purchase or payment at the option of the holder during any period of 12 consecutive months, which portion of the principal is not required by the documents governing such Indebtedness to be amortized by redemption prior to such date.

*"Board of Directors"* means the Board of Directors of the Borrower.

*"Borrower"* means Montecito Retirement Association, a nonprofit corporation described in section 501(c)(3) of the Code and exempt from federal income taxation under section 501(a) of the Code, or any corporation that is the surviving, resulting or transferee corporation in any merger, consolidation or transfer of assets permitted under this Second Installment Sale Agreement.

*"Certificate," "Statement," "Request," "Requisition" and "Order"* of the County or the Borrower mean, respectively, a written certificate, statement, request, requisition or order signed in the name of the County by the Chair of the Board of Supervisors of the County, any member of the Board of Supervisors of the County, the County Treasurer-Tax Collector or such other person as may be designated and authorized to sign for the County, or in the name of the Borrower by an Authorized Representative of the Borrower, respectively, and delivered to the Lender. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

*"Closing Date"* means March 23, 2012.

*"Code"* means the Internal Revenue Code of 1986 as in effect on the Closing Date as it may be amended to apply to obligations issued on the Closing Date, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

*"County"* means the County of Santa Barbara, California.

*“Deed of Trust”* means that certain Deed of Trust with Fixture Filing and Security Agreement, dated as of the Closing Date, to be executed by the Borrower, as trustor, in favor of the Deed Trustee for the benefit of the County as amended, modified and supplemented from time to time.

*“Deed Trustee”* means the Person at the time serving as such under the Deed of Trust.

*“Determination of Taxability”* means any determination, decision or decree by the Internal Revenue Service, or any District Director of Internal Revenue or any court of competent jurisdiction that an Event of Taxability shall have occurred. A Determination of Taxability also shall be deemed to have occurred on the first to occur of the following: (a) the date when the Borrower files any statement, supplemental statement, or other tax schedule, return or document, which discloses that an Event of Taxability shall have occurred, or (b) the effective date of any federal legislation enacted after the Closing Date or promulgation of any income tax regulation or ruling by the Internal Revenue Service that causes an Event of Taxability after the Closing Date, or (c) the Lender shall have received an Opinion of Bond Counsel advising that an act, omission, event, rule, or law has occurred that causes an Event of Taxability.

*“EBITDA”* means, with respect to the Borrower, as to any Fiscal Year, the income (loss) from operations of the Borrower, to which shall be added depreciation, amortization, Interest Expense and realized gain (loss) on sales of investments, all as determined in accordance with generally accepted accounting principles; provided that such amount shall not include any unrealized gains or losses on the sale of investments or gains or losses resulting from either the extinguishment of Indebtedness, or any disposition of capital assets, or net assets released from restriction-purchase of equipment.

*“Environmental Regulations”* means any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating to dangerous, toxic or hazardous pollutants, Hazardous Substances or chemical waste, materials or substances.

*“Event of Default”* means any event of default specified in Section 601 of the First Installment Sale Agreement, and any event of default specified in Section 701 of this Second Installment Sale Agreement.

*“Event of Taxability”* shall mean there is a non-appealable final judgment or determination by the Internal Revenue Service or a court of competent jurisdiction that the interest with respect to the First Installment Sale Agreement is includable in the gross income of the Lender (but not including the effect of any alternative minimum tax, environmental tax or other similar tax effect), as the result of (a) any act or failure to act by the Borrower or use of the proceeds of the First Installment Sale Agreement or the Second Installment Sale Agreement, (b) an enactment of any federal legislation after the Closing Date, (c) a promulgation of any income tax regulation or ruling applicable to the First Installment Sale Agreement or the Second Installment Sale Agreement by the Internal Revenue Service after the Closing Date, or (d) a change in use of the Facilities or any misrepresentation or inaccuracy in any of the representations or warranties contained in First Installment Sale Agreement or the Second Installment Sale Agreement by the Borrower.

*“Facilities”* means all property and assets encumbered by the Deed of Trust, including, without limitation: (i) the real property described in Exhibit A to the First Installment Sale Agreement and this Second Installment Sale Agreement; (ii) all buildings, structures, fixtures and improvements thereon and thereto; and (iii) all personal property owned by the Borrower and used in, around or about the aforesaid real property; in all such cases, whether now existing or hereinafter constructed, installed or acquired.

*"First Assignment Agreement"* means that certain First Assignment Agreement, dated as of March 1, 2012, by and between the County and the Lender, as originally executed and as amended from time to time in accordance with its terms.

*"First Installment Sale Agreement"* means that certain First Installment Sale Agreement, dated as of March 1, 2012, by and between the Borrower and the County, as originally executed and as amended from time to time in accordance with its terms.

*"Fiscal Year"* means the period beginning on January 1 of each year and ending on the next succeeding December 31, or any other twelve-month period hereafter selected and designated as the official fiscal year of the Borrower.

*"501(c)(3) Organization"* means an organization described in section 501(c)(3) of the Code.

*"Governmental Unit"* shall have the meaning set forth in section 150 of the Code.

*"Gross Revenues"* means all present and future accounts, all revenues, income, receipts and money received by or on behalf of the Borrower with respect to, in connection with, or derived in any way from, the Facilities, including:

(a) gross revenues derived from the operation and possession of the Facilities;

(b) gifts, grants, bequests, donations and contributions, exclusive of any gifts, grants, bequests, donations and contributions to the extent specifically restricted by the donor to a particular purpose inconsistent with their use for the payment of Installment Payments and Additional Payments;

(c) proceeds derived from (i) condemnation proceeds, (ii) accounts receivable, (iii) securities and other investments, (iv) inventory and other tangible and intangible property, (v) medical reimbursement programs and agreements, (vi) insurance proceeds, and (vii) contract rights and other rights and assets now or hereafter owned by the Borrower, and

(d) rentals received from the lease of office space in the Facilities.

*"Hazardous Substances"* means (a) any oil, flammable substance, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants which (i) pose a hazard to the Facilities or to persons on or about the Facilities or (ii) cause the Facilities to be in violation of any Environmental Regulation; (b) asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls, or radon gas; (c) any chemical, material or substance defined as or included in the definition of "waste," "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," or "toxic substances" or words of similar import under any Environmental Regulation including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 USC §§ 9601 *et seq.*; the Resource Conservation and Recovery Act ("RCRA"), 42 USC §§ 6901 *et seq.*; the Hazardous Materials Transportation Act, 49 USC §§ 1801 *et seq.*; the Federal Water Pollution Control Act, 33 USC §§ 1251 *et seq.*; the California Hazardous Waste Control Law ("HWCL"), Cal. Health & Safety Code §§ 25100 *et seq.*; the Hazardous Substance Account Act ("HSAA"), Cal. Health & Safety Code §§ 25300 *et seq.*; the Underground Storage of Hazardous Substances Act, Cal. Health & Safety Code §§ 25280 *et seq.*; the Porter-Cologne Water Quality Control Act (the "Porter-Cologne Act"), Cal. Water Code §§ 13000 *et seq.*, the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65); and Title 22 of the California Code

of Regulations, Division 4, Chapter 30; (d) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or agency or may or could pose a hazard to the health and safety of the occupants of the Facilities or the owners and/or occupants of property adjacent to or surrounding the Facilities, or any other person coming upon the Facilities or adjacent property; or (e) any other chemical, materials or substance which may or could pose a hazard to the environment.

*"Indebtedness"* means any indebtedness or obligations for borrowed money of the Borrower (other than accounts payable and accruals), as determined in accordance with generally accepted accounting principles, including obligations under conditional sales contracts or other title retention contracts and rental obligations under leases which are considered capital leases under generally accepted accounting principles.

*"Independent,"* when referring to a Management Consultant or Person, means a Management Consultant or Person who (a) is independent of and not under the control of the Borrower, (b) does not have any substantial interest, direct or indirect, in the Borrower, and (c) in the case of an individual, is not connected, including through a spouse, with the Borrower as a director, officer or employee of the Borrower, and in the case of a firm, is not connected with the Borrower as a partner, director, officer or employee of the Borrower, but who may be regularly retained by the Borrower.

*"Installment Payments"* means the payments so designated and required to be made by the Borrower pursuant to Section 401 of this Second Installment Sale Agreement.

*"Interest Expense"* means, for any period, ordinary, regular, recurring and continuing expenditures for interest on all borrowed money.

*"Lender"* means Santa Barbara Bank & Trust, N.A., its successors and assigns.

*"Lien"* means any mortgage or pledge of, or security interest in, or lien or encumbrance on, any Property, excluding Liens applicable to Property in which the Borrower has only a leasehold interest unless the Lien is with respect to such leasehold interest.

*"Liquid Assets"* shall mean, the Borrower's unrestricted cash and cash equivalents, investments and Board-designated funds as of the end of any calculation date (investments shall mean stocks, bonds, mutual funds and other securities that can be readily sold for cash on stock exchanges or over-the-counter markets). Funds for the purposes of this definition shall exclude pledged and encumbered assets and restricted retirement assets.

*"Long-Term Debt Service Coverage Ratio"* means, for any period of time, the ratio determined by dividing EBITDA by Maximum Aggregate Annual Debt Service.

*"Long-Term Indebtedness"* means Indebtedness having an original maturity greater than one year or renewable at the option of the Borrower for a period greater than one year from the date of original incurrence or issuance thereof unless, by the terms of such Indebtedness, no Indebtedness is permitted to be outstanding thereunder for a period of at least 30 consecutive days during each calendar year.

*"Management Consultant"* means an Independent Person of national or regional reputation qualified to report on questions relating to the financial condition and projections of retirement facilities, selected by the Borrower and acceptable to the Lender.



