

Discussion/Action Regarding Adoption of a Debt Management Policy

RECOMMENDED ACTIONS

Adopt Resolution No. 21-12-1 Approving and Adopting a Debt Management Policy.

BACKGROUND

The District currently has a contract with the California Public Employees Retirement System (CalPERS) to provide retirement benefits for all full-time safety employees. As part of the contract, the District is obligated to pay any unfunded accrued 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 (collectively, the "UAL Obligation").

On September 21, 2021, the Board adopted a resolution setting forth its intention to proceed with the financing (hereafter called "Financing") of part or all of the UAL Obligation (the "UAL Prepayment"), 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 15 to 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.

ADOPTION OF A DEBT MANAGEMENT POLICY

Government Code section 8855(i) requires any issuer of public debt to provide to California Debt and Investment Advisory Commission (CDIAC) prior to the sale of any debt issue a report of the proposed issuance. Issuers are now required to certify on the Report of Proposed Debt Issuance that they have adopted a debt policy concerning the use of debt and that the proposed debt issuance is consistent with the adopted policy. The District's local debt policy, at a minimum, must include (A) through (E), below.

- A) The purposes for which the debt proceeds may be used.
- B) The types of debt that may be issued.
- C) The relationship of the debt to, and integration with, the issuer's capital improvement program or budget, as applicable.
- D) Policy goals related to the District's planning goals and objectives.
- E) The internal control procedures that the District has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

In addition to the requirement set forth by Government Code section 8855(i), it is prudent financial management for the District to adopt a debt management policy that sets parameters for issuing debt, managing the District's debt portfolio and provides guidance to decision makers. Adoption of the attached Debt Management Policy will help ensure that District debt is issued and managed prudently to maintain a sound fiscal position and that any future credit rating is protected.

The attached Debt Management Policy has been written to include all elements required by CDIAC as well as best management practices expected by the pertinent credit markets and municipal bond industry.

FINANCIAL CONSIDERATIONS

Because the consultants have agreed to work on a fully contingent basis, there are minimal cost implications to the District. Any costs would be related to staff time spent on administrative tasks associated with the implementation of the Debt Management Policy.

ALTERNATIVES

Board discretion.

ATTACHMENTS:

- A. Resolution No. 21-12-1
- B. Debt Management Policy (attached as Exhibit A to Resolution No. 21-12-1)

NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY

RESOLUTION NO. 21-12-1

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH
COUNTY FIRE PROTECTION DISTRICT OF MONTEREY
APPROVING AND ADOPTING A DEBT MANAGEMENT POLICY**

WHEREAS, the Board of Directors (the “Board”) of North County Fire Protection District of Monterey (the “District”) recognizes that cost-effective access to the capital markets depends on prudent management of the District’s debt program; and

WHEREAS, SB 1029 (amending Government Code section 8855) has been signed into law and imposes a new requirement on California local government agencies who will issue municipal debt; and

WHEREAS, Government Code section 8855(i) requires any issuer of public debt to provide to California Debt and Investment Advisory Commission (CDIAC) no later than 30 days prior to the sale of any debt issue a report of the proposed issuance (the “Report of Proposed Debt Issuance”), and must certify on the Report of Proposed Debt Issuance that they have adopted local debt policies concerning the use of debt and that the proposed debt issuance is consistent with those policies (the “CDIAC Requirements”); and

WHEREAS, the District expects to be an issuer of new debt in 2022 and thereafter within the meaning of SB 1029 and the CDIAC Requirements; and

WHEREAS, the Board wishes to set parameters for issuing debt, managing the debt portfolio and providing guidance to decision makers; and

WHEREAS, the Board hereby finds and determines that adoption of the attached Debt Management Policy (the “Debt Management Policy”) will help ensure that debt is issued and managed prudently in order to maintain sound fiscal policy, and is intended to also satisfy the requirements of SB 1029 and the CDIAC Requirements; and

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

Section 1. Recitals and Findings. The Board hereby specifically finds and declares that all of the facts in the Recitals of this Resolution are true and correct.

Section 2. Adoption of Debt Management Policy. The Board hereby finds and declares that the proposed Debt Management Policy attached as Exhibit “A” hereto, is hereby approved as the official North County Fire Protection District of Monterey Debt Management Policy to be effective December 21, 2021.

Section 3. Authorized Official Actions. The President, Fire Chief, Secretary and all other officers of the District are hereby authorized and directed, jointly and severally, to do any and all things to effectuate the purposes of this Resolution and to implement and administer the Debt Management Policy.

Section 4. 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 at a meeting thereof on the 21st day of December 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

BY:

Don Chapin, President

ATTEST:

Ramon Gomez, Secretary

EXHIBIT A

DEBT MANAGEMENT POLICY

NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY

**Adopted by the Board of Directors of the
North County Fire Protection District of Monterey**

Pursuant to Resolution No. 21-12-1

December 21, 2022

NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY DEBT MANAGEMENT POLICY

Section 1: Policy

This Debt Management Policy sets forth debt management objectives for the North County Fire Protection District of Monterey (the “District”), and any other entity for which the Board of Directors of the District (the “Board”) acts as legislative body, and the term “District” shall refer to each of such entities, and the term “Board” shall refer to the governing boards of each such entity.

This Debt Management Policy establishes general parameters for issuing and administering debt. Recognizing that cost-effective access to the capital markets depends on prudent management of debt incurred by the District (or any of its controlled entities), the Board has adopted this Debt Management Policy by resolution.

This Debt Management Policy is intended to comply with California Government Code Section 8855(i).

Section 2: Scope

The guidelines established by this policy will govern the issuance and management of all debt funded for long-term capital financing needs and not for general operating functions. When used in this policy, “debt” refers to all forms of indebtedness, including bonds, notes, loans, certificates of participation, installment sale agreements and lease obligations.

The District recognizes that changes in the capital markets and other unforeseen circumstances may require action that deviates from this Debt Management Policy. In cases that require exceptions to this Debt Management Policy, approval from the Board will be necessary for implementation.

Section 3: Objectives

The purpose of this Debt Management Policy is to assist the District in pursuit of the following equally important objectives, while providing full and complete financial disclosure and ensuring compliance with applicable state and federal laws:

- Minimize debt service and issuance costs
- Maintain access to cost effective borrowing
- Preserve financial flexibility while assuring public transparency
- Achieve the highest practical credit rating
- Ensure full and timely repayment of debt
- Maintain full and complete financial disclosure and reporting
- Ensure compliance with debt covenants
- Ensure compliance with applicable state and federal laws

Budget Integration – The decision to incur new indebtedness should be integrated with the policy decisions embedded in the Board-adopted budget (the “Budget”). Annual debt service payments shall be included in the Budget.

The District will integrate its debt issuances with the goals of its Capital Improvement and Equipment Purchasing Programs by timing the issuance of debt to ensure that projects are available when needed in furtherance of the District’s public purposes. The District will seek to issue debt in a timely manner to reduce unplanned expenditures for capital improvements or equipment from its operational account.

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Biennial Review – Recognizing that cost-effective access to the capital market depends on prudent management of the District’s debt program, a biennial review of this Debt Management Policy should be performed. This Debt Management Policy will be included as an Appendix in the annual Budget adopted by Board. Any substantive changes to this Debt Management Policy shall be brought to the Board for consideration and approval.

Section 4: Delegation of Authority

This Debt Management Policy grants the Board the authority to the Financing Team to coordinate the administration and issuance of debt, communicate with the rating agencies, and fulfill all of the pre-issuance and post-issuance requirements imposed by or related to state law, federal tax law and federal securities law.

Financing Team Definitions and Roles – The Financing Team is the working group of District Board and staff and outside consultants necessary to complete a debt issuance proposal for presentation to the North County Fire Protection District of Monterey Board, including, but not limited to, bond counsel, disclosure counsel, underwriter, municipal advisor, trustee, pricing consultant and/or arbitrage analyst.

Typically, the Fire Chief or their designees forms the District staff portion of the Financing Team.

Consultant Selection –The District will consider the professional qualifications and experience of consultants as it relates to the specific bond issue or other financing under consideration. In certain instances, the District will conduct a request for proposal/qualification process to select such consultants. The Board may, however, decide to select such consultants without having to undertake a request for proposal/qualification process, on an as-needed basis.

