

**NORTH COUNTY FIRE PROTECTION DISTRICT OF
MONTEREY COUNTY**

Administration Office: 11200 Speegle St. Castroville CA 95012

Phone: 831.633.2578 or 722.7833

Fax: 831.633.2572

<http://www.ncfpd.org>



REGULAR MEETING

Location: 11200 Speegle Street, Castroville

Tuesday, April 12, 2022

10:00 a.m.

Board of Directors:

**Don Chapin, President
Jacqueline C. Simon, Vice-President
Ramon Gomez, Secretary
Stanley Silva, Director
Peter Scudder, Director**

Fire Chief Joel Mendoza

NORTH COUNTY FIRE PROTECTION DISTRICT REGULAR BOARD MEETING AGENDA

Meeting Location: 11200 Speegle Street, Castroville, CA

North County Fire Protection District Station 1 –
Upstairs Meeting Room is non-ADA compliant,
will relocate upon request.

Date: Tuesday, April 12, 2022

Roll Call: President Don Chapin
Vice President Jacqueline C. Simon
Secretary Ramon Gomez
Director Stanley Silva
Director Peter Scudder

Administration: Fire Chief Joel Mendoza

Time: 10:00 a.m.

**Please silence all cell phones and refrain from texting during the meeting.*

CALL TO ORDER:

OPEN SESSION:

PLEDGE OF ALLEGIANCE:

1. ADDITIONS & CORRECTIONS TO AGENDA:

The Secretary to the Board will announce Agenda corrections and proposed additions, which may be acted on by the Board as provided in Section 54954.2 of the California Government Code.

2. PUBLIC COMMENTS:

*Public comment on items **not** on the Board's agenda shall be limited to 3 minutes per person per topic and understand that no action shall be taken on any item not appearing on the agenda. During consideration of any agenda item, public comment shall be limited to 3 minutes per person per topic and will be allowed **prior** to Board action on the item under discussion.*

3. MINUTES:

Take action on the March 15, 2022, regular board meeting minutes and the March 18, 2022, special board meeting minutes.

4. PUBLIC HEARING:

Public Hearing to Set Fire Mitigation Fees - Resolution 22-4-1: Annual Setting of the Fire Capital Facilities Fee

5. PURCHASING CONSENT & CHECK REGISTERS – Routine Expenses

6. FINANCIAL REPORTS:

- a. Accept Revenue Report March 2022.

Note: If you believe you possess any disability that would require special accommodations in order to attend this meeting, please call North County Fire Protection District at 633-2578 or 722-7833.

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- b. Accept Expense Report: March 2022.
- c. Accept County Treasury Reconciliation Ending: March 2022.
- d. Accept Comerica Bank Reconciliation Ending: March 2022.
- e. Accept Santa Cruz County Bank Bank Reconciliation Ending: March 2022.
- f. Accept Monthly CAL-CARD (US Bank) Reconciliation Report & Expense Statements Ending: March 2022.

7. CORRESPONDENCE:

None

8. FIRE CHIEF'S REPORT:

- a. Receive Monthly Report

9. OLD BUSINESS:

- a. Take Action Regarding Refinancing a Portion of the District's Outstanding CalPERS Unfunded Liability and Authorizing the Form of Financing Documents in Connection Therewith
- b. Take Action on Santa Cruz County Bank Side Fund Loan Payoff or Lien Position.

10. NEW BUSINESS:

- a. Take Action Authorize the use of Davidson Code Concepts
- b. Take Action on Annual Update & Certification of EMS Levy - Resolution 22-4-2: Certifying Compliance with State Law with Respect to the Levying of General and Special Taxes, Assessments, and Property-Related Fees and Charges.
- c. Take Action on Firefighter Personal Protective Equipment Purchase Utilizing American Rescue Plan Act of 2021 Funds

CLOSED SESSION:

- None
-

ANNOUNCEMENT OF CLOSED SESSION ITEMS (if applicable):

The board will report out on any action taken during Closed Session, and may take additional action in Open session as appropriate.

11. BOARD of DIRECTORS COMMUNICATION: *When needed, this time is reserved for the Board of Directors to communicate activity, educational classes, and/or Committee reports.*

Next meeting: Tuesday, May 17, 2022, at 10:00 A.M.

ADJOURNMENT:

AGENDA POSTED AND FAXED TO MEDIA AT 04:00 P.M. on Friday, April 8, 2022

Posting Locations:

*Castroville Library Bulletin Board, 11160 Speegle Street, Castroville CA 95012
NCFD, Station 1: 11200 Speegle Street, Castroville CA 95012
NCFD, Station 2: 17639 Pesante Road, Prunedale CA 93907
NCFD, Station 3: 301 Elkhorn Road, Royal Oaks, CA 95076
North County Fire Protection District website at www.ncfpd.org*

Note: If you believe you possess any disability that would require special accommodations in order to attend this meeting, please call North County Fire Protection District at 633-2578 or 722-7833.

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The Regular meeting of the North County Fire Protection District Board of Directors was held on **March 15, 2022** at 11200 Speegle Street, Castroville, CA

The Board Chair called the meeting to order at 10:01 A.M.

PLEDGE OF ALLEGIANCE

ROLL CALL: Don Chapin, President
Jacqueline C. Simon, Vice President
Ramon Gomez, Secretary – arrived at 10:04 am
Stanley Silva, Director
Peter Scudder, Director

Administration: Joel Mendoza, Fire Chief
Jess Mendoza, Division Chief
Rick Parker, Division Chief
Carolina Bravo, Administrative Officer

ADDITIONS & CORRECTIONS TO AGENDA:

No revisions or corrections to the agenda were received. Agenda to stand as posted.

PUBLIC COMMENTS:

None.

MINUTES:

Motion made by Director Silva, seconded by Director Scudder, to approve the February 15, 2022 regular board meeting minutes.

Motion carried; 4-0. (Secretary Gomez had not yet arrived)

WARRANTS/PURCHASING CONSENT:

The Board reviewed the March 2022 Purchasing Consent Calendar and the Check Register for February 2022 #50059 through #50117 (including direct deposit and electronic payments) for a monthly total of \$494,982.34. Motion made by Vice President Simon, seconded by Director Silva to approve the Consent Calendar and Check Register.