*“Maximum Aggregate Annual Debt Service”* means the greatest amount of Annual Debt Service becoming due and payable in any Fiscal Year on Long-Term Indebtedness; *provided, however,* that for the purposes of computing Maximum Annual Debt Service:

(a) for any Balloon Indebtedness, the computation of Maximum Annual Debt Service shall, at the option of the Borrower, assume that such Indebtedness is to be amortized over a period of years to be specified by the Borrower up to a 20-year period, beginning on the date of maturity of such Indebtedness or such earlier date as may be specified by the Borrower, assuming level debt service and a rate of interest (determined as of the time of calculation of Maximum Annual Debt Service) equal to the stated rate of interest on such Balloon Indebtedness;

(b) if interest on Long-Term Indebtedness is payable pursuant to a variable interest rate formula, the interest rate on such Long-Term Indebtedness shall be assumed to be equal to 120% of the average interest rate on such Long-Term Indebtedness Outstanding for the most recent 24-month period; *provided, however,* that (i) if such Long-Term Indebtedness has been Outstanding for less than 24 months but for at least 12 months, then the interest rate on such Long-Term Indebtedness shall be assumed to be 120% of the average rate for the most recent 12 months or the interest rate in effect on the date of calculation, whichever is higher, and (ii) if such Long-Term Indebtedness has been outstanding for less than 12 months, then the interest rate on such Long-Term Indebtedness shall be assumed to be 120% of (a) the Bond Market Association Municipal Swap Index for tax-exempt debt, and (b) LIBOR for taxable debt; and

(c) debt service on Long-Term Indebtedness incurred to finance capital improvements shall be included in the calculation of Maximum Annual Debt Service only in proportion to the amount of interest on such Long-Term Indebtedness which is payable in the Fiscal Year after such improvement is completed from sources other than the proceeds of such Long-Term Indebtedness.

*“Net Proceeds,”* when used with respect to any insurance or condemnation award, means the gross proceeds from the insurance (or any alternative risk management program in which the Borrower participates in lieu of or as a supplement to such insurance) or condemnation award with respect to which that term is used remaining after payment of all reasonable expenses incurred and payable to Persons Independent of Borrower in the collection of such gross proceeds.

*“Opinion of Bond Counsel”* means a written opinion of an attorney or firm of attorneys designated by the having a national reputation for skill in connection with the authorization and issuance of municipal obligations in California and under sections 103 and 141-150 of the Code.

*“Opinion of Counsel”* means a written opinion of counsel (who may be counsel for the County) selected by the Borrower and acceptable to the Lender.

*“Payment Dates”* means the first day of each month, commencing with May 1, 2012, and terminating on April 1, 2022.

*“Permitted Encumbrances”* means and includes:

(a) liens and charges incident to construction or maintenance now or hereafter filed of record which are being contested in accordance with Section 505 of this Second Installment Sale Agreement;

(b) the lien of taxes and assessments which are not delinquent or, if delinquent, are being contested in accordance with Section 505 of this Second Installment Sale Agreement;

(c) minor defects and irregularities in the title to the Facilities which in the aggregate do not materially adversely affect the value or operation of the Facilities for the purposes for which they are or may reasonably be expected to be used;

(d) easements, exceptions or reservations for the purpose of pipelines, telephone lines, telegraph lines, power lines and substations, roads, streets, alleys, highways, railroad purposes, drainage and sewerage purposes, dikes, canals, laterals, ditches, the removal of oil, gas, coal or other minerals, and other like purposes, or for the joint or common use of real property, facilities and equipment, which in the aggregate do not adversely affect the value of the Facilities or materially interfere with or impair the operation of the Facilities for the purposes for which they are or may reasonably be expected to be used;

(e) rights reserved to or vested in any municipality or governmental or other public authority to control or regulate or use in any manner any portion of the Facilities which do not adversely affect the value of the Facilities or materially impair the operation of the Facilities for the purposes for which they are or may reasonably be expected to be used;

(f) any obligations or duties affecting any portion of the Facilities to any municipality or governmental or other public authority with respect to any rights power, franchise, grant, license or permit, which are disclosed on Lender's title insurance policy;

(g) present or future valid zoning laws and ordinances;

(h) the rights of the Lender under the First Assignment Agreement and the Second Assignment Agreement;

(i) liens securing indebtedness for the payment, redemption or satisfaction of which money (or evidences of indebtedness) in the necessary amount shall have been deposited in trust with a trustee or other holder of such indebtedness;

(j) statutory rights of the United States of America to recover against the Borrower by reason of federal funds made available under 42 U.S.C. §§291 *et seq.*, and similar rights under other federal and state statutes;

(k) statutory liens arising in the ordinary course of business which are not delinquent or are being contested in good faith by the Borrower;

(l) liens, charges and encumbrances in existence on the Closing Date which are disclosed on Lender's title insurance policy;

(m) the lease or license of the use of a part of the Facilities for use in performing professional or other services necessary for the proper and economical operation of the Facilities in accordance with customary business practices in the industry; and

(n) purchase money security interests and capitalized lease obligations for personal property, provided the fair market value (as of the date of acquisition) of any asset so encumbered shall equal or exceed the amount of indebtedness so secured.

*"Person"* means a person, individual, company, firm, association, organization, partnership, trust, corporation or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

*“Project”* means the retirement facilities located at 300 Hot Springs Road, Montecito, California, which are owned and operated by the Borrower, to be refinanced from the proceeds of the First Installment Sale Agreement and this Second Installment Sale Agreement.

*“Property”* means any and all rights, titles and interests in and to any and all property of the Borrower whether real or personal, tangible or intangible and wherever situated.

*“Property, Plant and Equipment”* means all Property of the Borrower which is considered property, plant and equipment of such Persons under generally accepted accounting principles.

*“Purchase Payments”* means the payments so designated and required to be made by the County pursuant to Section 401 of the First Installment Sale Agreement.

*“Regulations”* means temporary and permanent regulations promulgated under the Code.

*“Second Assignment Agreement”* means that certain Second Assignment Agreement, dated as of March 1, 2012, by and between the Borrower and the Lender, as originally executed and as amended from time to time in accordance with its terms.

*“Second Installment Sale Agreement”* means this Second Installment Sale Agreement, dated as of March 1, 2012, by and between the County and the Borrower, as originally executed and as amended from time to time in accordance with its terms.

*“Short-Term Indebtedness”* means any Indebtedness that is not Long-Term Indebtedness.

*“Subordinate Indebtedness”* means Indebtedness which by its terms is specifically subordinated with respect to any security therefor and with respect to right of payment to the Gross Revenues.

*“Tax Agreement”* means the Tax Certificate and Agreement executed and delivered by the County and the Borrower, as originally executed and as the same may be amended and supplemented from time to time in accordance with the terms thereof.

*“2004 Certificates”* means the certificates of participation evidencing proportionate interests of the holders thereof in payments to be paid by the County from payments to be received from the Borrower, originally executed in the principal amount of \$19,310,000, of which \$13,025,000 is currently outstanding,

*“2004 Trustee”* means U.S. Bank National Association, as trustee for the 2004 Certificates.

*“Unrelated Trade or Business”* shall have the meaning set forth in section 513(a) of the Code.

#### Section 102. Rules of Construction.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons.

(b) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Second Installment Sale Agreement, all refer to this Second Installment Sale Agreement.

## ARTICLE II

### RECITALS; REPRESENTATIONS AND WARRANTIES OF THE BORROWER

Section 201. Status and Powers of the County. The County is a political subdivision and is authorized by the California Government Code to acquire and dispose of real and personal property for the common benefit and in furtherance of its public purposes.

Section 202. Status and Powers of the Borrower. The Borrower is a nonprofit public benefit corporation, an organization that meets the requirements of section 501(c)(3) of the Code which is authorized to acquire and dispose of real and personal property and to control and dispose of it.

Section 203. Purpose of Agreement. In furtherance of its authorized purposes, the County desires to convey and sell the Facilities to the Borrower and the Borrower desires to acquire and purchase the Facilities from the County. The purpose of this Second Installment Sale Agreement is to accomplish such transfer.

Section 204. No Merger. The parties acknowledge that the Borrower constitutes the purchaser of the Facilities under this Second Installment Sale Agreement and the seller of the Facilities under the First Installment Sale Agreement. The First Installment Sale Agreement and this Second Installment Sale Agreement represent, and in all respects of any nature whatsoever shall always represent, be interpreted as and constitute, separate and distinct obligations. Under no circumstances whatsoever shall a merger of the roles or the obligation of the Borrower as purchaser under this Second Installment Sale Agreement and seller under the First Installment Sale Agreement occur or be deemed to occur by reason of the County's assignment to the Borrower under the First Assignment Agreement of its rights against the Borrower under this Second Installment Sale Agreement, or otherwise.

Section 205. Representations and Warranties of the Borrower. The Borrower represents and warrants to the County that, as of the date of execution of this Second Installment Sale Agreement:

(a) The Borrower is a nonprofit, public benefit corporation duly incorporated and in good standing under the laws of the State of California, has full legal right, power and authority to enter into this Second Installment Sale Agreement, and to carry out all of its obligations under and consummate all transactions contemplated hereby, and by proper corporate action has duly authorized the execution, delivery and performance of this Second Installment Sale Agreement.

(b) The officers of the Borrower executing this Second Installment Sale Agreement are duly and properly in office and fully authorized to execute the same.

(c) This Second Installment Sale Agreement has been duly authorized, executed and delivered by the Borrower.

(d) This Second Installment Sale Agreement constitutes the legal, valid and binding agreement of the Borrower enforceable against the Borrower in accordance with its terms; except as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally, by the application of equitable principles regardless of whether enforcement is sought in a proceeding at law or in equity and by public policy.

(e) The execution and delivery of this Second Installment Sale Agreement, the consummation of the transactions herein contemplated and the fulfillment of or compliance with the terms and conditions hereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under the articles of incorporation of the Borrower, its bylaws, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Second Installment Sale Agreement or the financial condition, assets, properties or operations of the Borrower.

(f) No consent or approval of any trustee or holder of any indebtedness of the Borrower or any guarantor of indebtedness of or other provider of credit or liquidity of the Borrower, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority (except with respect to any state securities or "blue sky" laws) is necessary in connection with the execution and delivery of this Second Installment Sale Agreement, or the consummation of any transaction herein or therein contemplated, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect.