Section 5: Policies

A. Purposes for which Debt may be Issued

1. **Long-Term Debt**. Long-term debt may be issued to finance or refinance pension liabilities, the construction, acquisition, and rehabilitation of capital improvements and facilities, equipment and land to be owned and operated by the District.
 - a. Long-term debt financings are appropriate when the following conditions exist:
 - When the project to be financed is necessary to provide basic services.
 - When the project to be financed will provide benefit to constituents over multiple years.
 - When total debt does not constitute an unreasonable burden to the District and its taxpayers and/or ratepayers, as applicable.
 - When the debt is used to refinance outstanding debt in order to produce debt service savings or to realize the benefits of a debt restructuring.
 - b. Long-term debt financings will not generally be considered appropriate for current operating expenses and routine maintenance expenses.
 - c. The District may use long-term debt financings subject to the following conditions:
 - The project to be financed must be approved by the Board.

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- The weighted average maturity of the debt (or the portion of the debt allocated to the project) will not exceed the average useful life of the project to be financed by more than 20%.
- The District estimates that sufficient revenues will be available to service the debt through its maturity.
- The District determines that the issuance of the debt will comply with the applicable state and federal law.

2. **Short-Term Debt.** Short-term debt may be issued to provide financing for the District's operational cash flows in order to maintain a steady and even cash flow balance. Short-term debt may also be used to finance short-lived capital projects; for example, the District may undertake lease-purchase financing for equipment.

B. Methods of Financing

The Board in cooperation with District staff will investigate all possible financing alternatives including, but not limited to, bonds, notes, loans, certificates of participation, installment sale agreements, lease obligations, state bond pools, and grants, which may be structured and consummated under any of the below described methods of financing.

1. **Cash Funding.** The District funds a portion of capital improvements from reserves accumulated from one-time revenues, which have been set aside for investment in the District's infrastructure.

2. **Bank Loans / Lines of Credit.** The District will evaluate lines of credit as a possible method of financing.

3. **Other Loans.** The District will evaluate other financing programs, including but not limited to federal "loans" from the United States Department of Agriculture.

4. **Bond Financing.** The District may issue any bonds which are allowed under federal and state law including but not limited to general obligation bonds, certificates of participation, revenue bonds, land-secured (assessment and special tax) bonds, pension obligation bonds, refunding bonds and other obligations (see below for detail).

- ***General Obligation Bonds.*** General Obligation Bonds (GO Bonds) may only be issued with two-thirds approval of the District's registered voters. The California State Constitution (Article XVI, Section 18) limits the use of the proceeds from GO Bonds to "the acquisition or improvement of real property."
- ***Lease Revenue Bonds, Certificates of Participation (COPs) and Lease-Purchase Transactions.*** Lease financings may take a variety of forms, including certificates of participation, lease revenue bonds and direct leases (typically for equipment). When the District finances acquisition or construction of capital improvements or equipment with a lease financing, the District agrees to lease either the financed asset or a different asset and, most commonly, the District's lease payments are securitized in the form of certificates of participation or lease revenue bonds. This type of financing requires approval of Board.

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- **Revenue Bonds.** Revenue Bonds are generally issued by the District for enterprise funds that are financially self-sustaining without the use of taxes and therefore rely on the revenues collected by the enterprise fund to repay the debt. This type of financing requires approval of Board.
- **Assessment Bonds.** The Improvement Bond Act of 1915 (Streets and Highways Code Section 8500 et seq.) and other state laws, subject to Article XIIIID of the California Constitution, allow the District to issue bonds to finance improvements that provide “specific benefit” to the assessed real property. Installments are collected on the secured property tax roll of the County. This type of financing is secured by the lien upon and assessments paid by the real property owners and does not obligate the District’s general fund or other funds. This type of financing requires approval of Board.
- **Special Tax Bonds.** Under the Mello-Roos Community Facilities Act of 1982, the District may issue bonds on behalf of a Community Facilities District (CFD) to finance capital facilities, most commonly in connection with new development. These bonds must be approved by a two-thirds vote of the qualified electors in the CFD, which the Mello-Roos Act defines to mean registered voters if there are 12 or more registered voters in the CFD and, if there are fewer than 12 registered voters, the landowners in the CFD. Bonds issued by the District under the Mello-Roos Act are secured by a special tax on the real property within the CFD. Board will approve any special tax bonds prior to placement on a ballot for voter consideration. The financed facilities do not need to be physically located within the CFD. As this type of financing is secured by the special tax lien upon the real property it does not obligate the District’s general fund or other funds.
- **Refunding Obligations.** Pursuant to the Government Code and various other financing statutes applicable in specific situations, the Board is authorized to provide for the issuance of bonds for the purpose of refunding any long-term obligation of the District. Absent any significant non-economic factors, a refunding is required to meet the following test: 1) the refunding must produce a minimum net debt service savings (net of reserve fund earnings and other offsets, and taking transaction costs into account) of at least 3% of the par value of the refunded bonds on a net present value basis, using the refunding issue’s True Interest Cost (TIC) as the discount rate, unless the Board determines that a lower savings percentage is acceptable for issues or maturities with short maturity dates, and 2) the final maturity of the original bonds cannot be extended unless expressly determined otherwise by the Board. Additionally, the Board may determine that there are other, compelling “non-economic” reasons (i.e. removal of onerous covenants, terms or conditions).
- **Other Obligations.** There may be special circumstances when other forms of debt are appropriate and may be evaluated on a case-by-case basis. Such other forms include, but are not limited to: bond anticipation notes, grant anticipation notes, lease revenue bonds, pension obligation bonds, etc.

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Section 6: Structure and Term

Term of Debt – Debt will be structured for the shortest period possible, consistent with a fair allocation of costs to current and future users. The standard term of long-term debt borrowing is typically 5-40 years.

Consistent with its philosophy of keeping its capital facilities and infrastructure systems in good condition and maximizing a capital asset's useful life, the District will make every effort to set aside sufficient current revenues to finance ongoing maintenance needs and to provide reserves for periodic replacement and renewal. Generally, no debt will be issued for a period exceeding the useful life or average useful lives of projects to be financed.

Debt Repayment Structure – In structuring a bond issue, the District will manage the amortization of the debt and, to the extent possible, match its cash flow to the anticipated debt service payments. In addition, the District will seek to structure debt with aggregate level debt service payments over the life of the debt. Structures with unlevel debt service will be considered when one or more of the following exist:

- Such structuring is beneficial to the District's aggregate overall debt payment schedule.
- Such structuring will allow debt service to more closely match project revenues during the early years of the project's operation.

Bond Maturity Options – For each issuance, the District will select serial bonds or term bonds, or both.

Interest Rate Structure – The District currently issues securities on a fixed interest rate basis only. Fixed rate securities ensure budget certainty through the life of the issue and avoid the volatility of variable rates. The use of variable rate securities may be issued if authorized by the Board on a case-by-case basis.

Credit Enhancement – Credit enhancement may be used to improve or establish a credit rating on a District debt obligation. Types of credit enhancement include letters of credit, bond insurance and surety policies. The Board will recommend the use of a credit enhancement if it reduces the overall cost of the proposed financing or if the use of such credit enhancement furthers the District's overall financial objectives.

Debt Service Reserve Fund – Debt service reserve funds are typically held by a Trustee to make principal and interest payments to bondholders in the event the pledged revenues are insufficient to do so. The District will fund debt service reserve funds when it is in the District's overall best financial interest. The District may decide not to utilize a reserve fund if the Board, in consultation with Bond Counsel and municipal advisor, determines there would be no adverse impact to the District's relevant existing legal provisions, credit rating and/or interest rates.

Per Internal Revenue Service rules, the maximum size of the reserve fund on tax-exempt bond issuance is the lesser of

- 10% of the initial principal amount of the debt;
- 125% of average annual debt service; or
- 100% of maximum annual debt service.

In lieu of holding a cash funded reserve, the District may substitute a surety bond or other credit instrument in its place. The decision to cash fund a reserve fund rather than to use a credit facility is dependent upon the cost of the credit instrument and the investment opportunities.