Motion carried; 5-0.

FINANCIAL REPORTS:

1. The February 2022 Revenue report (Item 5-A) was reviewed and received.
2. The February 2022 Expenditure report (Item 5-B) was reviewed and received.
3. The February 2022 County Treasury Reconciliation Summary (Item 5-C) was reviewed and received.
4. The February 2022 Comerica Bank Reconciliation Summary (Item 5-D) was reviewed and received.
5. The February 2022 Santa Cruz County Bank Reconciliation Summary (Item 5-E) was reviewed and received.

6. The February 2022 US Bank CAL-CARD Reconciliation Report and Expense Statement (Item 5-F) was reviewed and received.

CORRESPONDENCE:

None.

FIRE CHIEF REPORT:

Fire Chief Joel Mendoza presented the Chief's Report (Item 7-A) to the Board. The Board accepted the Fire Chief's report.

STAFF REPORT:

None.

OLD BUSINESS:

1. The Board received a report from Cameron Weist of Weist Law providing the Board the option to change the Public Bond offering to a Private Placement. The Private Placement would lock in at 3.20% fixed interest rate over a 20 year period and close within 60 days. The District would also have the option to include the Santa Cruz County Bank Side Fund loan (with the same maturity date). No action was taken. The Board asked staff to post a special meeting on March 18, 2022, at 10:00 am to authorize the UAL Private Placement, authorize the Santa Cruz County Bank Refinance, and authorize the additional fees for the above changes.
2. Motion made by Secretary Gomez, seconded by Director Silva, to cast a vote in the LAFCO special district ballot to have Mary Ann Leffel serve as the special district regular member for LAFCO, and to authorize President Don Chapin to sign the official ballot.
Motion carried; 5-0
3. Motion made by Director Scudder, seconded by Vice President Simon to approve budget modification as presented.
Motion carried; 5-0.
The board directed staff to verify if the Santa Cruz Count Bank Side Fund loan can be paid off soon using general funds.

NEW BUSINESS

1. Motion made by Director Silva, seconded by Director Scudder, to change the date of the March meeting to April 12, 2022, at 10 a.m. during which the Board will hold the public hearing for Fire Mitigation Fees. Motion carried 5-0.

CLOSED SESSION:

None.

BOARD OF DIRECTORS COMMUNICATION:

Director Scudder thanked staff for putting together the budget modification.

ITEMS FOR NEXT MONTH'S AGENDA:

Tuesday, March 18, 2022, at 10:00 A.M. at 11200 Speegle St., Castroville, CA 95012

- Special Board Meeting

ADJOURNMENT: 11:34 A.M.

Respectfully submitted by:

Carolina Bravo, Recorder

Don Chapin, President

Ramon Gomez, Secretary

The Special Board meeting of the North County Fire Protection District Board of Directors was held on **March 18, 2022** at 11200 Speegle Street, Castroville, CA

The Board Chair called the meeting to order at 10:01 A.M.

PLEDGE OF ALLEGIANCE

ROLL CALL: Don Chapin, President
Jacqueline C. Simon, Vice President - arrived at 10:02 am
Ramon Gomez, Secretary
Stanley Silva, Director
Peter Scudder, Director - absent

Administration: Joel Mendoza, Fire Chief
Jess Mendoza, Division Chief
Rick Parker, Division Chief
Carolina Bravo, Administrative Officer

ADDITIONS & CORRECTIONS TO AGENDA:

No revisions or corrections to the agenda were received. Agenda to stand as posted.

PUBLIC COMMENTS:

None.

OLD BUSINESS:

1. Motion made by Director Silva, seconded by Secretary Gomez to authorize the Board to change the Public Bond offering to a Private Placement. The Private Placement would lock in at 3.20% fixed interest rate over a 20 year period and close within 60 days.

Motion carried; 3-0. (Vice President Simon had not yet arrived)

2. Motion made by Vice President Simon, seconded by Secretary Gomez to not authorize the consolidation of the Santa Cruz County Bank Side Fund loan

Motion carried; 4-0.

The board directed staff to look into paying off the Santa Cruz County Bank Loan or moving it to a second position lien.

3. Motion made by Director Silva, seconded by Secretary Gomez to reaffirm the existing fees in the public placement offering not to exceed \$187,200.00.

Motion carried; 4-0.

BOARD OF DIRECTORS COMMUNICATION:

Vice President Simon thanked everyone for attending the special board meeting.

ITEMS FOR NEXT MONTH'S AGENDA:

Tuesday, April 12, 2022, at 10:00 A.M. at 11200 Speegle St., Castroville, CA 95012

- FMF Public Hearing

ADJOURNMENT: 10:34 A.M.

Respectfully submitted by:

Carolina Bravo, Recorder

Don Chapin, President

Ramon Gomez, Secretary

**Public Hearing to Set Fire Mitigation Fees
Resolution 21-4-1: Annual Setting of the Fire Capital Facilities Fee**

PURPOSE: To update the Fire District's fire mitigation fee and renew the Capital Facilities and Equipment Plan.

OUTLINE: In the 1990's the County and this Fire District experienced tremendous growth due to the so called "dot-com" explosion and resultant "housing bubble". The District sought to take advantage of Government Code Section 66000 allowing for agencies to collect fees to mitigate the impact of growth. In allowing such fee collection the Government Code requires that the District:

(1) Identify the purpose of the fee.

(2) Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities should be identified. That identification may but need not be made by reference to a capital improvement plan as specified in Section 65403 or 66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the public facilities for which the fee is charged.

(3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

(4) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

(b) In any action imposing a fee as a condition of approval of a development project by a local agency on or after January 1, 1989, the local agency shall determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

As stipulated by Monterey County Ordinance #3602, the Fire District is required,

"Each year following the year of original adoption of a resolution pursuant to this section, the District shall submit a copy of a new resolution adopted by the governing body of the District at a noticed public hearing making the required findings and setting the percentage of the fire mitigation fee ceiling requested by the District. This percentage may be revised in the resolution, up to the ceiling amount. This revision shall be effective the following July 1."

The required findings are noticed in Resolution 22-4-1. The findings are consistent with the original adoption of the resolution. As required, a copy of the Mitigation Analysis and the current Capital Facilities and Equipment Plan adopted by the District have been available for public review during the review period.