(g) There is no action, suit, proceeding, inquiry or investigation, before or by any court or federal, state, municipal or other governmental authority, pending, or to the knowledge of the Borrower, after reasonable investigation, threatened, against or affecting the Borrower or the assets, properties or operations of the Borrower which, if determined adversely to the Borrower or its interests, would have a material adverse effect upon the consummation of the transactions contemplated by, or the validity of, this Second Installment Sale Agreement, or upon the financial condition, assets, properties or operations of the Borrower, and the Borrower is not in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Second Installment Sale Agreement, or the financial condition, assets, properties or operations of the Borrower. All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower have been filed, and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in good faith, have been paid or adequate reserves have been made for the payment thereof which reserves, if any, are reflected in the audited financial statements described therein. The Borrower enjoys the peaceful and undisturbed possession of all of the premises upon which it is operating the Facilities.

(h) The Borrower is an organization described in Section 501(c)(3) of the Code and is exempt from federal income tax under Section 501(a) of the Code, except for unrelated business taxable income under Section 511 of the Code, and is not a private foundation as described in Section 509(a) of the Code.

(i) The Borrower complies in all material respects with all applicable Environmental Regulations.

(j) Neither the Borrower nor its facilities are the subject of a federal, state or local investigation evaluating whether any remedial action is needed to respond to any alleged

violation of or condition regulated by Environmental Regulations or to respond to a release of any Hazardous Substances into the environment.

(k) The Borrower does not have any material contingent liability in connection with any release of any Hazardous Substances into the environment.

### ARTICLE III

#### SALE OF THE FACILITIES

Section 301. Sale of the Facilities. In consideration of the payment by the Borrower to the County or the Lender of the Installment Payments, the County hereby grants, conveys and sells to the Borrower, the Facilities.

Section 302. Title. Title to the Facilities shall vest in the Borrower pursuant to the conveyance made by Section 301, subject to Permitted Encumbrances.

Section 303. Grant of Right of Entry. In order to enable the County or the Lender to provide for enforcement of remedies hereunder and under the First Installment Sale Agreement upon an Event of Default, the Borrower hereby grants to the County and the Lender a right to enter the Facilities and a right to do and perform all acts necessary or appropriate thereon for the aforesaid purposes. The Borrower represents that it is empowered to grant such right of entry and that such grant does not violate the terms of any agreement to which it is a party, and acknowledges that, pursuant to the terms of the First Installment Sale Agreement, the County is granting such right of entry to the Borrower and the Lender.



## ARTICLE IV

### INSTALLMENT PAYMENTS; ADDITIONAL PAYMENTS; SECURITY

Section 401. Installment Payments. In consideration of the County's conveyance to the Borrower, by the terms of this Second Installment Sale Agreement, of title to the Facilities, the Borrower shall pay to the Lender, as assignee under the Second Assignment Agreement and for the account of the County, the Installment Payments set forth in Exhibit B attached hereto and by this reference incorporated herein, as Exhibit B may from time to time be amended in accordance with the terms of this Second Installment Sale Agreement.

The County hereby directs the Borrower, and the Borrower hereby agrees, to make all Installments Payments as follows:

**Payments by check:**

Santa Barbara Bank & Trust, N.A.  
P.O. Box 60654  
Santa Barbara, CA 93160-0654  
Attention: Loan Services  
Loan # 1103445268  
Reference: Montecito Retirement Association

**Payments by wire:**

Santa Barbara Bank & Trust, N.A.  
ABA 122220593  
Reference Loan # 1103445268  
Attention: Loan Services  
Reference: Montecito Retirement Association

Section 402. Additional Payments; Reimbursement. In addition to Installment Payments, the Borrower must also pay to the County or to the Lender, as the case may be, Additional Payments, as follows:

(a) All taxes and assessments of any type or character in any way arising due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public entity or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Lender and taxes based upon or measured by the net income of the Lender; *provided, however*, that the Borrower shall have the right to protest any such taxes or assessments and to require the County or the Lender, at the Borrower's expense, to protest and contest any such taxes or assessments levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the County or the Lender;

(b) The reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the County or the Lender to prepare audits, financial statements, reports, opinions or provide such other services required under the First Installment Sale Agreement or this Second Installment Sale Agreement;

(c) The reasonable fees and expenses of the Lender and the County or any agent selected by the Lender or the County to act on its behalf in connection with the First Installment Sale Agreement or this Second Installment Sale Agreement, including, without limitation, any and all expenses incurred in connection with any litigation, investigation, inquiry or other

proceeding which may at any time be instituted involving the First Installment Sale Agreement, this Second Installment Sale Agreement, or any of the other documents contemplated thereby, or in connection with the supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the First Installment Sale Agreement or this Second Installment Sale Agreement;

(d) All other reasonable and necessary fees and expenses of the Lender and the County attributable to this Second Installment Sale Agreement.

Such Additional Payments shall be billed to the Borrower by the County or the Lender from time to time, together with a statement certifying that the amount billed has been incurred or paid by the County or the Lender for one or more of the above items. After such a demand, amounts so billed shall be paid by the Borrower within thirty (30) days after receipt of the bill by the Borrower.

The Borrower covenants and agrees to pay and indemnify the County against all reasonable fees, costs and charges, including reasonable fees and expenses of attorneys, accountants, consultants and other experts, incurred in good faith and arising out of or in connection with this Second Installment Sale Agreement or the First Installment Sale Agreement. These obligations and those in Section 512 shall remain valid and in effect notwithstanding repayment of this Second Installment Sale Agreement or the First Installment Sale Agreement

Section 403. Interest Component. A portion of each Installment Payment is paid as, and represents payment of, interest. The interest component of each Installment Payment, based on the rate of 3.425% per annum, is set forth in Exhibit B. Upon the occurrence of a Determination of Taxability, the interest rate applicable to the Installment Payments (and the Purchase Payments under the First Installment Sale Agreement) shall be increased to 5.708333% and the Lender shall provide a revised Exhibit B to this Second Installment Sale Agreement and a revised Exhibit B to the First Installment Sale Agreement reflecting such increased rate which rate shall be effective as of the date that the Determination of Taxability is applicable to Lender.

Section 404. Payment in Lawful Money; No Set-Off. Each Installment Payment shall be paid by the Borrower in lawful money of the United States of America, which at the time of payment is legal tender for the payment of public and private debts. Interest with respect to any such Installment Payment which shall not be paid on the Payment Date to which such Installment Payment pertains shall be payable at the rates reflected by the interest component of Installment Payments from said Payment Date until the same shall be paid. Notwithstanding any dispute between the Borrower and the County, the Borrower shall make or cause to be made each and all Installment Payments when due and shall not withhold or permit to be withheld any Installment Payments pending the final resolution of such dispute nor shall the Borrower assert nor permit to be asserted any right of set-off or counter-claim against the obligation to make Installment Payments as set forth herein. The Borrower hereby agrees to perform all of its obligations, covenants and agreements hereunder without notice or demand. Nothing in this Second Installment Sale Agreement shall be construed as a waiver by the Borrower of any right or claim the Borrower may have against the County or the Lender under this Second Installment Sale Agreement or otherwise, but any recovery resulting from such right or claim shall be had from the County or the Lender separately, it being the intent of this Second Installment Sale Agreement that the Borrower be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Second Installment Sale Agreement.

#### Section 405. Gross Revenue Account.

(a) the Borrower agrees that, so long as any of the Installment Payments remain unpaid, or any Additional Payments remain unpaid, all of the Gross Revenues shall be deposited as soon as practicable upon receipt in the Borrower's account No. 8067670 with the Lender, designated as the "Gross Revenue Account" which the Borrower shall establish and maintain, subject to the provisions of subsection (b) of this Section 405. Subject to the provisions of this Second Installment Sale Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein, the Borrower hereby pledges, and to the extent permitted by law grants a security interest to the County in, the Gross Revenue Account and all of the Gross Revenues to secure the payment of Installment Payments and Additional Payments and the performance by the Borrower of its other obligations under this Second Installment Sale Agreement. The Borrower hereby authorizes the Lender to file Uniform Commercial Code financing statements perfecting the security interest granted hereunder and shall execute and deliver such other documents (and hereby authorizes the filing of continuation statements and other filings) as may be necessary or reasonably requested by the County or the Lender in order to perfect or maintain as perfected such security interest or give public notice thereof.

(b) Amounts in the Gross Revenue Account may be used and withdrawn by the Borrower at any time for any lawful purpose, except as hereinafter provided. In the event that the Borrower is delinquent for more than five (5) Business Days in the payment of any Installment Payment, all funds in the Gross Revenue Account shall be frozen and the Borrower shall have no right to access or otherwise exert control over such funds. The Lender shall have the right, to the extent funds remain in the Gross Revenue Account, to disburse to itself an advance from the Gross Revenue Account equal to the amount of all Installment Payments and Additional Payments in default. Such advance shall satisfy the Borrower's obligation to remit such amounts, to the extent of such advance, provided that in no event shall the Lender's failure to disburse amounts from the Gross Revenue Account for any reason relieve the Borrower of the Borrower's obligation to make payments as required hereunder. The Borrower shall be prohibited from accessing or controlling funds in the Gross Revenue Account until amounts on deposit in said fund are sufficient to pay in full, or have been used to pay in full, all Installment Payments and Additional Payments in default and all other Events of Default known to the Lender shall have been made good or cured to the satisfaction of the Lender or provision deemed by the Lender to be adequate shall have been made therefor, whereupon (unless the Borrower has been delinquent in its payment obligations hereunder more than once in the prior 12-month period), the Borrower shall regain access to the Gross Revenue Account (except for the Gross Revenues required to make such payments or cure such defaults). During any period that the Borrower is prohibited from accessing or controlling funds in the Gross Revenue Account pursuant to the terms hereof, the Lender shall use and withdraw amounts in said fund from time to time to make Installment Payments, Additional Payments, and other payments required of the Borrower under this Second Installment Sale Agreement as such payments become due, and the costs required of the Borrower of maintaining and operating the Facilities (as such costs of maintaining and operating the Facilities shall be certified in writing by the Borrower to the Lender), and, if such amounts shall not be sufficient to pay in full all such payments due on any date, then such amounts shall be applied first to the payment of Installment Payments, and thereafter to such other payments in the order that the Lender, in its discretion, shall determine, without discrimination or preference. The Lender shall be protected in acting pursuant to the certification of the Borrower with respect to the payment of costs of maintaining and operating the Facilities, in making any payment relating to the operating costs, the Lender may do so according to any statement or communication from the Borrower without inquiry into the accuracy of such bill, statement or estimate or into the validity of any equipment or service provided in connection therewith and the Borrower hereby indemnifies the Lender in connection with such payments by the Lender. During any period that the Borrower is prohibited from accessing or controlling the Gross Revenue Account, the Borrower

shall not be entitled to use or withdraw any of the Gross Revenues unless and to the extent that the Lender at its sole discretion so directs for the payment of current or past due operating expenses of the Borrower; *provided, however*, that during the period when the Gross Revenue Account is transferred to the name and credit of the Lender, the Lender shall direct payment of the costs of maintaining and operating the Facilities provided that sufficient funds remain on deposit in the Gross Revenue Account for the payment of all Installment Payments and Additional Payments due on any date during such period. The Borrower agrees to execute and deliver all instruments as may be required to implement this Section 405.