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Call Options / Redemption Provisions – A call option or optional redemption provision gives the District the right to prepay or retire debt prior to its stated maturity date. This option may permit the District to achieve interest savings in the future through the refunding of the bonds. Often the District will pay a higher interest rate as compensation to the buyer for the risk of having the bond called in the future. In addition, if a bond is called, the holder may be entitled to a premium payment (call premium). Because the cost of call options can vary depending on market conditions, an evaluation of factors will be conducted in connection with each issuance. The Board shall evaluate and recommend the use of a call option on a case-by-case basis.

Section 7: Method of Issuance and Sale; Disclosure

Debt issues are sold to a single underwriter or to an underwriting syndicate, either through a competitive sale or a negotiated sale. A negotiated sale may involve the sale of securities to investors through an underwriter or the private placement of the securities with a financial institution or other sophisticated investor. The selected method of sale will be that which is most beneficial to the District in terms of lowest net interest rate, most favorable terms in financial structure, and market conditions. The Board will review conditions in conjunction with information and advice presented by the District's Financing Team.

Competitive Sales of Bonds – In a competitive sale, the terms of the debt will be defined by the District and the District's finance team, and the price of the debt will be established through a bidding process amongst impartial underwriters and/or underwriting syndicates. The issue is awarded to the underwriter judged to have submitted the best bid that offers the lowest true interest cost taking into account underwriting spread, interest rates and any discounts or premiums.

Negotiated Sale of Bonds – A method for sale for bonds, notes, or other financing vehicles in which the District selects in advance, based upon proposals received or by other means, one or more underwriters to work with it in structuring, marketing and finally offering an issue to investors. The negotiated sale method is often used when the issue is: a first-time sale by an issuer (a new credit), a complex security structure, such as variable rate transaction, an unusually large issue, or in a highly volatile or congested market where flexibility as to bond sale timing is important.

Private Placement – A private placement is a variation of a negotiated sale in which the District, usually with the help of a placement agent will attempt to place the entire new issue directly with a single investor. The investor will negotiate the specific terms and conditions of the financing before agreeing to purchase the issue. Private placements are generally undertaken because the transaction is complex or unique, requiring direct negotiations with the investor, or because the issue is small or of a shorter duration and a direct offering provides economies of scale, lower interest costs and reduced continuing disclosure.

Derivative Products – Because of their complexity, unless otherwise amended, Derivative Products such as interest rate swaps, interest floaters, and other hybrid securities are prohibited by this Debt Management Policy.

Initial Disclosure Requirements – The District acknowledges its disclosure responsibilities. Under the guidance of Disclosure Counsel, the District will distribute or cause an underwriter to distribute its Preliminary Official Statement and final Official Statement (neither is typically required in a private placement, although in some cases a "private placement memorandum" may be required by the investor).

The Financing Team shall be responsible for soliciting "material" information (as defined in Securities and Exchange Board Rule 10b-(5) from District departments and identifying contributors who may have information necessary to

NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY DEBT MANAGEMENT POLICY

prepare portions of the Official Statement or who should review portions of the Official Statement. In doing so, the Financing Team shall confirm that the Official Statement accurately states all “material” information relating to the decision to buy or sell the subject bonds and that all information in the Official Statement has been critically reviewed by an appropriate person.

In connection with an initial offering of securities, the District and other members of the Financing Team will:

- Identify material information that should be disclosed in the Official Statement;
- Identify other persons that may have material information (contributors);
- Review and approve the Official Statement; and
- Ensure the District’s compliance, and that of its related entities, with federal and state security laws, including notification to the California Debt and Investment Advisory Board (“CDIAC”) of the proposed debt issue no later than 30 days prior to the sale of any debt issue, and submission of a final report of the issuance to the CDIAC by any method approved by the CDIAC.

The Financing Team shall critically evaluate the Official Statement for accuracy and compliance with federal and state securities laws. The approval of an Official Statement shall be placed on the Board agenda, and shall not be considered as a Consent Calendar item. The staff report will summarize the Board’s responsibilities with respect to the Official Statement and provide the Board the opportunity to review a substantially final Official Statement. The Board shall undertake such review as deemed necessary by the Board to fulfill the Board’s securities law responsibilities.¹

For any privately placed debt with no Official Statement, the final staff report describing the issue and such other documents will be provided to the Board for approval.

Section 8: Creditworthiness Objectives

Ratings are a reflection of the general fiscal soundness of the District and the capabilities of its management. Typically, the higher the credit ratings are, the lower the interest cost is on the District’s debt issues. To enhance creditworthiness, the District is committed to prudent financial management, systematic capital planning, and long-term financial planning; however, the District also recognizes that external economic, natural, or other events may, from time to time, affect the creditworthiness of its debt.

The most familiar nationally recognized bond rating agencies are Standard and Poor’s, Moody’s Investors Service, and Fitch Ratings. When issuing a credit rating, rating agencies consider various factors, including, but not limited to:

- District’s fiscal status;
- District’s general management capabilities;
- Economic conditions that may impact the stability and reliability of debt repayment sources;
- District’s general reserve levels;

¹ The Securities and Exchange Board (the SEC), the agency with regulatory authority over the District’s compliance with the federal securities laws, has issued guidance as to the duties of the Board with respect to its approval of the POS. In its “Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors” (Release No. 36761 / January 24, 1996) (the “Release”), the SEC stated that, if a member of the Board has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the bonds, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such factors are adequately disclosed in the Official Statement. In the Release, the SEC stated that the steps that a member of the Board would take include becoming familiar with the POS and questioning staff and consultants about the disclosure of such facts.

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- District's debt history and current debt structure;
- Project(s) being financed; and
- Covenants and conditions in the governing legal documents.

Bond Ratings – The Financing Team will assess whether a credit rating should be obtained for an issuance. The District typically seeks a rating from at least one nationally recognized rating agency on new and refunded issues being sold in the public market. The Fire Chief, working with the Financing Team, shall be responsible for determining which of the major rating agencies the District shall request provide a rating. When applying for a rating on an issue, the District and Financing Team shall prepare a presentation for the rating agency when the District determines that a presentation is in the best interests of the District.

Rating Agency Communications – The Board is responsible for maintaining relationships with the rating agencies that assign ratings to the District's various debt obligations. This effort shall include providing the rating agencies with the District's financial statements, if applicable, as well as any additional information requested.

Section 9: Post Issuance Administration

Notification to the CDIAC – The District shall work with Bond Counsel to submit a report of final sale to the CDIAC by any method approved by the CDIAC. The report shall include the information required by CDIAC.

Investment of Proceeds – The Board shall direct investment of bond proceeds and reserve funds in accordance with each issue's indenture or trust agreement, utilizing competitive bidding when appropriate. All investments will be made in compliance with the District's investment policy objectives of safety, liquidity and then yield. The investment of bond proceeds and reserve funds shall comply with federal tax law requirements specified in the indenture or trust agreement and the tax certificate. Whenever reasonably possible, unexpended bond proceeds and reserve fund monies shall be held by the bank trustee. The trustee will be responsible for recording all investments and transactions relating to the proceeds and providing monthly statements regarding the investments and transactions.

Use of Bond Proceeds – The Board is responsible for ensuring debt proceeds are spent for the intended purposes identified in the related legal documents and that the proceeds are spent in the time frames identified in the tax certificate prepared by Bond Counsel. When required, proceeds of debt will be held by a third-party trustee and the District will submit written requisitions for such proceeds; however, to the extent allowable, the District's preference is to not use third-party trustees in order to avoid this added expense. The District will submit a requisition only after obtaining the signature of the Board President or Fire Chief. In those cases where it is not reasonably possible for the proceeds of debt to be held by a third-party trustee, the District shall retain records of all expenditures of proceeds through the final payment date for the debt.

Continuing Disclosure – When required by Securities Exchange Board Rule 15c2-12(b)(5) (the "Rule") the Board President or Fire Chief or designee will ensure the District's annual financial statements and associated reports are posted on the District's web site, and will also comply with the Rule by filing its annual financial statements, other financial and operating data and notices of enumerated events for the benefit of its bondholders on the Electronic Municipal Market Access (EMMA) website of the Municipal Securities Rulemaking Board (MSRB). The District shall submit an annual report to the CDIAC in compliance with the requirements of Government Code Section 8855 and related regulations.