The fee ceilings as noted in the Resolution Attachment, are set by either the District's Mitigation Analysis or the County of Monterey. The Attachment identifies both rates. However, the District cannot charge more than what is recommended its own analysis, and never more than the County's current ceiling as identified in the resolution or adjusted per the annual construction price index.

The existing 2018 Nexus Study - Capital Facilities and Equipment Plan reflects:

- What was approved by the Board of Directors.
- Updated apparatus list with year of procurement and projected replacement.
- Illustrations validating response and emergency situations.
- Identified Apparatus and Capital Facilities Goals and the implementation strategy necessary to obtain the goals.

RECOMMENDATION: That the Board adopt Resolution 22-4-1 continuing the Fire Capital Facilities Mitigation Fee.

Respectfully submitted,



Joel Mendoza, Fire Chief

NORTH COUNTY FIRE PROTECTION DISTRICT

Resolution No.: 22-4-1

Annual Setting of the Fire Capital Facilities Fee

WHEREAS, the North County Fire Protection District is a public agency located in the County of Monterey, State of California; and

WHEREAS, the District has conducted a Fire Capital Facilities Mitigation Analysis which analyzes the impact of new development in the North County Fire District; and

WHEREAS, the District does not have existing adequate fire protection facilities and equipment which could be used to provide an appropriate level of service to new development within the District's boundaries, as documented in a Capital Facilities and Equipment Plan; and

WHEREAS, the District does not have sufficient funds available to construct additional facilities from fund balances, capital facility funds, property tax sources, or any other appropriate sources; and

WHEREAS, the lack of fire protection facilities and equipment (new and replaced) to serve new development would create a situation perilous to the public health and safety, and

WHEREAS, other development fees charged by the District do not include a payment toward the costs of the capital facility and equipment expansion necessary as a result of new construction as a component of the fee, therefore, the fire mitigation fee is necessary (Ordinance 3602, 1992).

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors did approve the Fire Capital Facilities Mitigation Analysis originally dated June 1993 and updated in May 2018.

BE IT FURTHER RESOLVED THAT in accordance with Monterey County Ordinance #3602 the current mitigation fee ceilings set, and those annually adjusted, by the County of Monterey shall be the prevailing mitigation fee until such time as the county fee ceiling exceeds those fees set for the North County Fire Protection District by the Fire Capital Facilities and Equipment Mitigation Analysis and Financial Plan and this Resolution, at which time the North County Fire Protection District fee schedule shall prevail. These mitigation fee rates are set forth in Attachment "A", attached hereto; and,

BE IT FURTHER RESOLVED THAT the Fire Chief of this district is hereby authorized to take all actions and execute any documents necessary to implement the intent of this resolution.

PASSED AND ADOPTED at a duly noticed public hearing on this 12th day of April 2022 by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

BY:

Don Chapin, President

ATTEST:

Ramon Gomez, Secretary

NORTH COUNTY FIRE PROTECTION DISTRICT
Attachment A

The District will approve, and the County will adopt on our behalf, the following fee at or below the levels determined by the May 2018 Nexus Study, as stated below:

Land Use Category	Maximum Fire Impact Fee
	Per Living Sq. Ft.
Residential Development	
Single-Family Housing	\$0.65
Multi-Family Housing	\$1.22
Mobile Home	\$0.72
Assisted Living Facility	\$0.52
	Per Building Sq. Ft.
Nonresidential Development	
Retail / Commercial	\$0.72
Office	\$0.87
Industrial	\$0.68
Agriculture	\$0.37
Warehouse / Distribution	\$0.52

Notes:

¹ The fire impact fee is rounded to the nearest whole cent.

#7A
NORTH COUNTY FIRE DISTRICT
Chief's Report
For April 12, 2022

RESPONSE ACTIVITY

MAJOR INCIDENT TYPE January 1,2022 to April 5, 2022	2022	2021	2020	2019	2018
Fires	31	49	26	36	46
Overpressure rupture, explosion, overhear – no fire	1	0	1	0	2
Rescue & Emergency Medical Services	536	508	518	562	527
Hazardous Condition (No Fire)	36	38	36	70	44
Service Call	69	65	68	63	58
Good Intent Call	123	120	118	72	105
False Alarm & False Call	39	27	59	35	33
Severe Weather & Natural Disaster	0	0	0	0	1
Special Incident Type	0	1	1	1	2
Total	835	808	827	839	818

INCIDENTS OF INTEREST

- **Moss Landing State Beach, Boat in distress** – E5211, R5260 and State Parks responded to a report of a boat in distress near the breakers on Moss Landing State Beach. One boat was located and it had capsized in the breakers. The two occupants were located on the beach non injured, however they did require treatment for hypothermia.

TRAINING

- **Probationary Firefighters Update** – As previously approved by the Board, Garret Hasslinger has been promoted from Reserve Firefighter to Full-Time Firefighter effective April 1st, 2022.

#7A

- **Assistance to Firefighters Grant (AFG)**- The District previously applied for a grant to replace aging fire hose. No awards yet, nothing new to report.
- **CalPERS UAL**- We continue to work with the CalMuni and Weistlaw on the CalPERS Unfunded Liability Refinancing- Oral report to be provided.

Respectfully submitted,



Joel Mendoza, Fire Chief

Take Action Regarding Refinancing a Portion of the District's Outstanding CalPERS Unfunded Liability and Authorizing the Form of Financing Documents in Connection Therewith

RECOMMENDED ACTIONS

1. Adopt Resolution No. 22-4-3 Authorizing the Execution and Delivery of Certain Financing Documents in connection with the Refinancing of Part or all of the District's Outstanding Unfunded Accrued Liability to the California Public Employees' Retirement System, and Providing for other Matters Properly Related Thereto.