The Lender will not be liable for any losses, liabilities, damages, claims (including, but not limited to, third party claims), demands, obligations, actions, suits, judgments, penalties, costs or expenses, including, but not limited to, attorneys' fees, suffered or incurred by the Borrower or any third party as a result of or in connection with the Lender disbursing funds from the Gross Revenue Account or following any instruction or request of the Borrower to do so. The Borrower hereby agrees to indemnify the Lender against any such losses and liabilities Lender may suffer or incur as a result of or in connection with any of the circumstances referred to in the preceding sentence.

The Borrower hereby represents and warrants that it has not heretofore made a pledge of, granted a lien on or security interest in, or made an assignment or sale of the Gross Revenues. The Borrower also hereby represents and warrants that it has not described the Gross Revenues in a Uniform Commercial Code financing statement that will remain effective when this Second Installment Sale Agreement is delivered. The Borrower covenants that it will not hereafter make or suffer to exist any pledge or assignment of, lien on, or security interest in the Gross Revenues and will not file or authorize the filing of any financing statement describing any such pledge, assignment, lien, or security interest, except with the Lender's written approval.

Section 406. Obligations of the Borrower Unconditional; Net Contract. The obligations of the Borrower to make the Installment Payments and Additional Payments required hereunder and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, while any Installment Payments or Additional Payments remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Facilities, commercial frustration of purpose, any change in the laws of the United States of America or of the State or any political subdivision of either or in the rules or regulations of any governmental authority, or any failure of the County or the Lender to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Second Installment Sale Agreement. This Second Installment Sale Agreement shall be deemed and construed to be a "net contract," and the Borrower shall pay the Installment Payments, Additional Payments and all other payments required hereunder, regardless of any rights of set-off, recoupment, abatement or counterclaim that the Borrower might otherwise have against the County or the Lender or any other party or parties.

Section 407. Prepayment. Subject to the terms and conditions of this Section 407, the County and the Lender hereby grant an option to the Borrower to prepay the principal component of Installment Payments in whole or in part, in inverse order of payment date, in \$5,000 increments on any Payment Date, at a prepayment price equal to the principal amount prepaid, plus accrued interest to the prepayment date. The Borrower may prepay up to \$600,000 in any Fiscal Year without a prepayment premium. Prepayments in excess of \$600,000 in any

Fiscal Year are subject to the following premiums (which shall be the applicable percentage of such prepayments in excess of \$600,000) which shall be paid in addition to the principal amount prepaid, plus accrued interest to the prepayment date:

<u>Prepayment Period</u>	<u>Prepayment Premium</u>
Closing Date to March 31, 2013	5%
April 1, 2013 to March 31, 2014	4%
April 1, 2014 to March 31, 2015	3%
April 1, 2015 to March 31, 2016	2%
April 1, 2016 to March 31, 2017	1%
April 1, 2017 and thereafter	0%

The County and the Lender hereby grant an option to the Borrower to prepay the principal component of Installment Payments in part on any date, from net proceeds of insurance or condemnation awards received with respect to the Facilities and not used for repair, restoration or replacement, at a prepayment price of the principal amount to be prepaid, plus accrued interest to the prepayment date, without premium.

In the event of prepayment of Installment Payments in part pursuant to this Section 407, the partial prepayment shall be applied by the County or the Lender against the principal component of Installment Payments.

Section 408. Further Security for Installment Payments; Deed of Trust. To secure the payment of Installment Payments and the performance of the other obligations of the Borrower hereunder, the Borrower hereby grants to the Lender and the County, as their interests may appear, a security interest in the Facilities. The Borrower has entered into the Deed of Trust to secure the Borrower's obligations hereunder. The Deed of Trust provides the Beneficiary thereof with the right to accelerate and demand all amounts due under this Second Installment Sale Agreement immediately due and payable upon the occurrence of certain events, as more particularly described in Section 5 of the Deed of Trust.

ARTICLE V  
COVENANTS

Section 501. Maintenance of Corporate Existence of the Borrower; Consolidation, Merger, Sale or Transfer Under Certain Conditions. The Borrower covenants and agrees that during the term of this Second Installment Sale Agreement, except as provided in this Section 501, it will maintain its existence as a California nonprofit, public benefit corporation and will remain qualified to do business in the State.

Notwithstanding the other provisions of this Section 501, so long as a Event of Default has not occurred or is continuing, upon the prior written consent of the Lender, the Borrower may consolidate or merge into another corporation, or permit one or more other corporations to consolidate with or merge into it, or sell or otherwise transfer to another corporation all or substantially all of its assets as an entirety and thereafter dissolve, if the Lender and the County shall have received an Opinion of Counsel to the effect that such merger, consolidation, sale or other transfer will not cause interest with respect to the Purchase Payments to be included in gross income for purposes of federal income taxation.

Section 502. Licensing. The Borrower shall maintain all permits, licenses and other governmental approvals necessary for the operation of the Facilities, if any.

Section 503. Debt Coverage. Within one hundred fifty (150) days after the end of each Fiscal Year (commencing with the first full Fiscal Year after the Closing Date), the Lender shall calculate the Borrower's debt service coverage ratio requirements for the prior Fiscal Year, based upon the Borrower's audited financial statement for such year. The Borrower shall be required to maintain (and hereby covenants and agrees to maintain) a ratio of at least 1.5:1.0, calculated as the EBITDA divided by the Maximum Aggregate Annual Debt Service.

Section 504. Limitation on Encumbrances. The Borrower covenants and agrees that it will not create, assume or suffer to exist any mortgage, deed of trust, pledge, security interest, encumbrance, lien or charge of any kind (a "Security Interest") upon the Facilities without the prior written consent of the Lender; *provided, however,* that notwithstanding the foregoing provisions and without securing obligations of the Borrower under this Second Installment Sale Agreement, the Borrower may create, suffer or assume Permitted Encumbrances.

Section 505. Limitation on Indebtedness. The Borrower covenants and agrees that, without the Lender's prior written consent, it will not incur any additional Indebtedness; *provided, however,* the Borrower may incur additional Indebtedness arising in the ordinary course of business and incurred for purposes of Property improvements, equipment purchases or operational needs that is either: (i) Indebtedness advanced under Borrower's existing line of credit with Northern Trust up to a maximum amount of \$1,500,000.00, or (ii) additional Indebtedness up to an aggregate of \$2,000,000.00. Notwithstanding the foregoing, except to the extent such additional Indebtedness comprises commercially reasonable purchase money debt or a capitalized lease obligation for personal property, any and all additional Indebtedness shall be Subordinate Indebtedness.

Section 506. Limitation on Disposition of Property, Plant and Equipment.

(a) The Borrower covenants and agrees that it will not sell, lease or otherwise dispose of any part of its Property, Plant and Equipment unless:

(i) Such assets have become inadequate, obsolete, worn out, unsuitable, undesirable, unprofitable or unnecessary, and the sale, lease, removal or other disposition thereof will not impair the value, structural soundness, efficiency or revenue generating capacity of the Facilities; or

(ii) Such sale or other disposition is in the ordinary course of business or for the fair market value of the Property so disposed of.

Section 507. Accounting Records and Financial Statements.

(a) The Borrower covenants and agrees at all times to keep, or cause to be kept, proper books of record and account, prepared in accordance with generally accepted accounting principles, in which complete and accurate entries shall be made of all transactions of or in relation to the business, properties and operations of the Borrower. Such books of record and account shall be available for inspection by the Lender at reasonable hours under reasonable circumstances.

(b) The Borrower further covenants and agrees to furnish the County (if requested by the County) and the Lender, within one hundred and fifty (150) days after the end of each Fiscal Year, with copies of its complete financial statements (including a balance sheet, a statement of revenues and expenses, a statement of changes in fund balances, a statement of changes in financial position and such other financial reports and schedules as may have been delivered to the Borrower in connection with such financial statements), together with (1) the report and opinion of an Accountant stating that the financial statements have been prepared in accordance with generally accepted accounting principles and that the tests made of the Borrower's accounting records were performed in accordance with generally accepted auditing standards, and (2) a Certificate of the chief financial officer of the Borrower stating that no event that constitutes a Event of Default has occurred and is continuing as of the end of such Fiscal Year, or specifying the nature of such event and the actions taken and proposed to be taken by the Borrower to cure such default. The County and the Lender shall have no obligation to review such financial statements when received. In addition, the Borrower further covenants and agrees to furnish the Lender, its quarterly financial statements within forty five (45) days after the end of each quarter.