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Arbitrage Rebate Compliance and Reporting – The use and investment of bond proceeds must be monitored to ensure compliance with arbitrage restrictions. Existing regulations require that issuers calculate rebate liabilities related to any bond issues, with rebates paid to the Federal Government every five years and as otherwise required by applicable provisions of the Internal Revenue Code and regulations. The Board President or Fire Chief shall contract with a specialist to ensure that proceeds and investments are tracked in a manner that facilitates accurate complete calculations, and if necessary timely rebate payments.

Compliance with Other Bond Covenants – In addition to financial disclosure and arbitrage, the Fire Chief or designee is also responsible for verifying compliance with all undertakings, covenants, and agreements of each bond issuance on an ongoing basis. This typically includes ensuring:

- Annual appropriation of revenues to meet debt service payments;
- Taxes/fees are levied and collected where applicable;
- Timely transfer of debt service payments to the trustee;
- Compliance with insurance requirements;
- Compliance with rate covenants; and
- Post-issuance procedures established in the tax certificate for any tax-exempt debt.

Retention – A copy of all relevant documents and records will be maintained by the District for the term of any bonds issued (including refunding bonds, if any), plus 10 years. Relevant documents and records will include sufficient documentation to support the requirements relating to the tax-exempt status.

Investor Relations – While the District shall post its annual financial report as well as other financial reports on the District’s website, this information is intended for the citizens of the District. Information that the District intends to reach the investing public, including bondholders, rating analysts, investment advisors, or any other members of the investment community shall be filed on the EMMA system.

Additional requirements for financial statements – It is the District’s policy to hire an auditing firm that has the technical skills and resources to properly perform an annual audit of the District’s financial statements. More specifically, the firm shall be a recognized expert in the accounting rules applicable to the District and shall have the resources necessary to review the District’s financial statements on a timely basis.

Section 10: Training

To the extent that the District has outstanding debt subject to the Rule, the Board shall (i) ensure that the members of the District staff involved in the continuing disclosure process and the Board are properly trained to understand and perform their responsibilities, and (ii) arrange for disclosure training sessions conducted by the District’s Bond Counsel. Such training sessions shall include education on the applicable federal and state securities laws and the disclosure responsibilities and potential liabilities of members of the District’s staff and members of the Board.

**Discussion/Action Regarding a Resolution Adopting an
Unfunded Accrued Liability Pension Management Policy**

RECOMMENDED ACTIONS

Adopt Resolution No. 21-12-2 Adopting an Unfunded Accrued Liability Pension Management Policy.

BACKGROUND

The District currently has a contract with the California Public Employees Retirement System (CalPERS) to provide retirement benefits for all full-time safety employees. As part of the contract, the District is obligated to pay any unfunded accrued 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 (collectively, the "UAL Obligation").

On September 21, 2021, the Board adopted a resolution of preliminary intention to proceed with the financing (hereafter called "Financing") of part or all of the UAL Obligation (the "UAL Prepayment"), the effect of which will be to (i) raise the funded status of the District's pension plans from 69.8% funded to approximately 95% funded, (ii) enhance budget predictability by "smoothing" out the UAL payment structure over the next 15 to 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.

ADOPTION OF A PENSION MANAGEMENT POLICY

If the District is successful in Financing the District's presently outstanding UAL liabilities, the District's safety pension plans (the "Pension Plans") overall will become approximately 95% funded. However, each year, the possibility exists that CalPERS will accrue new pension liabilities due several factors, including:

- Changes in actuarial assumptions and experience changes (e.g., changes in the discount rate, changes in demographic experience, etc.).
- Changes in actuarial gains and losses due to asset returns being higher or lower than expected.
- Changes in plan benefits.

On June 30 of each year, CALPERS completes a new actuarial valuation that will provide the District with a calculation of the District's total pension liability as of the new valuation date. Based on that annual valuation report, the District will then know whether it has developed any new UAL at that point in time.

In an effort to ensure that any future pension liabilities do not grow to unmanageable levels, staff has developed a proposed Unfunded Accrued Liability Management Policy (the "UAL Management Policy") for Board consideration. If approved, the UAL Management Policy would require that any new increase or decrease in the liability resulting from the annual CalPERS actuarial valuation be explicitly identified each year during the budget cycle, and that the District consider making discretionary contributions with District resources (or other legally available resources), with the objectives of increasing each of the Pension Plan's funded status, by reducing the unfunded actuarially accrued liability, and reducing ongoing pension costs.

The UAL Management Policy will also provide guidance in making annual budget decisions, demonstrate prudent financial management practices, help create fiscally sustainable budgets for pensions in future years, and help reassure bond rating agencies and investors that the District is being proactive in the management of its fiscal affairs.

OTHER FINANCIAL CONSIDERATIONS

None at this time.

ALTERNATIVES

1. Adopt the Resolution as presented, thereby adopting the UAL Management Policy.
2. Do not approve but provide alternative direction to staff.

ATTACHMENTS:

- A. UAL Management Policy (attached as Exhibit A to Resolution No. 21- 12-2)

NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY

RESOLUTION NO. 21-12-2

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY ADOPTING AN UNFUNDED ACCRUED LIABILITY PENSION MANAGEMENT POLICY

WHEREAS, the Board of Directors (the “Board”) of the North County Fire Protection District of Monterey (the “District”) is obligated by the Public Employees’ Retirement Law, commencing with Section 20000 of the Government Code of the State of California, as amended (the “Retirement Law”), to make payments to the California Public Employees’ Retirement System (“CalPERS”) relating to pension benefits accruing to current and former District employees who are CalPERS members, including retired employees (the “CalPERS Obligations”); and

WHEREAS, the District currently has an unfunded accrued liability (the “UAL”) in respect of the CalPERS Obligations; and

WHEREAS, the CalPERS Obligations, including the UAL, and all other aspects of the pension plan arrangements between CalPERS and the District, is evidenced by a contract or contracts with CalPERS with respect to public safety employees of the District, as heretofore and hereafter amended from time to time (collectively, the “Pension Plans”); and

WHEREAS, the District is in the process of considering certain financing strategies, including the possible issuance of municipal obligations, that could generate funds to pay off a certain portion of the District’s current estimated UAL owed to CalPERS; and

WHEREAS, CalPERS provides the District with new actuarial valuations on an annual basis that calculates the District’s total pension liability as of the new valuation date; and

WHEREAS, each year it is possible that the District will incur new UAL costs if the District’s market value of plan assets are not equivalent to the actuarially determined liability amounts; and

WHEREAS, the District desires to establish a framework for funding new UAL costs that may arise in the future with the objective of funding the Pension Plans at certain targeted funded status levels whenever possible; and

WHEREAS, to facilitate payment of future UAL costs in a timely manner and to reduce the risk that future UAL costs pose to the District’s financial position, the District desires to adopt the Unfunded Accrued Liability Management Policy, attached hereto (the “Pension Management Policy”); and

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

Section 1. Recitals and Findings. The Board hereby specifically finds and declares that all of the facts set forth in the Recitals of this Resolution are true and correct.

Section 2. Adoption of Pension Management Policy. The Board hereby finds and declares that the Pension Management Policy, attached as Exhibit "A" hereto, is hereby approved and adopted as the official North County Fire Protection District of Monterey Unfunded Accrued Liability Pension Management Policy to be effective December 21, 2022.

Section 3. Authorized Official Actions. The Board President, Fire Chief, Board Secretary and all other officers of the District are hereby authorized and directed, jointly and severally, to do any and all things to effectuate the purposes of this Resolution and to implement and administer the Pension Management Policy.

Section 4. 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 at a meeting thereof on the 21st day of December 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

BY:

Don Chapin, President

ATTEST:

Ramon Gomez, Secretary

EXHIBIT A

**UNFUNDED ACCRUED LIABILITY
PENSION MANAGEMENT POLICY**

North County Fire Protection District of Monterey

**Adopted by the Board of Directors of the
North County Fire Protection District of Monterey**

Pursuant to Resolution No.

December 21, 2021

NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY

UNFUNDED ACCRUED LIABILITY PENSION MANAGEMENT POLICY

Section 1. Purpose

The purpose of this Unfunded Accrued Liability Pension Management Policy (the “Policy”) is to strategically address the existing and any future unfunded accrued liability (the “UAL”) associated with the North County Fire Protection District’s (the “District”) California Public Employees’ Retirement System (CalPERS) pension plans (the “Pension Plans”). This Policy also addresses some of the principal elements and core parameters central to the policy objectives discussed in this Policy. In the development of this Policy, the District strives to reduce its UAL and the associated financing costs in the most cost-efficient and fiscally responsible manner possible.