BACKGROUND

The District currently has a contract (the "Contract") with the California Public Employees Retirement System (CalPERS) to provide retirement benefits for all full-time miscellaneous employees (Miscellaneous Plan) and safety employees (Safety Plan). As part of the Contract, the District is obligated to pay any corresponding unfunded accrued actuarial liability (UAL). This is the amount by which CalPERS is short of the amount that will be necessary, without further payments from the District, to pay benefits already earned by current and former employees covered by CalPERS. Based upon calculations provided by CalPERS, as of the 6/30/2020 valuation date, the UAL balance for employees covered under the (i) Safety First Tier Plan is \$14,896,010, (ii) Safety Second Tier is \$89,815, and (iii) PEPRA Safety Plan is \$63,063 (collectively, the "Outstanding UAL Obligation").

On September 23, 2021, the Board adopted Resolution 21-9-2 setting forth the Board's intention to proceed with a refinancing of part or all of the District's Outstanding UAL (the "Refinancing"), and appointing Weist Law LLP ("Weist Law") as Bond Counsel and California Municipal Advisors LLC ("CalMuni") as municipal advisor to perform the respective legal and financial work necessary to accomplish the Refinancing, the effect of which will be to (i) increase the funded status of these plans, (ii) enhance budget predictability by "smoothing" out the UAL payment structure over the next 20 years (i.e., minimize the effects of fiscal peaks and valleys that prove problematic for annual budgets), and (iii) provide near-term cash flow savings to the District.

On November 16, 2021, the Board adopted Resolution 21-12-3 (the "Authorizing Resolution") authorizing the issuance of Series 2022 Taxable Revenue Bonds to refinance certain pension obligations of the District and approving the forms of and authorizing and directing execution and delivery of necessary financing documents to carry out the Refinancing on a publicly offered basis ("Public Offering") rather than on a privately placed basis ("Private Placement"). The Authorizing Resolution also appointed Hilltop Securities Inc. ("Hilltop," and together with Weist Law and CalMuni, hereafter sometimes referred to as the "Financing Team") as Underwriter for the Series 2022 Taxable Revenue Bonds.

From November 2021 to March 15, 2022 the Financing Team worked with staff to prepare all the required reports and documentation required to execute the issuance of the Series 2022 Taxable Revenue Bonds. Over that same time period, interest rates have continued to rise due to the lingering effects of Covid, significant inflationary pressures, fed rate hikes and the outbreak of war in Ukraine, among other factors.

On March 15, 2022, the Board discussed the negative effects that the rising interest rate environment has had on the Refinancing and the corresponding decrease in expected savings. Bond Counsel (Cameron Weist) attended the March 15th meeting and provided the Board with an update on the status of the Public Offering. Mr. Weist

explained that the expected interest rate for a Public Offering now stands at approximately 4%, representing an increase of approximately one percent since December 2021. Mr. Weist provided the Board with an oral report on a potential change in course of action from a Public Offering to a Private Placement. Mr. Weist indicated that Hilltop and CalMuni reached out to several banks that regularly invest in private placement obligations, and that one bank, First Foundation Bank (“FFB” or “Bank”), indicated that they would be willing to offer their December 2021 rate (and even “sweetened” it slightly) at 3.20% for 20 years, with a 60-day rate lock to hedge against rising interest rates. Attached is the FFB term sheet (the “Term Sheet”).

On March 18, 2022, the Board approved the switch from a Public Offering process to a Private Placement process and accepted the FFB term sheet for a 20-year term at a 3.20% interest rate. Staff with the aid of the Financing Team has worked to draft all necessary legal agreements to successfully secure the Private Placement and is now bringing the matter back to the Board for discussion and approval. If all goes according to plan the matter could then be closed sometime around the end of April, 2022.

ESTIMATED SAVINGS

Attached is the detailed financial analysis (the “Financial Analysis”) demonstrating the financial calculations and potential savings associated with a Private Placement with FFB (the “FFB Private Placement Financial Analysis”). Based upon the Financial Analysis, the projected savings are estimated to be approximately \$3,121,492. It should be noted that the attached Financial Analysis is based upon a total amount needed to finance 100% of the District’s Outstanding UAL.

HIGHLIGHTS OF REFINANCING OPPORTUNITY:

- Reduces the interest rate paid on pension debt to maximize overall cash flow savings to District and taxpayers
- Creates a “smoother” and more predictable payment shape to minimize impact on rate payers, improve budget predictability and enhance future fiscal sustainability
- Amortizes new Financing Obligation over period of 20 years
- Savings are estimated to be approximately \$3,121,492
- Increases the funded level of the Pension Plans from approximately 69.8% to approximately 100%
- Savings are net of all costs
- No credit rating required
- No offering document, as is the case with a public offering
- No Continuing Disclosure, as is the case with a public offering
- No Trustee required, as is the case with a public offering

SUMMARY OF THE FINANCING DOCUMENTS

The Financing Documents needed to complete this financing are each briefly described as follows:

1. Financing Agreement: This is an agreement between the District and the Bank, which sets forth the covenants and specifics of the 2022 Obligations, including the District's promise to make future semi-annual debt service payments, the establishment and management of funds and accounts, the District's duties, repayment mechanisms and the Bank's rights and remedies in the event of default. The Financing Agreement also requires the District to maintain Net Revenues (which is all revenues of the respective District's operations, less corresponding operation and maintenance expenses) in excess of 110% total annual debt service on all outstanding obligations of the District, including any existing and any new parity debt issued in the future.

2. Irrevocable Payment Instructions: These are irrevocable instructions pursuant to which the proceeds of the 2021 Obligations will be sent to CalPERS and used exclusively for the purpose of prepaying the UAL Prepayment.

In addition to approving the form of the Financing Documents, Resolution No. 22-4-3 also authorizes the President, Fire Chief and the Financing Team to work with the Bank, and ultimately provide for the execution and consummation of the transaction.

FINANCIAL CONSIDERATIONS

All members of the Financing Team have agreed to work on a full contingent basis, and therefore consulting costs will only be incurred if the Refinancing is successful (which costs will then be paid out of the proceeds of the 2022 Obligations). There would also be cost implications to the District for time spent on administrative tasks associated with the financing process. The anticipated \$3,121,492 in cash flow savings to the District and its taxpayers because of the Financing includes (i.e., net of) all cost of issuance.

ALTERNATIVES

Board discretion.