(c) In order to assure the efficient management and operation of the Facilities, the Borrower shall each year prepare an operating budget setting forth the estimated revenues and expenses anticipated for the ensuing Fiscal Year. This budget shall be approved by the Board no later than fifteen (15) days after the close of the Fiscal Year, and shall forthwith be transmitted to the Lender. If the operating budget is not so approved and adopted, the operating budget for the then current Fiscal Year shall remain in effect until a new operating budget is approved.

Section 508. Liquidity Covenant. The Borrower covenants to maintain Liquid Assets in an amount greater than 70% of all outstanding Long-Term Indebtedness, to be tested semi-annually. Compliance with this liquidity covenant shall be evidenced by delivery to the Lender of copies of the Borrower's bank and brokerage statements verifying the Borrower's minimum Liquid Assets balance, together with a Certificate, not later than 30 days after each June 30 and December 31. The Borrower shall also provide to the Lender, not later than 30 days after each March 31 and September 30, copies of the Borrower's bank and brokerage statements indicating its Liquid Assets balance but the Borrower shall not be required to satisfy the liquidity covenant on such dates.

Section 509. Tax-Exempt Status of the Purchase Payments.

(a) It is the intention of the County and the Borrower that interest with respect to the Purchase Payments shall be and remain excluded from the gross income of the Lender for purposes of federal income taxation, and to that end the covenants and agreements of the Borrower in this Section 509 and Section 510 are for the benefit of the Lender.

(b) The Borrower will take such action or actions as may be reasonably necessary in the Opinion of Bond Counsel, or of which it otherwise becomes aware, to fully comply with section 148 of the Code.

(c) The Borrower and the County acknowledge that the First Installment Sale Agreement is not a "qualified tax-exempt obligation" under section 265(b)(3) of the Code.

Section 510. Tax Covenants. The Borrower agrees and covenants that it will at all times do and perform all acts and things permitted by law and this Second Installment Sale Agreement which are necessary in order to assure that interest components of the Purchase Payments will be excluded from gross income for federal income tax purposes, and that it will take no action that would result in such interest not being excluded from gross income for federal income tax purposes. Without limiting the generality of the foregoing, the Borrower agrees and covenants to comply with the provisions of the Tax Agreement which are incorporated into this Second Installment Sale Agreement.

Section 511. Prohibited Uses.

(a) No portion of the proceeds of this Second Installment Sale Agreement will be used to finance or refinance any facility, place or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship and the Borrower will not use the facilities financed or refinanced with the proceeds of this Second Installment Sale Agreement, during the useful life thereof for any such purposes.

(b) No portion of the proceeds of this Second Installment Sale Agreement will be used to finance or refinance any facility, place or building used or to be used by a Person that is not a 501(c)(3) Organization or a Governmental Unit or by a 501(c)(3) Organization (including the Borrower) in an Unrelated Trade or Business, in such manner or to such extent as would result in any of the Purchase Payments being treated as an obligation not described in section 103(a) of the Code.

Section 512. Indemnification of County. To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the County and its officers, governing 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 any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

(a) this Second Installment Sale Agreement, the First Installment Sale Agreement or the Tax Agreement;

(b) any act or omission of the Borrower or any of its agents, contractors, servants, employees, tenants or licensees in connection with the Facilities, the operation of the Facilities, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation or construction of, the Facilities or any part thereof;

(c) any lien or charge upon payments by the Borrower to the County hereunder, or any taxes (including, without limitation, all *ad valorem* taxes and sales taxes), assessments, impositions and other charges imposed on the County in respect of any portion of the Facilities;

(d) any violation of any Environmental Regulations with respect to, or the release of any Hazardous Substances from, the Facilities or any part thereof;

(e) the defeasance and/or prepayment, in whole or in part, of this Second Installment Sale Agreement or the First Installment Sale Agreement;

(f) any declaration of taxability of interest with respect to the First Installment Sale Agreement, or allegations that interest with respect to the First Installment Sale Agreement is taxable or any regulatory audit or inquiry regarding whether interest with respect to the First Installment Sale Agreement is taxable;

except 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 Borrower, 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. The 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 Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that the Indemnified Party may only employ separate counsel at the expense of the Borrower if in the judgment of the Indemnified Party 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.

Section 513. Maintenance and Operation of the Facilities. The Borrower covenants and agrees that it will operate and maintain the Facilities in accordance with all governmental laws, ordinances, approvals, rules, regulations and requirements including, without limitation, such zoning, sanitary, pollution and safety ordinances and laws and such rules and regulations thereunder as may be binding upon the Borrower. The Borrower further covenants and agrees that it will maintain and operate the Facilities and all engines, boilers, pumps, machinery, apparatus, fixtures, fittings and equipment of any kind now in or later placed in any building or structure now or hereafter constituting part of the Facilities in good repair, working order and condition, and that it will from time to time make or cause to be made all needed and proper replacements, repairs, renewals and improvements so that the efficiency and value of the Facilities shall not be impaired.

Section 514. Taxes, Assessments Other Governmental Charges and Utility Charges. The Borrower covenants and agrees that it will pay and discharge all taxes, assessments, governmental charges of any kind whatsoever, water rates, meter charges and other utility charges that may be or have been assessed or that may have become liens upon the Facilities; *provided, however,* that the Borrower shall not be required to pay any tax, assessment, rate or charge as herein provided as long as it shall in good faith contest the validity thereof, provided that the Borrower shall have set aside reserves with respect thereto which, in the opinion of the Board of Directors and the Lender, are adequate

Section 515. Insurance Required. The Borrower covenants and agrees that it will keep all of its properties and operations adequately insured at all times and will carry and maintain such insurance in amounts that are customarily carried and against such risks as are customarily insured against by other entities in connection with the ownership and operation of Facilities of similar character and size, in an amount at least equal at any time to the principal amount of this Second Installment Sale Agreement then Outstanding; *provided, however,* that the Borrower shall not be required to maintain or cause to be maintained any insurance unless such insurance is available on the open market as a standard policy of insurance with a standard deductible offered by a reputable insurer. The Borrower shall also procure and maintain comprehensive general liability insurance in such coverage amounts as the Lender may request with the Lender being named as an additional insured in such liability insurance policies. Additionally, the Borrower shall maintain such other insurance, including but not limited to hazard, business interruption, and boiler insurance, as the Lender may reasonably require. Notwithstanding the foregoing, in no event shall the Borrower be required to provide hazard insurance in excess of the replacement value of the improvements on the Property. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to the Lender and issued by a company or companies reasonably acceptable to the Lender. Should the Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, the Borrower agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by the Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by the Lender, and to maintain such insurance for the term of the loan

Section 516. Worker's Disability Compensation Act. The Borrower will at all times comply with the Worker's Disability Compensation Act of the State, or any successor statute or statutes.

Section 517. Insurers; Policy Forms and Loss Payees. Each insurance policy required by the Deed of Trust and Section 515 hereof shall be carried by insurance companies authorized to do business in the State that are financially responsible and capable of fulfilling the requirements of such policies. All such policies (except liability policies) shall name the Borrower and the Lender as insured parties, and shall name the Lender as beneficiary, additional insured and loss payee. Each policy shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved and shall contain a provision to the effect that the insurer shall not cancel or substantially modify the policy provisions without first giving at least thirty (30) days' written notice thereof to the Borrower and the Lender. In lieu of separate policies, the Borrower may maintain blanket policies that cover any one or more risks required to be insured against so long as the minimum coverages required herein and in the Deed of Trust are met. The Borrower shall file, no later than one hundred fifty (150) days after the end of each Fiscal Year, with the Lender a Certificate stating that the Borrower has complied with Section 515 hereof and all insurance coverage

requirements of the Deed of Trust. The Lender may rely on such Certificate without any independent investigation or verification.

Upon request of the Lender, the Borrower shall furnish to the Lender a report on each existing policy of insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. The Borrower shall, upon request of the Lender, have an independent appraiser satisfactory to the Lender determine the cash value replacement cost of the Property.

Section 518. Disposition of Insurance and Condemnation Proceeds.

(a) The proceeds of the insurance carried pursuant to Section 515 (except the proceeds of the liability portion, if any, of such insurance), the proceeds of any title insurance that may be obtained and the proceeds of any condemnation awards with respect to the Facilities (the "Proceeds"), shall be remitted to the Lender, subject to the terms of this Section 518.

(b) At the option and in the sole discretion of the Lender, and without regard to the adequacy of the Lender's security, such Proceeds may be: (i) applied by the Lender to prepayments of Installment Payments, or (ii) without reducing the indebtedness outstanding hereunder, used by the Lender or with the Lender's express prior written consent, by the Borrower to replace, restore, or reconstruct the Property to a condition satisfactory to the Lender, or (iii) released by the Lender to the Borrower, or (iv) divided by the Lender in any manner among any such application, use or release. No such application, use or release shall cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice (or alter the amount of any payment provided hereunder, or postpone or extend the due date of any payment due hereunder.