The District is committed to fiscal sustainability by employing long-term financial planning efforts, maintaining appropriate reserve levels, and employing prudent practices in governance, management, budget administration, and financial reporting. This Policy is intended to make all relevant information readily available to decision-makers and the public to improve the quality of decisions, identify policy goals, and to demonstrate a commitment to long-term financial planning. Adherence to this Policy signals to rating agencies and capital markets that the District is well managed and able to meet its obligations in a timely manner.

The Policy is intended to reflect a reasonable and conservative approach to managing the UAL costs associated with the Pension Plans. This Policy recognizes that the Pension Plans are subject to market volatility and that actual economic and demographic experience of the plans will differ from the actuarial assumptions. Accordingly, it is intended to allow for adaptive responses to changing circumstances, providing flexibility to address such volatility in a financially sound manner. As such, the District is required to continually monitor its Pension Plans and the corresponding UAL.

Section 2. Policy Goals and Objectives

The overarching goals and objectives of this Policy are as follows:

- Establish, attain, and maintain targeted pension plan funding levels
- Provide sufficient assets to permit the payment of all benefits under the Pension Plans
- Seek to manage and control future contribution volatility to the extent reasonably possible
- Strive to make Annual Discretionary Payments to accelerate UAL pay-down, reduce interest costs, and stabilize future payments
- Maintain the District’s sound financial position and creditworthiness
- Provide guidance in making annual budget decisions
- Create sustainable and fiscally sound future budgets
- Demonstrate prudent financial management practices
- Ensure that pension funding decisions protect both current and future stakeholders
- Create transparency as to how and why the Pensions Plans are funded

NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY
UNFUNDED ACCRUED LIABILITY PENSION MANAGEMENT POLICY

Section 3. Background and Discussion

In General. Each Pension Plan is a multiple-employer defined benefit pension plan administered by the California Public Employee Retirement System (“CalPERS”). All full-time and certain part-time District employees are eligible to participate in the CalPERS retirement and disability benefits, annual cost of living adjustments and death benefits offered to plan members and their beneficiaries. CalPERS acts as a common investment and administrative agent for participating public entities within the State of California. Benefit provisions and all other requirements are established by state statute.

The financial objective of a defined benefit pension plan is to fund the long-term cost of benefits provided to the plan participants. In order to assure its financial soundness and sustainability, the plan should accumulate adequate resources in a systematic and disciplined manner to ensure sufficient resources are available to meet employee benefit requirements. This Policy outlines the practices the District will utilize to address its actuarially determined contributions to fund the long-term cost of benefits to the Pension Plan participants and annuitants.

Pension Costs and Liabilities. In order to fund its employees’ pension benefits, the District is required to make contributions (a portion of which may come from the employees) to CalPERS. CalPERS then invests these contributions to generate returns to help fund the pension benefits. The regular required contributions, known as the “normal cost,” are calculated as a percent of salaries and represent the annual cost of service accrual for the upcoming fiscal year for active employees. If, for any reason, the actual Pension Plan experience and investment performance fall short of the actuarial assumptions, the Pension Plan can become underfunded (i.e., the Pension Plan’s Normal Accrued Liability exceeds the Plan’s market value of assets). This shortfall is known as the Unfunded Accrued Liability (the “UAL”) and usually has to be covered by the District through a series of UAL Payments, which are above and beyond the “normal cost” contributions. The UAL Payments are calculated in total dollar amounts, not as a percent of salaries.

The UAL can be caused by multiple factors, including but not limited to, changes to CalPERS’ actuarial amortization policy, retroactive pension benefit enhancements, investment underperformance, actuarial assumption changes, demographic factors, and discount rate reductions.

UAL is Debt. The UAL balance at any given point in time is a debt of the District owed to CalPERS which is amortized over a set period of time with interest accruing at the then current CalPERS discount rate (the “Discount Rate”). However, this debt can be prepaid at any time without penalties. Recognizing the UAL as debt helps the District identify proper steps to address it and minimize the associated financing costs.

Ongoing CalPERS Practices. Every year CalPERS prepares updated actuarial valuation reports for each of the District’s Pension Plans wherein it calculates the District’s total pension liability as of the end of the prior fiscal year (each a “Valuation Report”). If the investment performance during that fiscal year was different from the Discount Rate, or if CalPERS made any changes to its actuarial assumptions, or if the actual demographic or compensation experience within the Pension Plans was different from the actuarial assumptions, new line items, or UAL amortization “bases,” may be added to the plan and result in a change to the UAL balance. Such UAL amortization bases may be positive (indicating funding shortfall for the Pension Plans) or negative (indicating funding surplus for the Pension Plans). Since CalPERS can add new

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UAL amortization bases every year, the Pension Plans must be monitored annually and managed continually – there is no one-time solution.

CalPERS has adopted the UAL amortization methods that were meant to help public agencies “ease into” paying for the UAL increases. New UAL amortization bases are implemented incrementally, with a five-year ramp-up period, and at times include additional small increases in each of the subsequent years. The ramp-up period, while reducing the cash flow impact in the near term, increases the overall UAL repayment costs for the District by delaying repayment. Since the UAL balances accrue interest at the rate that is equal to the then current Discount Rate, the delayed payments prior to the commencement of the amortization and the reduced payments during the ramp-up period that do not fully cover the interest costs result in negative amortization, causing further increases to the UAL balance. To help reduce the overall costs of the UAL repayment, this Policy encourages level annual payments (i.e., no ramp-up) whenever possible.

Section 4. Policy

A. Funding Level Objective. It is the District’s policy to strive to achieve and maintain a Pension “Funded Ratio” (being the ratio by which the Market Value of Assets—as set forth in the most recently published Valuation Report--exceeds the Entry Age Normal Accrued Liability or “EANAL”—as set forth in the most recently published Valuation Report) for each Pension Plan of 90%, *but never dropping below 85%* (the “Funding Level Objective”).

Funding Level Objective = 90%

Achieving and maintaining the 90% Funding Level Objective ensures that the ongoing contributions of the District and its employees, and therefore the taxpayer funds, are properly and adequately funding the retirement benefits of retirees and today’s workers. This concept is commonly referred to as the intergenerational equity. Falling short of this funded level forces future Board of Directors to pay the costs of the poor planning and execution of today’s Pension Plans. The reason for a Funding Level Objective of 90% rather than 100% is to allow some cushion for the possibility that good investment returns by CalPERS in a given year might push the Funded Ratio of a Pension Plan above 100% (commonly referred to as “superfunded status”), which means that the District and its employees had contributed into the Pension Plan more than was necessary. Thus, while the District remains committed to maintaining a 100% funded level, it shall manage the 10% differential (i.e., the difference between 90% and 100%) through its own investment process by creating the “Pension Rate Stabilization Fund” discussed herein.

Guidance: To achieve the Funding Level Objective, this Policy provides the following guidance:

1. **Pre-Pay the Entire Annual UAL Payment by July 31st of each year.** On or before July 1st of each year, the District receives its annual CalPERS UAL invoice. The District has two payments options. The invoice can (1) be paid in equal monthly increments or (2) be fully pre-paid at the beginning of the fiscal year by July 31st. By prepaying the entire invoice amount due by July 31st, the District can save approximately 3.5% compared to making the monthly payments. As such, every effort should be made to pre-pay the UAL payment upon receipt of the annual invoice.

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2. *Pre-Pay UAL from Reserves, One-Time Revenues and Fund Surpluses.* Reserves (often invested in LAIF) regularly do not earn returns that can offset the interest rate that CalPERS charges on the outstanding UAL balance. Supplemental contributions into the Pension Plans from available reserves, one-time revenues and fund surpluses can generate substantial long-term net savings. Each supplemental contribution, referred to by CalPERS as an Additional Discretionary Payment (ADP), reduces the UAL balance, the Annual Required Contributions (ARC) for future years, and the total interest costs associated with the UAL. CalPERS does not apply any prepayment penalties to ADPs. Therefore, during each budget cycle, the District staff shall review all available reserves, one-time revenues and fund surpluses to determine whether any such funds could be used to make an ADP to pay down the UAL, keeping in mind operational and capital budgetary constraints while maintaining adequate reserves and balancing the fiscal soundness of eliminating the high-interest UAL debt. ADPs should not adversely affect the general operations and fiscal soundness of the District.