ATTACHMENTS:

- A. Resolution No. 22-4-3
- B. Financing Agreement
- C. Irrevocable Payment Instructions
- D. Term Sheet
- E. Financial Analysis
- F. Refinancing Board Presentation

Respectfully submitted,



Joel Mendoza, Fire Chief

NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY COUNTY

RESOLUTION NO. 22-4-3

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY COUNTY APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN FINANCING DOCUMENTS IN CONNECTION WITH THE REFINANCING PART OR ALL OF THE DISTRICT'S OUTSTANDING UNFUNDED ACCRUED LIABILITY TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

WHEREAS, the North County Fire Protection District of Monterey County (the "District") is a contracting member of the California Public Employees' Retirement System ("CalPERS"), and is obligated by law to make certain payments to CalPERS in respect of retired miscellaneous and safety employees (the "Pension Plans"); and

WHEREAS, the District is legally obligated under the Pension Plans to pay any unfunded accrued liability (the "UAL"), which is the amount by which CalPERS is short of the amount that will be necessary, without further payments from the District, to pay benefits already earned by current and former employees covered by CalPERS; and

WHEREAS, the estimated UAL payoff balance as of CalPERS valuation date of June 30, 2020 for employees covered under the District's (i) Safety First Tier Plan is \$14,896,010, (ii) Safety Second Tier Plan is \$89,815, and (iii) PEPPRA Safety Fire Plan is \$63,063 (collectively, the "Outstanding UAL Obligation"); and

WHEREAS, the Board of Directors (the "Board"), after due investigation and deliberation, has determined that it is in the public interests of the District at this time to undertake municipal bond financing in order to provide for the prepayment of the entire balance of the Outstanding UAL Obligation (the "Financing"); and

WHEREAS, for the purpose of providing for the Financing, the District proposes to enter into a Financing Agreement with First Foundation Public Finance (the "Bank"), dated as of April 1, 2022, by and between the Bank and the District (the "Financing Agreement"), pursuant to which the Bank agrees to purchase the District's Series 2022 Taxable Revenue Obligations, as evidenced by a Promissory Note, dated the date of closing (the "Note," and collectively, the "2022 Obligations"); and

WHEREAS, the District is authorized under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (the "Government Code"), commencing with Section 53570 of said Code (the "Bond Law"), to enter into Financing Agreement for the purpose of refinancing certain outstanding obligations of the District, including the Outstanding UAL Obligation; and

WHEREAS, to properly transact the Financing, it is now appropriate and necessary for the District to approve the form of Irrevocable Payment Instructions (the “Payment Instructions”), dated as of April 1, 2022, pursuant to which the Bank will irrevocably wire transfer a designated portion of the Obligation Proceeds directly to CalPERS to prepay a definitive portion of the Outstanding UAL Obligation in accordance with the specific terms of the Payment Instructions; and

WHEREAS, the Board, with the aid of its staff, has reviewed the form of the Financing Agreement and the Payment Instructions, the forms of which are on file with the Secretary to the Board, and the Board wishes at this time to approve the foregoing documents (collectively, the “Financing Documents”) as being within the public interests of the District; and

WHEREAS, pursuant to Government Code Section 5852.1, certain good faith information relating to the 2022 Obligations is set forth herein and made public; and

WHEREAS, the Board wishes at this time to authorize all proceedings relating to the Financing as well as the execution and delivery of Financing Documents and all other agreements and documents relating thereto; and

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

NOW, THEREFORE BE IT RESOLVED AND ORDERED BY THE BOARD OF DIRECTORS OF THE NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY COUNTY THAT:

Section 1. Recitals. The Board hereby specifically finds and declares that each of the statements, findings and determinations of the District set forth in the recitals set forth above are true and correct.

Section 2. Authorized Representatives. The President, Fire Chief, Board Clerk/Secretary and any other person authorized by the Fire Chief to act on behalf of the District shall each be an “Authorized Representative” of the District for the purposes of structuring and providing for the execution and delivery of the 2022 Obligations, and are hereby authorized, jointly and severally, for and in the name of and on behalf of the District, to execute and deliver any and all documents and certificates that may be required to be executed in connection with the issuance, sale and delivery of the 2022 Obligations (including, but not limited to, the documents referenced in this Resolution, and any other documentation required or necessary in connection therewith, which are sometimes hereafter referred as the “Financing Documents”), and to do any and all things and take any and all actions which may be necessary or advisable, in their discretion, to effectuate the actions which the Board has approved in this Resolution and said Financing Documents.

Section 3. Approval of the 2022 Obligations; Significant Public Benefits. The Board hereby approves the issuance of the 2022 Obligations. The Board hereby finds and determines that the execution and consummation of the 2022 Obligations is expected to result in significant public benefits to the District and its taxpayers.

Section 4. Approval of Financing Agreement. The Board hereby authorizes and approves the Financing Agreement in substantially the form on file with the Board Clerk/Secretary together with any additions thereto or changes therein (including, but not limited to, the final aggregate principal amount of the 2022 Obligations and the corresponding final debt service payment schedule) deemed necessary or advisable by an Authorized Representative of the District. Each Authorized Representative, acting singly, is hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver the Financing Agreement in substantially said form, with such changes therein as the Authorized Representative executing the same may approve (such approval to be conclusively evidenced by such Authorized Representative's execution and delivery thereof). The Board hereby authorizes the delivery and performance of the Financing Agreement.

Section 5. Approval of Payment Instructions. The Board hereby authorizes and approves the Payment Instructions in substantially the form on file with the Board Clerk/Secretary together with any additions thereto or changes therein (including, but not limited to, the exact portion of the Outstanding UAL Obligation being refinanced) deemed necessary or advisable by an Authorized Representative of the District. Each Authorized Representative, acting singly, is hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver the Payment Instructions in substantially said form, with such changes therein as the Authorized Representative executing the same may approve (such approval to be conclusively evidenced by such Authorized Representative's execution and delivery thereof). The Board hereby authorizes the delivery and performance of the Payment Instructions.

Section 6. Good Faith Estimates. Set forth below are good faith estimates of the Placement Agent or Municipal Advisor, as required under Section 5852.1 of the Government Code. The following estimates have no bearing on, and should not be misconstrued as, any not-to-exceed financial parameters authorized by this resolution.

(a) The true interest cost of the 2022 Obligations is estimated at 3.20%, calculated as provided in Section 5852.1(a)(1)(A) of the Government Code.