(c) Notwithstanding the foregoing provisions of this Section 518, the Lender shall permit the Borrower to use the Proceeds to replace, restore or reconstruct the Property (herein "Restoration") following any injury or damage to the Property or condemnation of a portion of the Property for public use on the following terms and conditions, each of which must be satisfied as determined by the Lender in its reasonable judgment:

(i) the Proceeds shall first be applied to reimburse the Lender for all costs and expenses incurred by the Lender in recovering the Proceeds, including, without limitation, reasonable attorneys' fees, and the balance of the Proceeds (herein "Net Claims Proceeds") shall be used by the Borrower only to pay the actual reasonable costs of Restoration;

(ii) the improvements affected by such injury, damage or condemnation shall be replaced, restored or reconstructed to at least the same condition as the Improvements in existence on the Property immediately prior to the injury damage or condemnation, in full compliance with all applicable zoning, building, health and safety and other laws, ordinances and governmental requirements applicable to the Restoration;

(iii) the plans, specifications, cost breakdown, architect and engineering agreements, construction, contracts, construction schedule, contractors, major subcontractors and any payment and performance bonds required by the Lender, shall be approved by the Lender in its reasonable discretion;

(iv) if the Net Claims Proceeds are not sufficient, in the reasonable judgment of the Lender, to fully pay for all costs of Restoration, the Borrower shall deposit with the Lender, within ten (10) days following the written request of the Lender, cash in such

amounts as the Lender shall determine to be sufficient at such time for the full payment of all costs of Restoration, and the Borrower shall make such additional cash deposits, within ten (10) days following written request, as the Lender shall determine from time to time during the course of the Restoration as are necessary to ensure that sufficient funds will be available at all times to pay for all costs of Restoration; all such sums deposited by the Borrower with the Lender shall be held by the Lender in a non-interest bearing account at an office of the Lender, and the Lender is hereby granted a first priority security interest therein to secure the Borrower's obligation to pay for all costs of Restoration;

(v) the Net Claims Proceeds and all funds deposited by the Borrower to pay for the costs of Restoration as provided in clause (iv) above shall be disbursed by the Lender in progress payments (less a ten percent (10%) retention, which shall be disbursed only upon full and final completion of Restoration as determined by the Lender in its reasonable judgment) in accordance with and subject to the Lender's standard construction loan disbursement procedures and requirements and such additional construction-related requirements as the Lender may reasonably impose in connection with the Restoration;

(vi) the Lender shall receive satisfactory evidence that: (i) the proceeds of existing rental insurance payable on account of the damage or destruction together with the net cash flow from the undamaged portions of the Property will be sufficient to pay debt service on all Indebtedness secured by the Property during the full period of Restoration, (ii) the continued use of the Property upon completion of the Restoration is economically feasible and will be in full compliance with all applicable laws and ordinances, (iii) all leases of the Property which the Lender may require to be and remain in place following completion of the Restoration will be in full force and effect after such completion, and (iv) the Restoration will be completed within a reasonable time and in any event no less than six (6) months prior to the maturity date of this Second Installment Sale Agreement; and

(vii) No default under this Second Installment Sale Agreement shall have occurred and be continuing.

The Borrower agrees that in no event shall the Lender's consent to or approval of any Restoration be deemed to extend the due date of any payments owing hereunder, or otherwise be construed to cure or waive any default of the Borrower hereunder or under the Deed of Trust. In the event that, prior to completion of Restoration, the Borrower is in Default hereunder, then without limiting any other rights and remedies of the Lender, the Lender shall have the right to apply any funds of the Borrower held on deposit with the Lender against such obligation as the Lender may determine in its sole discretion.

The Borrower hereby specifically, unconditionally and irrevocably waives all rights of a property owner granted under California Code of Civil Procedure Section 1265.225 (a), which provide for allocation of condemnation proceeds between a property owner and a lienholder, and any other law or successor statute of similar import.

Section 519. Prosecution and Defense of Suits. The Borrower shall promptly, upon request of County or the Lender, from time to time take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Facilities whether now existing or hereafter developing and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and shall indemnify the County and the Lender for all loss, cost, damage and expense, including attorneys' fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceedings.

The Borrower shall defend every suit, action or proceeding at any time brought against the County or the Lender upon any claim arising out of the receipt, application or disbursement of any of the Gross Revenues or involving the rights of the County or the Lender under this Second Installment Sale Agreement; *provided, however*, that the County and the Lender at their election may appear in and defend any such suit, action or proceeding. The Borrower shall indemnify the County and the Lender against any and all liability claimed or asserted by any person, arising out of such receipt, application or disbursement. The agreement contained in the preceding sentence shall survive the termination of this Second Installment Sale Agreement for a period of not to exceed any applicable statute of limitations period. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Gross Revenues and all security provided by or pursuant to this Second Installment Sale Agreement against all claims and demands of all persons whomsoever.

Section 520. Recordation and Filing. The Borrower shall prepare, record and file all such documents as may be required by law (together with whatever else may be necessary or be reasonably required by the County or the Lender), in such manner, at such times and in such places as may be required by law in order fully to preserve and protect the rights of the County and the Lender under this Second Installment Sale Agreement.

Section 521. Waiver of Laws. The Borrower shall not at any time insist upon or plead in any manner whatsoever, or claim or suffer or take the benefit or advantage of, any stay or extension law now or at any time hereafter in force which may adversely affect its obligation to pay Installment Payments, and the covenants contained in this Second Installment Sale Agreement and the benefit and advantage of any such law is hereby expressly waived by the Borrower to the extent that the Borrower may legally make such waiver.

Section 522. Power to Enter Into Agreement. The Borrower is duly authorized to enter into this Second Installment Sale Agreement and to provide the security provided by this Second Installment Sale Agreement in the manner and to the extent provided in this Second Installment Sale Agreement. The provisions of this Second Installment Sale Agreement are and will be the valid and legally enforceable special obligations of the Borrower in accordance with the terms of this Second Installment Sale Agreement.

Section 523. Further Assurances Whenever and so often as requested so to do by the County or the Lender, the Borrower shall promptly execute and deliver all such other and further instruments, documents or assurances, and promptly do or cause to be done all such other and further things, as may be necessary or reasonably required in order further and more fully to vest in the County or the Lender, all rights, interest, powers, benefits, privileges and advantages conferred or intended to be conferred upon the County and the Lender by this Second Installment Sale Agreement.

Section 524. Environmental Indemnity. The Borrower shall not cause or permit the Facilities or any part thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all applicable Federal, state and local laws or regulations, nor shall the Borrower cause or permit, as a result of any intentional or unintentional act or omission on the part of the Borrower or any tenant or subtenant, a release of Hazardous Materials onto the Facilities. The Borrower shall comply with and ensure compliance by all tenants and subtenants with all applicable Federal, state and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with, and ensure that all tenants and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder.

## ARTICLE VI

### DISCLAIMER OF WARRANTIES; ASSIGNMENT; AMENDMENT

Section 601. Disclaimer of Warranties. Neither the County nor the Lender make any warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the Borrower of the Facilities or any portion thereof, or any other representation or warranty with respect to the Facilities, or any portion thereof. In no event shall the County or the Lender be liable for incidental, indirect, special or consequential damages, in connection with this Second Installment Sale Agreement or the existence, furnishing, or functioning of the Facilities, or the Borrower's or any other person's use of the Facilities.

Section 602. Assignment. The Borrower's rights and obligations under this Second Installment Sale Agreement may not be assigned in whole or in part by the Borrower without the prior written consent of the Lender and the County. Any assignment in accordance with this Section 602 shall be subject to each of the following conditions:

(a) No assignment shall relieve the Borrower from primary liability for any of its obligations hereunder in the event that the Lender does not perform, and in the event of any such assignment the Borrower shall continue to remain primarily liable for payment of the amounts specified in Section 401 hereof and for performance and observance of the other covenants, warranties, representations and agreements on its part herein provided to be performed and observed to the same extent as though no assignment had been made;

(b) The assignee shall assume, in writing, the obligations of the Borrower hereunder to the extent of the interest assigned;

(c) The Borrower shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the County and to the Lender a true and complete copy of each such assignment and assumption of obligations; and

(d) The assignment shall not, in the Opinion of Counsel, adversely affect the interests of the Lender or the exclusion from gross income for federal tax purposes of the interest component of Purchase Payments.

Section 603. Amendment. This Second Installment Sale Agreement may be amended in writing by the parties hereto or by their assignees on their behalf or in their name for the purpose of (a) curing any ambiguity or of curing, correcting, or supplementing any defective provision contained herein, (b) in regard to questions arising under this Second Installment Sale Agreement which the County and the Borrower may deem necessary or desirable and not inconsistent with the provisions of this Second Installment Sale Agreement, (c) making such additions, deletions or modifications as may be necessary to assure compliance with section 145 of the Code relating to qualified 501(c)(3) obligations, section 148(f) of the Code relating to required rebate of Excess Investment Earnings to the United States or otherwise as may be necessary to assure exclusion from gross income for purposes of federal income taxes of the interest component of Purchase Payments; *provided, however*, that no such amendment pursuant to this Section 603 shall adversely affect the interests of the Lender and provided, further, that no such amendment pursuant to (c) shall be made unless there is filed with the Lender the opinion of Special Counsel that said amendment complies with the provisions of this Section 603 and that under existing laws in effect on the date of the opinion, said amendment will not impair the exclusion from gross income for federal income tax purposes of the interest component of Purchase Payments and will comply with this Section 603. This Second

Installment Sale Agreement may also be amended upon the prior written approval of the Lender; *provided, however*, that nothing in this Section 603 shall permit or be construed as permitting (x) an extension of the scheduled date of payment of the principal or interest component of Purchase Payments, (y) a reduction in the principal component of Purchase Payments or premium, if any, on prepayment or (z) a reduction in the interest rate payable with respect to the interest component of Purchase Payments without the consent of the Lender; and provided further that no amendment hereof which affects the rights, duties or immunities of the Lender will take effect without the express written consent of the Lender.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

Section 701. Events of Default Defined. The following shall be “Events of Default” under this Second Installment Sale Agreement and the term “Events of Default” shall mean, whenever it is used in this Second Installment Sale Agreement, any one or more of the following events:

(a) Failure by the Borrower to pay any Installment Payment or other payment required to be paid hereunder at the time specified herein.

(b) Failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Second Installment Sale Agreement or in the Deed of Trust, other than as referred to in subsection (a) of this Section 701 and other than set forth in Sections 503 and 508, for a period of thirty (30) days after written notice specifying the evidence of such continuing failure or specifying such failure and requesting that it be remedied has been given to the Borrower by the Lender, unless the Lender shall agree in writing to an extension of such time prior to its expiration; *provided, however*, if the failure stated in the notice cannot be corrected within the applicable period, the Lender may consent to an extension of such time if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the default is corrected.

(c) An involuntary petition under any applicable bankruptcy, insolvency or other similar law is filed against the Borrower and is still in effect 60 days from the date of such filing or a court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Borrower in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Borrower or for any substantial part of its property, or ordering the winding up or liquidation of its affairs, and such decree or order shall remain unstayed and in effect for a period of sixty (60) days.