2. *Capital Financing.* When considering capital projects, staff regularly reviews and plans for reserving capital to cash fund current and future projects. When considering how to pay for current and future capital projects, staff should review the current tax-exempt market to assess if it would be more cost effective to borrow at tax-exempt rates to pay for the capital projects and redirect the reserved funding (and/or such other appropriate funds of the District) to make ADPs to CalPERS.

If there are projected cost savings by using this method, and a capital financing strategy is to be implemented, the Board of Directors would need to approve of the ADPs being paid to CalPERS prior to the financing to ensure that the annual savings generated by implementing the strategy are applied to UAL paydowns.

3. *Utilize Savings Achieved from Refunding Outstanding Non-Pension Related Debt to Pre-Pay UAL.* During each budget cycle, staff should review all outstanding long-term non-pension related debt of the District to determine whether a refunding of such debt might result in net present value savings of greater than 3%, and if so, consider a structure and strategy that frontloads the savings from such debt refunding, which can then be used to pay down the UAL.

4. *Sources of Revenue.* All fees, rates and charges should incorporate full allocation of pension costs for employees providing associated services. While some funds cannot contribute more than their fair share (i.e., enterprise funds), they should not contribute less than their fair share. Staff shall review allocation of labor costs to proprietary and other funds to ensure full reimbursement of the pension cost burden. Staff shall provide, or cause to be provided, consistent and well-documented methodology for pension cost allocation to all funds.

5. *Pension Obligation Financing.* The District shall consider issuing taxable municipal debt obligations (generically hereafter referred to as "Pension Obligations") to refinance the UAL, in part or in whole, if such bond obligations are expected to produce minimum cash flow savings of at least 5%, taking into account all debt service and costs of issuance associated with such bond obligations, in comparison to CalPERS' respective UAL amortization schedule and the then-current Discount Rate.

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Pension Obligations shall not utilize swaps or derivatives of any kind and should be structured with reasonable and flexible call provisions (with a maximum of 10-year call provision). Pension Obligations shall be used only to prepay the UAL liabilities, and shall not be used to finance normal cost payments. The issuance of Pension Obligations must be voted upon and approved by the Board of Directors.

7. **Annual Review of the CalPERS Actuarial Valuation Reports and Associated Tasks.** The District staff shall review or cause to be reviewed the annual CalPERS actuarial valuation reports within 30 days of their release by CalPERS, which usually takes place during the month of August. The review should focus on identifying the annual changes to each of the Pension Plans UAL, and quantifying the associated cost implications and the corresponding impact on the Funded Ratio. Staff should annually reach out to the District's CalPERS actuary to request a calculation of flat payments (rather than ramp-up payments) for all outstanding and new UAL amortization bases. In making ADPs, the District staff shall determine or cause to be determined the optimal application of the ADPs to the outstanding UAL amortization bases to achieve the Funding Level Objective as well as desired budgetary outcomes.

B. Establishment and Operation of a Pension Rate Stabilization Fund.

1. **Establishment of a Pension Rate Stabilization Fund.** The District shall establish a Pension Rate Stabilization Fund, either self-managed or a Section 115 trust fund managed by a third-party investment manager (the "Investment Manager"). The Pension Rate Stabilization Fund will receive Sequestered Savings (defined below) and Sequestered Surplus (defined below) as well as any other funds deposited into it at the discretion of the Board of Directors, based on recommendations made by the District staff during the annual budget process. Funds in the Pension Rate Stabilization Fund should only be used to manage the District's pension benefits costs to maintain each of the Pension Plans at the Funding Level Objective in accordance with the goals and objectives set forth in this Policy.
2. **Funding the Pension Rate Stabilization Fund.**
 - (a) **Sequestered Savings.** At the beginning of each Fiscal Year following the issuance of each series of Pension Obligations, for a total of ten (10) consecutive years (or such other period of years as deemed appropriate by the Board of Directors at the time of any subsequent issuances of Pension Obligations) following such issuance, a fixed dollar amount equal to 50% (or such other percentage as deemed appropriate by the Board of Directors at the time of any subsequent issuances of Pension Obligations) of the "Total Sequestered Savings" (as calculated in the manner set forth below) achieved by issuing Pension Obligations (the "Annual Sequestered Savings Savings"), shall be transferred from the District's general operating funds and deposited into the Pension Rate Stabilization Fund until such time that the Pension Rate Stabilization Fund reaches the Pension Rate Stabilization Fund Maximum (as outlined in section B3 below), and thereafter all Sequestered Savings will be directed to a "Pension Obligation Prepayment Fund" which will be established and maintained by the District for the purpose of prepaying any outstanding Pension Obligations.

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$$\text{Total Sequestered Savings} = \text{UALDS} - \text{DS}$$

$$\text{Annual Sequestered Savings} = 0.5x\left(\frac{\text{UALDS} - \text{DS}}{Y}\right)$$

UALDS = Scheduled UAL debt service being paid off by the Pension Obligations

DS = Total principal amount of Debt Service on the Pension Obligations

Y = Number of years to pay back Sequestered Savings

Example of Annual Sequestered Savings Calculation

A \$5M Pension Obligation was issued in 2022 for the purpose of prepaying UAL. The total UAL debt service (UALDS) paid off with the Pension Obligation was \$8,000,000 and the total debt service (DS) on the Pension Obligation is \$7,000,000. The District elected to sequester 50% of the total savings over a 10-year period (Y), which in this example totals \$100,000.

$$\begin{aligned} \text{Annual Seq. Savings} &= 0.5x\left(\frac{8,000,000 - 7,000,000}{10}\right) \\ &= \$100,000 \end{aligned}$$

(b) Sequestered Surplus. Each Fiscal Year during the District's normal budget adoption process, beginning with the 2022-23 Fiscal year budget, and for each of the following 9 years, a percent between 0% and 10% of any available surplus from the prior Fiscal Year (the "Sequestered Surplus") shall be set aside, transferred and deposited into the Pension Rate Stabilization Fund.

3. Operation of the Pension Rate Stabilization Fund. Sequestered Surplus and Sequestered Savings (and any other amounts contributed by the District) shall be deposited in the Pension Rate Stabilization Fund and used solely for the purpose of making ADP's (and Normal Cost payments during a Fiscal Hardship, and/or to the extent the amount therein exceeds the Pension Rate Stabilization Fund Maximum, as described below) to CalPERS for the purpose of achieving and maintaining Funding Level Objective.

With the goal of achieving and maintaining the Funding Level Objective, each year during the budget cycle, District staff shall calculate, or cause to be calculated, the upcoming Fiscal Year's estimated Funded Ratio by taking into account the most recent Valuation Report's statement of Funded Ratio and adjusting for the estimated UAL amortization base that will be either added or subtracted due to the prior Fiscal Year's investment result of either exceeding or falling short of the then current Discount Rate for that Fiscal Year (the "Estimated Funded Ratio"). If the Estimated Funded Ratio is estimated to be less than the Funding Level Objective, to the extent funds are available in the Pension Rate Stabilization Fund, the appropriate member of staff shall either make, or shall direct the Investment Manger to make, an ADP to CalPERS in the amount necessary to bring the Funded Ratio back up to the Funding Level Objective. Additionally, if

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UNFUNDED ACCRUED LIABILITY PENSION MANAGEMENT POLICY

sufficient funds are available in the Pension Rate Stabilization Fund, staff shall assess whether to fully amortize any new UAL amortization bases in order to reduce the long-term interest costs associated with the “ramping” procedures used by CalPERS.

Moneys in the Pension Rate Stabilization Fund shall not be used for normal costs until such time as the amount therein, when combined with the Market Value of Assets (as set forth in the most recently published Valuation Report) exceeds the Entry Age Normal Accrued Liability (as set forth in the most recently published Valuation Report) by 110% (the “Pension Rate Stabilization Fund Maximum”). To the extent monies in the Pension Rate Stabilization Fund on June 31st exceed the Pension Rate Stabilization Fund Maximum (after consideration has been given to the amounts therein required to be paid to CalPERS for the ensuing Fiscal Year to maintain the Estimated Funded Ratio at or above the Funding Level Objective), any accrued surplus over 110% may be used to offset the District’s Normal Cost payment made to CalPERS in such Fiscal Year, and any Sequestered Savings will be directed to the Bond Call Fund.