(b) The finance charge of the 2022 Obligations, including all fees and charges paid to third parties, is estimated at \$190,000.

(c) Proceeds of the 2022 Obligations received by the District of \$ 10,794,000, less the finance charge set forth in (b) above, is equal to \$10,604,000.

(d) The total payment amount calculated as provided in Section 5852.1(a)(1)(D) of the Government Code is estimated at \$14,747,064.87.

Section 7. Taxable Bond Act. The Board hereby determines that interest payable pursuant to the Financing Agreement will be subject to federal income taxation, and that the provisions of Section 5900 et seq. of the California Government Code (the "Taxable Bond Act") apply to the 2022 Obligations. The District may take any action and exercise any power permitted to be taken by it under the Taxable Bond Act in connection with the execution and delivery of the 2022 Obligations.

Section 8. Confirmation and Direction to Proceed with the Financing. All actions heretofore taken by the officers and agents of the District with respect to the Financing are hereby approved, confirmed and ratified. The Authorized Representatives and all other officers of the District are each authorized and directed in the name and on behalf of the District to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents which they or any of them might deem necessary or appropriate in order to consummate any of the actions and transactions contemplated by this Resolution and the Financing Documents. Whenever any officer of the District is authorized to execute or countersign any document or take any action contemplated by this Resolution and the Financing Documents, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

Section 9. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

PASSED AND ADOPTED by the Board of Directors of the North County Fire Protection District of Monterey County at a meeting thereof on the 12th day of April 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

BY:

Don Chapin, President

ATTEST:

Ramon Gomez, Secretary

SERIES 2022 FINANCING AGREEMENT

Dated as of April 1, 2022

By and Between

NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY COUNTY

And

FIRST FOUNDATION PUBLIC FINANCE

Providing for the

\$10,794,000
NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY COUNTY
SERIES 2022 TAXABLE REVENUE OBLIGATIONS
(CALPERS UAL PREPAYMENT PROJECT)

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SERIES 2022 FINANCING AGREEMENT

This SERIES 2022 FINANCING AGREEMENT, (including any permitted amendments or supplements, this “Financing Agreement”), dated for convenience as of April 1, 2022, is by and between FIRST FOUNDATION PUBLIC FINANCE, a Delaware trust and wholly-owned statutory subsidiary of First Foundation Bank (including its successors and assigns, the “Bank”), and the NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY COUNTY, a fire protection district duly organized and validly existing under the Constitution and laws of the State of California (the “District”);

WITNESSETH:

WHEREAS, the District is a member of the California Public Employees’ Retirement System (“CalPERS”), an agent multiple employer public employees retirement program that acts as a common investment and administrative agent for participating entities within the State of California, and as such, the District is obligated by the Public Employees’ Retirement Law, constituting Part 3 of Division 5 of Title 2 of the California Government Code (the “Retirement Law”), and the contract between the Board of Administration of CalPERS and the Board of Directors of the District (the “CalPERS Contract”), as amended, to make contributions to CalPERS to (a) fund pension benefits for its employees who are members of CalPERS, (b) amortize a portion of the unfunded accrued liability (the “UAL”) with respect to such pension benefits, and (c) appropriate funds for the purposes of paying for the pension benefits and such UAL; and

WHEREAS, the District has determined that it is in the interests of the District at this time to provide for the execution and delivery of its “North County Fire Protection District of Monterey County, Series 2022 Taxable Revenue Obligations (CalPERS UAL Prepayment Project),” as evidenced by a Promissory Note, dated April 27, 2022 (the “Note,” and collectively, the “2022 Obligations”), the proceeds of which will be used to (i) fund a portion of the District’s UAL to CalPERS for the benefit of the District’s employees, and (ii) pay certain costs of issuance in association therewith, and to that end the Bank has agreed to enter into this Financing Agreement; and

WHEREAS, the principal of and interest and redemption premium (if any) on the 2022 Obligations, and any bonds or other obligations issued on a parity therewith as provided herein, will be payable from and secured by a pledge of and lien on the Gross Revenues (as defined herein) derived from District operations, as expressly set forth in this Financing Agreement; and

WHEREAS, in order to provide for the execution and delivery of this Financing Agreement, to establish and declare the terms and conditions upon which the 2022 Obligations are to be made and secured, and to secure the payment of the principal thereof, premium (if any) and interest on the 2022 Obligations, the District has authorized the execution and delivery of this Financing Agreement; and

WHEREAS, the District is authorized under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with

section 53570 of said Code (the "Bond Law"), to refund obligations of the District, including outstanding obligations evidenced by the CalPERS Contract; and

WHEREAS, the principal of and interest and redemption premium (if any) on the 2022 Obligations, and any bonds or other obligations issued on a parity therewith as provided herein, will be payable from and secured by a pledge of and lien on the Gross Revenues (as defined herein) derived from the Enterprise, as expressly set forth in this Financing Agreement; and

WHEREAS, this Financing Agreement also constitutes a secured promissory note for District's repayment of the 2022 Obligations, in the form set forth in Exhibit C hereto; and

WHEREAS, all things necessary to make the 2022 Obligations when issued, executed and delivered, the valid and binding obligation of the District, and to constitute this Financing Agreement as a valid pledge of the revenues herein pledged to the payment of the principal of, prepayment premium, if any, and interest on the 2022 Obligations have been done and performed, as required by law, and the District is now fully authorized to enter into this Financing Agreement, subject to the terms hereof; and

NOW, THEREFORE, THIS FINANCING AGREEMENT WITNESSETH, that in order to secure the payment of the principal of and the interest and premium (if any) on the 2022 Obligations at any time outstanding under this Financing Agreement, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the 2022 Obligations are premised, and in consideration of the premises and of the mutual covenants herein contained and of the purchasing of the 2022 Obligations by the Bank, and for other valuable considerations, the receipt whereof is hereby acknowledged, the District does hereby covenant and agree, for the benefit of the Bank from time to time of the 2022 Obligations, as follows:

ARTICLE I

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICABILITY

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

"Accreted Value" means, with respect to any capital appreciation obligation, the principal amount thereof plus the interest accrued thereon, compounded at the approximate interest rate thereon on each date specified therein. The Accreted Value of any capital appreciation obligation at any date shall be the amounts set forth in the accreted value table for the capital appreciation obligation as of such date, if such date is a compounding date, and if not, as of the immediately preceding compounding date.