(d) The Borrower shall:

(i) become insolvent (unable to pay its debts as they become due and/or if the fair market value of its assets does not exceed its aggregate liabilities) or admit in writing its inability to pay its debts as they become due; or

(ii) file a petition in bankruptcy or for reorganization or for the adoption of an arrangement under the federal bankruptcy statute as now or in the future amended, or file a pleading asking such relief; or

(iii) make an assignment for the benefit of creditors; or

(iv) consent to the appointment of a trustee or receiver for all or a major portion of its property; or

(v) be finally adjudicated as bankrupt or insolvent under any federal or state law;  
or

(vi) suffer the entry of a final and non-appealable court order under any federal or state law appointing a receiver or trustee for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Act, as now or in the future amended, which order, if not



consented to by it shall not be vacated, denied, set aside or stayed within sixty (60) days after the date of entry; or

(vii) suffer the entry of a final judgment against it for the payment of moneys in excess of \$100,000 and the same shall not be discharged or provision made for its discharge within thirty (30) days from the date of entry thereof, or an appeal or other appropriate proceeding for review thereof shall not be taken within said period and a stay of execution pending such appeal shall not be obtained; *provided, however*, that if the Borrower delivers to the County and the Lender an opinion of an Independent Management Consultant stating that the Borrower is adequately insured for such final judgment, or, entry of such final judgment shall not be an Event of Default under this Second Installment Sale Agreement; or

(viii) suffer a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within sixty (60) days after the final entry or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(ix) a receiver, trustee, master, or liquidator is appointed with respect to the Property or the rents, issues, profits, security deposits, royalties, tolls, earnings, income and other benefits therefrom; or

(x) any material portion of the Borrower's assets is attached, executed upon or judicially seized in any manner and such attachment, execution or seizure is not discharged within 10 days.

(e) The Borrower shall fail to meet the debt service coverage requirements set forth in Section 503 or the liquidity covenant set forth in Section 508.

(f) Abandonment by the Borrower of the Facilities, or any substantial part thereof, and the continuance of such abandonment for a period of sixty (60) days after written notice thereof shall have been given to the Borrower by the County or the Lender, as assignee of the County.

(g) An Event of Default shall occur under the First Installment Sale Agreement.

Section 702. Acceleration. (i) Upon the occurrence of an Event of Default under Section 701(a) hereof, the Lender may declare the entire principal component of Installment Payments then unpaid and the accrued interest component, immediately due and payable, and such principal and interest components shall thereupon become and be immediately due and payable. As soon as practicable after any such declaration, the Lender shall give written notice thereof to the Borrower and the County; *provided, however*, that the failure by the Lender to give such notice shall not affect such declaration.

Section 703. Remedies. Upon the occurrence and continuation of an Event of Default, the Lender may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal and interest component of Installment Payments and prepayment premium, if any, and to enforce and compel the performance of the duties and obligations of the Borrower as herein set forth. The Lender shall be entitled, as a matter of right, to the appointment of a receiver or receivers for the property securing the obligations hereunder, and of the revenues, income and profit thereof, *ex parte*, and without notice, and the Borrower consents to the appointment of such receiver upon the occurrence of an Event of Default. In the case of any receivership, insolvency, bankruptcy, reorganization or other judicial proceedings affecting the Borrower, the Lender shall be entitled to file such proofs

of claims and other documents as may be necessary or advisable in order to have the claims of the Lender allowed in such proceedings

Section 704. Remedies Not Exclusive. No remedy by the terms of this Second Installment Sale Agreement, the Deed of Trust or the Second Assignment Agreement conferred upon or reserved to the Lender is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Lender hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient.

Section 705. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Second Installment Sale Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be effective unless in writing and signed by the party making the waiver. The County shall have no power to waive any Event of Default hereunder by the Borrower without the consent of the Lender to such waiver.

Section 706. Status Quo Ante. In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, then, and in every such case, the County and the Lender, shall be restored to its and their former position and rights and remedies as if no such suit, action or proceedings had been brought or taken.

Section 707. Agreement to Pay Attorneys' Fees and Expenses. Upon an Event of Default under this Second Installment Sale Agreement, if the County or the Lender employ attorneys or incur other expenses for the collection of Installment Payments or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower or the County herein contained, the Borrower agrees that it will on demand therefor pay to the County or the Lender, as the case may be, the reasonable fees and disbursements of such attorneys and such other expenses so incurred by the County or the Lender. The obligations of the Borrower hereunder shall be and remain valid and binding obligations of the Borrower, notwithstanding payment of the Installment Payments in full, for a period of not to exceed any applicable statute of limitations period.

## ARTICLE VIII

### ADMINISTRATIVE PROVISIONS

Section 801. Preservation and Inspection of Documents. All documents received by the County or the Borrower under the provisions of this Second Installment Sale Agreement shall be retained in their respective possessions and shall be subject at all reasonable times to the inspection of the other party hereto and its assigns, agents and representatives, any of whom may make copies thereof.

Section 802. Parties of Interest. Nothing in this Second Installment Sale Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or party other than the County and the Lender and the Borrower any rights, remedies or claims under or by reason of this Second Installment Sale Agreement or any covenants, condition or stipulation hereof; and all covenants, stipulations, promises and agreements in this Second Installment Sale Agreement contained by or on behalf of the County or the Borrower shall be for the sole and exclusive benefit of the County and the Lender where expressly so noted and the Borrower and the Lender. Notwithstanding the foregoing, the Lender shall be a third party beneficiary of this Second Installment Sale Agreement for all purposes.

Section 803. No Recourse Under Agreement. All covenants, stipulations, promises, agreements and obligations of the parties hereto contained in this Second Installment Sale Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the parties hereto, respectively, and not of any officer, employee or agent of the parties hereto in an individual capacity, and no recourse shall be had for the payment of the Installment Payments or for any claim based thereon or under this Second Installment Sale Agreement against any officer, employee or agent of the parties hereto.

Section 804. Notices. All notices, Certifications or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or deposited in the United States mail in registered or certified form with postage fully prepaid:

If to the Borrower:	Montecito Retirement Association 300 Hot Springs Road, Suite 300 Montecito, CA 93108 Attention: Executive Director Phone: (805) 568-2490 Fax: (805) 568-2488
If to the County:	County of Santa Barbara 105 East Anapamu Street, Room 109 Santa Barbara, CA 93101 Attention: Treasurer-Tax Collector Phone: (805) 568-2490 Fax: (805) 568-2488
If to the Lender:	Santa Barbara Bank & Trust, N.A. P.O. Box 60654 Montecito, CA 93160 Attention: Loan Services Phone: (805) 565-4573 Fax: (805) 564-6440

The parties hereto, by notice given hereunder, may, respectively, designate different addresses to which subsequent notices, certificates or other communications will be sent.

A copy of any notice, certificate or other communication given hereunder shall be provided to the Lender.

Section 805. Binding Effect. This Second Installment Sale Agreement shall inure to the benefit of and shall be binding upon the County and the Borrower and their respective successors and assigns.

Section 806. Severability. If any one or more of the covenants, stipulations, promises, agreement or obligations provided in this Second Installment Sale Agreement on the part of the County or the Borrower to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant, stipulation, promise, agreement or obligation shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, agreements and obligations herein contained and shall in no way affect the validity of the other provisions of this Second Installment Sale Agreement.

Section 807. Headings. Any headings preceding the text of the several Articles and Sections hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience or reference and shall not constitute a part of this Second Installment Sale Agreement, nor shall they affect its meaning, construction or effect.

Section 808. Applicable Law. This Second Installment Sale Agreement shall be governed by and construed in accordance with the laws of the State.

Section 809. Form of Certification of Officers. Every Certification with respect to compliance with a condition or covenant provided for in this Second Installment Sale Agreement and which is precedent to the taking of any action under this Second Installment Sale Agreement shall include:

(a) A statement that the person making or giving such Certification has read such covenant or condition 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 or opinions contained in such Certification are based;

(c) A statement that, in the opinion of the signer, he has made or caused to be made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) A statement as to whether or not, in the opinion of the signer, such condition or covenant has been complied with.

A Certification may be based, insofar as it relates to legal matters, upon a Certification or opinion of or representations by counsel, unless the persons providing the Certification know that the Certification or representations with respect to the matters upon which the Certification may be based are erroneous, or in the exercise of reasonable care should have known that the same were erroneous.

Section 810. Business Days. Any act or thing required to be done or exist on any date set forth herein which does not constitute a Business Day in any year shall be deemed to be done or to exist on such date if such act or thing is done or exists on the next date which constitutes a Business Day.

Section 811. Execution in Counterpart. This Second Installment Sale Agreement may be executed in counterparts and each of said counterparts shall be deemed an original for all purposes of this Second Installment Sale Agreement. All of such counterparts taken together shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Second Installment Sale Agreement to be executed in their respective names by their duly Authorized Representatives as of the date first above written.

COUNTY OF SANTA BARBARA, as Seller

By \_\_\_\_\_  
Treasurer-Tax Collector

APPROVED AS TO FORM  
DENNIS A. MARSHALL  
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM  
ROBERT W. GEIS, CPA  
AUDITOR-CONTROLLER

By \_\_\_\_\_  
Deputy County Counsel

By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM  
RAY AROMATORIO  
RISK MANAGER

By \_\_\_\_\_  
Risk Manager

MONTECITO RETIREMENT  
ASSOCIATION, as Purchaser

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

ATTEST:

\_\_\_\_\_  
Name \_\_\_\_\_  
Secretary

## EXHIBIT A

### DESCRIPTION OF REAL PROPERTY

All that certain real property situated in Santa Barbara County, State of California, described as follows:

PARCEL ONE:

THAT PORTION OF THE OUTSIDE PUEBLO LANDS OF THE CITY OF SANTA BARBARA, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, SHOWN AS "29.151 AC." ON MAP FILED IN BOOK 86, PAGES 8 AND 9 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT ALL WATER AND WATER RIGHTS, TOGETHER WITH ALL WATER AND WATER RIGHTS IN AND OF THE HOT SPRINGS BRANCH OF THE MONTECITO CREEK AND THE SPRINGS AND THE SOURCE THEREOF, AS GRANTED TO KENNETH H. HUNTER, ET AL., BY QUITCLAIM DEEDS RECORDED FEBRUARY 6, 1966 AS INSTRUMENT NO. 4934, 4935 AND 4936 IN BOOK 2221, PAGES 120, 121 AND 124, RESPECTIVELY, OF OFFICIAL RECORDS.