4. **Fiscal Hardship.** In the event of a Fiscal Hardship (as defined below), transfers of Sequestered Savings may be abated and/or the Pension Rate Stabilization Fund may be utilized for either normal or UAL costs until the Fiscal Hardship is no longer in effect.

“Fiscal Hardship” means an economic hardship, or other unanticipated fiscal emergency, that has been declared by resolution of the Board of Directors.

C. Transparency and Reporting. Funding of the Pension Plans should be transparent to all stakeholders, including plan participants, annuitants, the Board of Directors, and District residents. To achieve this Policy objective, copies of the annual actuarial valuation reports for each Pension Plan shall be made available to the Board of Directors, and shall be posted on the District’s website. The District’s audited financial statements shall also be posted on the District’s because they include, among other things, information on the District’s current and future annual Pension Plan contributions as well as the funded status of each Pension Plan.

D. Annual Budget to Contain Policy Directed Information. The District’s annual operating budget shall consider the items specified in this Policy for inclusion in each such annual budget.

E. Review of Policy. Funding a defined benefit pension plan requires a long-term horizon planning approach. This Policy is intended to provide general objectives and guidelines, and as such, District staff will review the policy for implementation of new best practices and will provide to Board of Directors for adoption on an as needed basis, not to exceed 5 years.

Discussion/Action Regarding Refinancing a Portion of the District's Outstanding CalPERS Unfunded Liability and Approving the Form of Necessary Financing Documents in Connection Therewith

RECOMMENDED ACTIONS

Adopt Resolution No. 21-12-3 Authorizing the Issuance of Series 2022 Taxable Revenue Bonds to Refinance Certain Pension Obligations of the District; Approving the Forms of and Authorizing and Directing Execution and Delivery of Necessary Financing Documents in Connection Therewith; 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 safety employees. 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 \$14,764,827, (ii) Safety Second Tier Plan is \$84,484, and (iii) PEPPRA Safety Plan is \$63,961 (collectively, the "Outstanding UAL Obligation").

On September 21, 2021, the Board adopted a resolution setting forth its preliminary intention to proceed with the refinancing (hereafter called "Refinancing") of a portion Outstanding UAL Obligation balances set forth above (the "UAL Prepayment"), 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 15-20 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.

Since September 21st, the financing team, in coordination with staff, has been preparing the Refinancing and legal documents and taking required steps to complete the Refinancing, with the goal of closing in early 2022. Interest rates have been temperamental due to persistent threats of inflation. During the month of November, the municipal market has been disrupted with benchmark yields increasing by as much as 50 basis points. Due to current market volatility, the financing team has been exploring options on both a private placement option and a public sale option for the Refinancing.

OFFERING PROCESS – PUBLIC VS PRIVATE

There are two common methods of selling municipal bonds: "public offerings" and direct "private placements." Depending on a variety of factors, including the security for the bonds, the size, term and structure of the bonds, and the creditworthiness of the bonds, one or another method of sale is likely to achieve the best overall financial result (i.e., the lowest possible interest cost for a given financing term). However, there are other factors that the Board will want to consider as well, such as the time required to lock interest

rates (and the associated risks associated with rates increasing prior to rate lock), as well as the complexity and staff time requirement associated with each of the debt issuance processes.

The details of each option and the timelines to completion are outlined in the attached PowerPoint Presentation; however, the following provides a summary of the two options.

PRIVATE PLACEMENT REFINANCING OPPORTUNITY

In a direct private placement, the District would sell its bonds directly to a single investor (usually, a national bank). While there is nothing substantively different between a private placement issuance versus a public offering of bonds from a legal perspective, one of the distinct benefits of a private placement over a public offering is the ability to lock the interest rate for 30+ days while finalizing the transaction—which serves as a hedge against interest rate increases prior to closing.

Private placements have other advantages over public offerings as well, a few of which are as follows:

- Prepayment flexibility and potentially better redemption features
- Banks are generally less “forward looking” so rates tend to be less volatile than public market
- No credit rating required
- No offering document (as is the case with a public offering), which saves on costs of issuance
- No Continuing Disclosure as is the case with a public offering
- Documentation and closing can occur more quickly compared to the process for public offerings
- Banks tend to be more flexible with respect to covenants

The biggest drawback to a private placement over a public offering is that the interest rates are typically higher, and therefore the overall projected savings are less.

PUBLIC OFFERING REFINANCING OPPORTUNITY

In a public sale, the District would sell its bonds to a broker-dealer (e.g. an underwriter) who then re-sells the bonds to individual or institutional investors in the world-wide market. Public offerings are typically used for larger transactions (usually larger than \$5million), and normally result in lower overall financing costs (i.e., lower interest rates) than a private placement.

Even though public offerings typically result in lower overall financing costs (because of the lower interest rate), the costs of issuance are higher due to the required preparation of an “official statement,” and the associated reselling of the bonds by an underwriter, for which they are paid a fee (called an “underwriters discount”). The official statement, which is prepared by disclosure counsel, contains a large amount of information about the District, the District’s finances, the legal structure and the risks associated with investing in the bonds. The information that goes into the official statement is compiled and/or prepared by

District staff and is intended to present clear picture of the District's financial condition so that prospective investors can make an informed investment decision.

If the Board chooses to pursue this opportunity, and correspondingly adopts the subject Resolution, staff, with the aid of the financing team, will work with an underwriter to prepare the official statement, go through a rating process, and bring the matter back to the Board for discussion and approval—most like at a January or February Board Meeting. If all goes according to plan the matter could then be closed sometime in late February or early March 2022.

ESTIMATED SAVINGS ASSOCIATED WITH EACH REFINANCING APPROACH

The Municipal Advisor queried various underwriters and potential private placement investors and found that the overall interest rate on a public offering is presently lower (based on a snapshot of current market conditions) than private placements rates, and therefor offers the greatest potential savings, even after including the associated costs of issuance. The projected savings associated with a 20-year public offering is estimated to be \$3,862,441, whereas the projected savings associated with a 20-year private placement is estimated to be \$3,648,881—a differential \$213,560.

FINANCE COMMITTEE RECOMMENDATION

The Finance Committee, along with the help of Andrew Flynn of California Municipal Advisors, and Cameron Weist and Brianna Gonzalez of Weist Law LLP, researched and analyzed both Refinancing options.

Based upon the above information, staff is recommending that the bonds be sold on a **publicly offered basis**. Although a public offering will require more work and come with slightly elevated risks, the Finance Committee believes a public offering will result in the best overall economic outcome (i.e., less interest costs and greater savings).

The Finance Committee recommends the District set a healthy 90% target funded level for UAL debt, then take 60% of the total savings from the Refinancing and put those savings into a 115 trust account over a 10-year savings period. Setting the target funded level for UAL debt at 90% will allow the District to be prepared for future UAL cost increases. The Refinancing will put the District at a 95.6% funded level, and the extra 5.6% (95.6-90%) will act as a cushion for making additional discretionary payments to CalPERS. Additionally, 60% of the total sequestered savings from the Refinancing will be transferred from the benefitting fund into a 115 trust over the next 10 succeeding years. The 115 trust allows the District to set aside extra resources for pension funds and use those resources to help smooth volatility from year-to-year fluctuations in normal costs and UAL costs.

SUMMARY OF THE REFINANCING DOCUMENTS ASSOCIATED WITH A PUBLIC OFFERING

If the Board chooses to pursue a public offering the Refinancing Documents needed to complete this Refinancing are each briefly described as follows:

1. Indenture of Trust: This is an agreement between the District and the Trustee, which sets forth the covenants and specifics of the bond obligations, including the District's promise to make future semi-annual debt service payments, the pledge of revenues to secure the bonds, the establishment and management of funds and accounts, the District's duties, repayment mechanisms and the Trustee's rights and remedies in the event of default. The Indenture of Trust 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 the bonds being issued and any new parity debt issued in the future.
2. Payment Instructions: These are irrevocable instructions pursuant to which the proceeds of the bonds will be sent to CalPERS and used exclusively for the purpose of prepaying a portion of the Outstanding UAL Obligation.