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

(i) An allowance for Net Revenues from any additions or improvements to or extensions of the District to be made with the proceeds of such Parity Debt and also for Net Revenues from any such additions, improvements or extensions which have been made from moneys from any source but in any case which, during all or any part of the latest Fiscal Year for which audited financial statements are available or any 12 consecutive calendar month period (selected by the District) during the 18 consecutive calendar month period ending immediately prior to the issuance, incurrence or creation of such additional Parity Debt, were not in service, all in an amount equal to 90% of the estimated additional average annual Net Revenues to be derived from such additions, improvements and extensions for the first 36 month period in which each addition, improvement or extension is respectively to be in operation, all as shown by the certificate or opinion of an Independent Engineer or an Independent Certified Public Accountant retained by the District and reasonably satisfactory to the Bank.

(ii) An allowance for Net Revenues arising from any increase in taxes, assessments or charges made for service from the District which has become effective prior to the incurring of such Parity Debt but which, during all or any part of the latest Fiscal Year or such 12 month period for which audited financial statements are available or any 12 consecutive calendar month period (selected by the District) during the 18 consecutive calendar month period ending immediately prior to the issuance, incurrence or creation of such additional Parity Debt, was not in effect, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year or 12 month period, all as shown by the certificate or opinion of an Independent Consultant or an Independent Certified Public Accountant employed by the District.

“Assignee” means any entity to whom the rights of the Bank shall be lawfully assigned hereunder.

“Authorized Representative” means the President of the Board, Fire Chief, Administrative Officer, Secretary, or any other person designated as an Authorized Representative of the District by a Certificate of the District signed by its President or Fire Chief and filed with the Bank.

“Balloon Indebtedness” means, with respect to the 2022 Obligations or Parity Debt, twenty-five percent (25%) or more of the principal or other similar amount of which matures or becomes due on the same date or within a 12-month period (with mandatory sinking fund payments deemed to be payments of matured principal), that portion of the principal or other similar amount of the 2022 Obligations or Parity Debt which matures or becomes due on such date or within such 12 month period.

“Bank” means (a) initially, First Foundation Public Finance, a Delaware trust and wholly-owned statutory subsidiary of First Foundation Bank, and/or its successor by merger, or (b) any Assignee of Bank’s right, title or interest in this Financing Agreement and other amounts due hereunder. Whenever in this Financing Agreement any reference is made to the Bank and such reference concerns rights which the Bank has assigned to the Assignee, such reference shall be deemed to refer to the Assignee.

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

“Bond Counsel” means Weist Law LLP, or any other attorney or firm of attorneys acceptable to the District of nationally recognized expertise with respect to legal matters relating to municipal obligations.

“Bond Law” means Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with section 53570 thereof.

“Business Day” means a day other than a Saturday, Sunday or legal holiday, on which banking institutions in the State of California are not closed.

“CalPERS” or “PERS” means the California State Public Employees’ Retirement System.

“CalPERS Contract” means the contract between the Board of Administration of CalPERS and the Board of Directors of the District, as amended from time to time, obligating the District to make contributions to CalPERS in exchange for CalPERS providing retirement benefits to certain District employees.

“Certificate,” “Request” and “Requisition” of the District means a written certificate, request or requisition signed in the name of the District by its Authorized Representative. 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 the date on which the District receives the Obligation Proceeds from the Bank.

“Code” means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein shall be deemed to include the United States Treasury regulations, including temporary and proposed regulations relating to each such section that are applicable to the Parity Debt or the use of the proceeds thereof.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the District relating to the execution and delivery of this 2022 Obligations, including but not limited to District administration costs and expenses, fees and expenses of consultants and professionals, fees and expenses of the Bond Counsel and Municipal Advisor, legal fees and charges, regulatory fees, including, but not limited to, fees charged by the California Debt and Investment Advisory Commission, and fees for execution, transportation and safekeeping of this Financing Agreement and the 2022 Obligations, and all other charges and fees in connection with the foregoing.

“Costs of Issuance Fund” means the fund by that name established pursuant to Section 3.9 hereof.

“County” means the County of Monterey, California.

“Debt Service” when used with respect to the 2022 Obligations and Parity Debt, means, for any period, the sum of (1) the interest payable during such period on the 2022 Obligations and Parity Debt, (2) the principal payments to be paid with respect to the 2022 Obligations and Parity Debt during such period, and (3) any other scheduled payments coming due on the 2022 Obligations and outstanding Parity Debt in such period and not otherwise included in clauses (1) and (2) of this definition, all of which are to be computed on the assumption that no portion of the 2022 Obligations or Parity Debt shall cease to be outstanding during such period except by reason of the application of scheduled payments; provided that, for purposes of such computation:

(a) unless a different subsection of this definition applies for purposes of determining maturities or amortization, in determining the amount due in any period, payment shall be assumed to be made in accordance with any amortization schedule established for the 2022 Obligations or Parity Debt, including any mandatory sinking fund payments or any scheduled redemption or payment of Parity Debt on the basis of Accreted Value, and for such purpose, the redemption payment or payment of Accreted Value shall be deemed a principal payment and interest that is compounded and paid as Accreted Value shall be deemed due on the scheduled redemption or payment date and any contingencies that may result in a request for earlier payment shall be disregarded;

(b) Balloon Indebtedness may, at the option of the District, be treated as if it were to be amortized with substantially level debt service over a term of up to 25 years (which period shall be designated by the District), from the date of calculation, and the interest rate used for such computation shall be assumed by the District to be equal to (i) the interest rate in effect for such Balloon Indebtedness on the date of calculation, if the interest rate determination method in effect for such Balloon Indebtedness on the date of calculation provides for interest rates that are fixed for at least 12 months from the date such interest rates are determined or (ii) if the interest rate determination method in effect for such Balloon Indebtedness on the date of calculation provides for interest rates that are not fixed for at least 12 months from the date such interest rates are determined, the rate of interest used to calculate Debt Service shall be determined as described in clause (c);