PARCEL TWO:

THAT PORTION OF THE OUTSIDE PUEBLO LANDS OF THE CITY OF SANTA BARBARA IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, SHOWN AS "19.208 AC." ON MAP FILED IN BOOK 86, PAGES 8 AND 9 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO THE COUNTY OF SANTA BARBARA, BY DEED RECORDED MARCH 15, 1973 AS INSTRUMENT NO. 9901 IN BOOK 2452, PAGE 304 OF OFFICIAL RECORDS.

PARCEL THREE:

AN EASEMENT FOR ROAD AND PUBLIC UTILITY PURPOSES OVER ALL OF THAT CERTAIN PROPERTY DESCRIBED AS PARCEL ONE IN THE DEED TO ERIC P. RAMSTRUM, ET UX., RECORDED OCTOBER 16, 1962 AS INSTRUMENT NO. 43340 IN BOOK 1957, PAGE 72 OF OFFICIAL RECORDS.

PARCEL FOUR:

AN EASEMENT FOR SEWER PURPOSES OVER A STRIP OF LAND TWENTY FEET IN WIDTH LYING NORTHEASTERLY OF AND ADJACENT TO THE SOUTHWESTERLY LINE OF PARCEL TWO AS CONTAINED IN DEED RECORDED OCTOBER 16, 1962 AS INSTRUMENT NO. 43340 IN BOOK 1957, PAGE 72 OF OFFICIAL RECORDS, THE NORTHERLY LINE OF SAID EASEMENT TO BE SHORTENED TO CONNECT WITH THE EASTERLY LINE AND THE NORTHWESTERLY LINE OF SAID PARCEL.

APN 9-640-01

## EXHIBIT B

### SCHEDULE OF INSTALLMENT PAYMENTS

Payment Date	Interest Component*	Principal Component	Total Payment
5/1/12	\$32,965.63	\$33,575.45	\$66,541.07
6/1/12	32,869.80	33,671.28	66,541.07
7/1/12	32,773.69	33,767.38	66,541.07
8/1/12	32,677.31	33,863.76	66,541.07
9/1/12	32,580.66	33,960.41	66,541.07
10/1/12	32,483.73	34,057.34	66,541.07
11/1/12	32,386.53	34,154.55	66,541.07
12/1/12	32,289.04	34,252.03	66,541.07
1/1/13	32,191.28	34,349.79	66,541.07
2/1/13	32,093.24	34,447.83	66,541.07
3/1/13	31,994.92	34,546.15	66,541.07
4/1/13	31,896.32	34,644.75	66,541.07
5/1/13	31,797.44	34,743.63	66,541.07
6/1/13	31,698.28	34,842.80	66,541.07
7/1/13	31,598.83	34,942.24	66,541.07
8/1/13	31,499.10	35,041.97	66,541.07
9/1/13	31,399.08	35,141.99	66,541.07
10/1/13	31,298.78	35,242.29	66,541.07
11/1/13	31,198.19	35,342.88	66,541.07
12/1/13	31,097.32	35,443.75	66,541.07
1/1/14	30,996.16	35,544.92	66,541.07
2/1/14	30,894.71	35,646.37	66,541.07
3/1/14	30,792.97	35,748.11	66,541.07
4/1/14	30,690.94	35,850.14	66,541.07
5/1/14	30,588.61	35,952.46	66,541.07
6/1/14	30,486.00	36,055.08	66,541.07
7/1/14	30,383.09	36,157.98	66,541.07
8/1/14	30,279.89	36,261.18	66,541.07
9/1/14	30,176.39	36,364.68	66,541.07
10/1/14	30,072.60	36,468.47	66,541.07
11/1/14	29,968.52	36,572.56	66,541.07
12/1/14	29,864.13	36,676.94	66,541.07
1/1/15	29,759.45	36,781.62	66,541.07
2/1/15	29,654.47	36,886.60	66,541.07
3/1/15	29,549.19	36,991.88	66,541.07
4/1/15	29,443.61	37,097.47	66,541.07
5/1/15	29,337.73	37,203.35	66,541.07
6/1/15	29,231.54	37,309.53	66,541.07
7/1/15	29,125.05	37,416.02	66,541.07
8/1/15	29,018.26	37,522.81	66,541.07
9/1/15	28,911.17	37,629.91	66,541.07
10/1/15	28,803.76	37,737.31	66,541.07
11/1/15	28,696.06	37,845.02	66,541.07

\* Interest is computed at the rate of 3.425% per annum.



<u>Payment Date</u>	<u>Interest Component*</u>	<u>Principal Component</u>	<u>Total Payment</u>
12/1/15	\$28,588.04	\$37,953.03	\$66,541.07
1/1/16	28,479.72	38,061.36	66,541.07
2/1/16	28,371.08	38,169.99	66,541.07
3/1/16	28,262.14	38,278.94	66,541.07
4/1/16	28,152.88	38,388.19	66,541.07
5/1/16	28,043.32	38,497.76	66,541.07
6/1/16	27,933.44	38,607.64	66,541.07
7/1/16	27,823.25	38,717.83	66,541.07
8/1/16	27,712.74	38,828.33	66,541.07
9/1/16	27,601.92	38,939.16	66,541.07
10/1/16	27,490.78	39,050.30	66,541.07
11/1/16	27,379.32	39,161.75	66,541.07
12/1/16	27,267.55	39,273.53	66,541.07
1/1/17	27,155.45	39,385.62	66,541.07
2/1/17	27,043.04	39,498.03	66,541.07
3/1/17	26,930.31	39,610.77	66,541.07
4/1/17	26,817.25	39,723.82	66,541.07
5/1/17	26,703.87	39,837.20	66,541.07
6/1/17	26,590.17	39,950.90	66,541.07
7/1/17	26,476.14	40,064.93	66,541.07
8/1/17	26,361.79	40,179.28	66,541.07
9/1/17	26,247.11	40,293.96	66,541.07
10/1/17	26,132.11	40,408.97	66,541.07
11/1/17	26,016.77	40,524.30	66,541.07
12/1/17	25,901.11	40,639.96	66,541.07
1/1/18	25,785.12	40,755.96	66,541.07
2/1/18	25,668.79	40,872.28	66,541.07
3/1/18	25,552.14	40,988.94	66,541.07
4/1/18	25,435.15	41,105.93	66,541.07
5/1/18	25,317.82	41,223.25	66,541.07
6/1/18	25,200.17	41,340.91	66,541.07
7/1/18	25,082.17	41,458.90	66,541.07
8/1/18	24,963.84	41,577.23	66,541.07
9/1/18	24,845.17	41,695.90	66,541.07
10/1/18	24,726.17	41,814.91	66,541.07
11/1/18	24,606.82	41,934.25	66,541.07
12/1/18	24,487.13	42,053.94	66,541.07
1/1/19	24,367.10	42,173.97	66,541.07
2/1/19	24,246.73	42,294.34	66,541.07
3/1/19	24,126.02	42,415.06	66,541.07
4/1/19	24,004.96	42,536.12	66,541.07
5/1/19	23,883.55	42,657.52	66,541.07
6/1/19	23,761.80	42,779.27	66,541.07
7/1/19	23,639.70	42,901.37	66,541.07
8/1/19	23,517.25	43,023.82	66,541.07
9/1/19	23,394.46	43,146.62	66,541.07
10/1/19	23,271.31	43,269.76	66,541.07
11/1/19	23,147.81	43,393.26	66,541.07
12/1/19	23,023.96	43,517.12	66,541.07
1/1/20	22,899.75	43,641.32	66,541.07

\* Interest is computed at the rate of 3.425% per annum.

<u>Payment Date</u>	<u>Interest Component*</u>	<u>Principal Component</u>	<u>Total Payment</u>
2/1/20	\$22,775.19	\$ 43,765.88	\$ 66,541.07
3/1/20	22,650.28	43,890.80	66,541.07
4/1/20	22,525.01	44,016.07	66,541.07
5/1/20	22,399.38	44,141.70	66,541.07
6/1/20	22,273.39	44,267.68	66,541.07
7/1/20	22,147.04	44,394.03	66,541.07
8/1/20	22,020.33	44,520.74	66,541.07
9/1/20	21,893.26	44,647.81	66,541.07
10/1/20	21,765.83	44,775.24	66,541.07
11/1/20	21,638.04	44,903.04	66,541.07
12/1/20	21,509.88	45,031.20	66,541.07
1/1/21	21,381.35	45,159.72	66,541.07
2/1/21	21,252.46	45,288.62	66,541.07
3/1/21	21,123.19	45,417.88	66,541.07
4/1/21	20,993.56	45,547.51	66,541.07
5/1/21	20,863.56	45,677.51	66,541.07
6/1/21	20,733.19	45,807.88	66,541.07
7/1/21	20,602.45	45,938.62	66,541.07
8/1/21	20,471.33	46,069.74	66,541.07
9/1/21	20,339.84	46,201.23	66,541.07
10/1/21	20,207.98	46,333.10	66,541.07
11/1/21	20,075.73	46,465.34	66,541.07
12/1/21	19,943.11	46,597.96	66,541.07
1/1/22	19,810.12	46,730.96	66,541.07
2/1/22	19,676.74	46,864.34	66,541.07
3/1/22	19,542.98	46,998.09	66,541.07
4/1/22	19,408.84	6,800,177.18	6,819,586.02

---

\* Interest is computed at the rate of 3.425% per annum.