(c) if any Parity Debt bear, or if any Parity Debt proposed to be issued, incurred or created will bear, interest at a variable interest rate, the rate of interest used to calculate Debt Service shall, for all purposes, be assumed to bear interest at a fixed rate equal to the higher of (i) the then current variable interest rate borne by such Parity Debt plus 1%; and (ii) the highest variable rate borne over the preceding 24 months by outstanding variable rate debt issued by the District or, if no such variable rate debt is at the time outstanding, by variable rate debt of which the interest rate is computed by reference to an index comparable to that to be utilized in determining the interest rate for the debt then proposed to be issued;

(d) if any Parity Debt feature an option, on the part of the owners or a requirement under the terms of such Parity Debt, to tender all or a portion of such Parity Debt to the District, or other fiduciary or agent, and to purchase such Parity Debt or portion thereof if properly presented, then for purposes of determining the amounts due in any period with respect to such Parity Debt, the options or obligations of the owners of such Parity Debt to tender the same for purchase or payment shall be ignored;

(e) payments on the 2022 Obligations and Parity Debt shall be excluded to the extent such payments are to be paid from amounts on deposit with a trustee or other fiduciary in escrow specifically therefor, and interest payments shall be excluded to the extent that such interest payments are (1) to be paid from the proceeds of the 2022 Obligations or Parity Debt, including any investment earnings thereon, held by a trustee or other fiduciary as capitalized interest specifically to pay such interest or (2) paid or expected to be paid from Subsidy Payments;

(f) with respect to 2022 Obligations or Parity Debt for which a reserve fund is in place, the calculation of Debt Service for such 2022 Obligations or Parity Debt for any period shall be reduced by the amount of investment earnings on amounts on deposit in such reserve fund used or expected to be used to pay Debt Service on such 2022 Obligations or Parity Debt during such period, as estimated by the District; and

(g) with respect to 2022 Obligations or Parity Debt for which a reserve fund is in place, the amount on deposit in such reserve fund on any date of calculation of Debt Service shall be deducted from the amount due on the final maturity or due date of such 2022 Obligations or Parity Debt if such amount on deposit in such reserve fund would be released at such maturity or due date and, to the extent the amount on deposit in such reserve fund is in excess of the amount due on the final maturity or due date of such 2022 Obligations or Parity Debt, such excess shall be applied to the full amount due on each preceding payment date for such 2022 Obligations or Parity Debt, in inverse order, until such amount on deposit in such reserve fund is exhausted.

“Debt Service Coverage Requirement” or “DSC Requirement” means for any Fiscal Year, or other period of time for which such calculation is made, that Net Revenues for such Fiscal Year, or other period of calculation, must be at least equal to one hundred ten percent (110%) of Maximum Annual Debt Service.

“Default Rate” means the then applicable interest rate on the 2022 Obligations plus 3%.

“District” means the North County Fire Protection District of Monterey County, a fire protection district duly organized and validly existing under the Constitution and laws of the State.

“Enterprise” means, collectively, the entire fire and emergency services system of the District, including but not limited to all facilities, properties and improvements at any time owned, controlled or operated by the District for the fire suppression, emergency medical services, administration, technical rescue, hazardous materials mitigation, public education, fire investigation, and fire prevention services provided to property and residents of the District and corresponding service areas, and any necessary lands, equipment, rights, entitlements and other property useful in connection therewith, together with all extensions thereof and improvements thereto at any time acquired, leased, constructed or installed by the District.

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

“Equipment Lease” means an equipment lease or installment sale agreement whereby the District leases/acquires equipment.

“Event of Default” means an event of default described in Section 6.1 hereof.

“Federal Securities” means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; and (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are fully, unconditionally and directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.

“Financing Agreement” means this Financing Agreement, dated as of April 1, 2022, between the Bank and the District, and any permitted amendments or supplements hereto.

“Fire Chief” means the Fire Chief of the District.

“Fiscal Year” means the twelve calendar month period terminating on June 30 of each year, or any other annual accounting period hereafter selected and designated by the District as its Fiscal Year in accordance with applicable law.

“General Fund” means the fund by that name established by the District and maintained pursuant to Section 4.3 hereof.

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

“Governmental Authority” means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

“Gross Revenues” means for any Fiscal Year or other period, (1) all legally available moneys, taxes, fees, rates, receipts, rentals, charges and income received for, received by or derived from, the District’s ownership or operation of the Enterprise or any of its lands or facilities or any other source whatsoever, including without limitation ad valorem property tax revenues and other special and general tax revenues, assessments, gifts, bequests, grants, devises, contributions, moneys received from the operation of the District’s business or the possession of its properties, insurance proceeds or condemnation awards, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights or other rights, and the proceeds of the same whether now owned or held or hereafter coming into being, (2) plus the earnings on and income derived from the investment of such income, rents, rates, fees, charges, or other moneys, including amounts in the Rate Stabilization Fund and any District reserves, plus (3) all amounts transferred

from the Rate Stabilization Fund to the General Fund during any Fiscal Year in accordance with Section 5.3(e) hereof, and (4) all other monies howsoever derived by the District from the operation of the Enterprise or arising from the Enterprise; but excluding (i) gifts, grants, devises, bequests and contributions designated by the maker to a specific purpose inconsistent with their use for the payment of principal of, premium, if any, and interest on the 2022 Obligations or for the payment of Operation and Maintenance Costs, (ii) any unrealized gains and losses on investments of the District, and (iii) any income for which the District has a contractual or statutory obligation to pay to other Persons (for example, without limitation, amounts collected by the District in its capacity as agent for others, and sales taxes, use taxes and other taxes collected by the District but required to be paid to the relevant collection authorities).

“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 Project or to persons on or about the Project or (ii) cause the Project 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 §§ 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 §§ 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 any District facilities or the owners and/or occupants of property adjacent to or surrounding any District facilities, or any other person coming upon any District facilities or adjacent property; or (e) any other chemical, materials or substance which may or could pose a hazard to the environment.

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

“Independent Engineer” means any registered engineer or firm of engineers generally recognized to be well-qualified in engineering matters relating to the subject matter at issue, appointed and paid by the District, and who or each of whom:

- (1) is in fact independent and not under the domination of the District;