GOOD FAITH ESTIMATES

Section 5852.1 of the Government Code of the State of California ("Section 5852.1") provides that the Board obtain and disclose, in a meeting open to the public, prior to authorization of the Bonds, good faith estimates of: (a) the true interest cost of the Bonds, (b) the finance charge of the Bonds, meaning the sum of all fees and charges paid to third parties, (c) the amount of proceeds of the Bonds received less the finance charge described above and any reserves or capitalized interest paid or funded with proceeds of the Bonds and (d) the sum total of all debt service payments on the Bonds calculated to the final maturity of the Bonds plus the fees and charges paid to third parties not paid with the proceeds of the Bonds.

In accordance with California Government Code Section 5852.1, good faith estimates of a Refinancing utilizing a public offering process are attached in Exhibit A.

In accordance with California Government Code Section 5852.1, good faith estimates of a Refinancing utilizing a private placement process are attached in Exhibit B.

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

- Increases the funded level of the Pension Plans from approximately 69.8% to approximately 95.6%
- Savings are net of all costs

FINANCIAL CONSIDERATIONS

Because the consultants have agreed to work on a fully contingent basis, there are minimal cost implications to the District. Any costs would be related to staff time spent on administrative tasks associated with the restructuring process. There is, however, interest cost savings anticipated to the District and its taxpayers as a result of the Refinancing.

ALTERNATIVES

Board discretion.

ATTACHMENTS:

- A.** Resolution No. 21-12-3
- B.** Indenture of Trust
- C.** Irrevocable Payment Instructions
- D.** PowerPoint Presentation

EXHIBIT A

GOOD FAITH ESTIMATES ASSOCIATED WITH PUBLIC OFFERING

The good faith estimates set forth herein are provided with respect to the Indenture in accordance with California Government Code Section 5852.1. Such good faith estimates have been provided to the District by California Municipal Advisors LLC, as municipal advisor to the District (the "Municipal Advisor"), with respect to the Refinancing to be accomplished through the Indenture.

Principal Amount. The Municipal Advisor has informed the District that, based on the District's Refinancing plan and current market conditions, its good faith estimate of the aggregate original amount of the principal components of the bond obligation payments (the "Obligation Payments") to be made under the Indenture is \$9,951,712 (the "Original Principal Amount").

True Interest Cost of the Refinancing. The Municipal Advisor has informed the District that, assuming the Original Principal Amount, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the true interest cost of the Refinancing, which means the rate necessary to discount the amounts payable on the respective principal and interest component dates of the Obligation Payments to the Original Principal Amount, is 3.03%.

Finance Charge of the Refinancing. The Municipal Advisor has informed the District that, assuming the Original Principal Amount, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the finance charge for the Refinancing, which means the sum of all fees and charges paid to third parties (or costs associated with the Indenture), is \$175,000.

Amount of Proceeds to be Received. The Municipal Advisor has informed the District that, assuming the Original Principal Amount, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the amount of proceeds expected to be received by the District, less the finance charge of the Refinancing, as estimated above, and any reserve fund funded with proceeds of the Refinancing, is \$9,776,712.

Total Payment Amount. The Municipal Advisor has informed the District that, assuming the Original Principal Amount, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the total payment amount, which means the sum total of all Obligation Payments the District will make, plus the finance charge for the Refinancing, as described above, not paid with the proceeds expected to be received by the District, calculated to the final Payment Date, is \$13,390,599.

The foregoing estimates constitute good faith estimates only. The actual Original Principal Amount, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual closing date being different than the date assumed for purposes of such estimates, (b) the actual original principal amount being different from the Original Principal Amount, (c) the actual principal and interest components of the Obligation Payments being different than the principal and interest components of the Obligation Payments assumed for purposes of such estimates, (d) the actual market interest rates being different than those estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the District's refinancing plan, or a combination of such factors. The actual closing date of the Indenture and the actual original principal amount will be determined by the District based on the timing of the need for proceeds and other factors. Market interest rates are affected by economic and other factors beyond the control of the District.

NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY

RESOLUTION NO. 21-12-3

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY AUTHORIZING THE ISSUANCE OF SERIES 2022 TAXABLE REVENUE BONDS TO REFUND CERTAIN PENSION OBLIGATIONS OF THE DISTRICT; APPROVING THE FORMS OF AND AUTHORIZING AND DIRECTING EXECUTION AND DELIVERY OF THE FORM OF NECESSARY FINANCING DOCUMENTS IN CONNECTION THEREWITH; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO

WHEREAS, the North County Fire Protection District of Monterey (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 (the “Board”) 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 “Unfunded Liability”) with respect to such pension benefits, and (c) appropriate funds for the purposes of paying for the pension benefits and such Unfunded Liability; and

WHEREAS, the District is legally obligated under the CalPERS Contract to pay any Unfunded Liability, 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 District desires to authorize the issuance of its North County Fire Protection District of Monterey, Series 2022 Taxable Revenue Bonds (the “Bonds”) pursuant to 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”), in a maximum principal amount not to exceed that required for the purpose of refunding and prepaying all or a portion of the District’s Unfunded Liability and to pay the costs of issuance of such Bonds, including the underwriter’s discount and any original issue discount on such Bonds; and

WHEREAS, the Bonds will be issued under and secured by an Indenture of Trust, by and between the District and The Bank of New York Mellon Trust Company, N.A., as trustee, the form of which is on file with the Secretary (such Indenture of Trust, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the “Indenture”); and

WHEREAS, to properly transact the financing arrangement, it is now appropriate and necessary for the District to approve the form of Irrevocable Payment Instructions (the “Payment Instructions”), pursuant to which the District will irrevocably agree to transfer a designated portion of the proceeds

of the Bonds directly to CalPERS to prepay a definitive portion of the Unfunded Liability in accordance with the specific terms of the Payment Instructions; and

WHEREAS, the Board wishes at this time to authorize all proceedings relating to the issuance of the Bonds, and to approve the execution and delivery of all agreements and documents relating thereto; and

WHEREAS, the Board, with the aid of its staff, has reviewed the Indenture and the Payment Instructions, the forms of which have been presented to the Board and are on file with the Secretary, and the Board wishes at this time to approve the foregoing documents (collectively, the “Bond Documents”) in the public interests of the District; and

WHEREAS, Section 5852.1 of the Government Code of the State of California (“Section 5852.1”) provides that the Board obtain and disclose, in a meeting open to the public, prior to authorization of the Bonds, good faith estimates of: (a) the true interest cost of the Bonds, (b) the finance charge of the Bonds, meaning the sum of all fees and charges paid to third parties, (c) the amount of proceeds of the Bonds received less the finance charge described above and any reserves or capitalized interest paid or funded with proceeds of the Bonds and (d) the sum total of all debt service payments on the Bonds calculated to the final maturity of the Bonds plus the fees and charges paid to third parties not paid with the proceeds of the Bonds; and

WHEREAS, in compliance with Section 5852.1, the District has obtained the required good faith estimates and such estimates are disclosed and set forth in an attachment to the staff report submitted herewith; and

WHEREAS, this action does not constitute a “Project” under California Environmental Quality Act (CEQA) Guidelines Section 15378; and

WHEREAS, all acts, conditions and procedures required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the financing authorized hereby do exist, have happened and have been performed in regular and due time, in the 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 THAT:

Section 1. Recitals and Findings. The Board hereby specifically finds and declares that each of the statements, findings and determinations set forth in the recitals set forth above are true and correct and are incorporated herein by this reference, and finds further that the Bonds are expected to result in significant public benefits to the District and its ratepayers.

Section 2. Adoption of Authorizing Procedures. The Board hereby authorizes the Bonds to be issued pursuant to the Bond Law.

Section 3. Authorization of the Bonds. The Bonds are hereby authorized to be issued pursuant to the Bond Law, payable from the revenues generated by District operations (the "Revenues"). Such Revenues constitute a trust fund for the security and payment of the principal or redemption price of and interest on the Bonds. The owners of the Bonds may not compel the exercise of the taxing power by the District or the forfeiture of its property, and the principal or redemption price of and interest on the Bonds is not a legal or equitable pledge, charge, lien or encumbrance, upon any of its property.

Section 4. Authorized Representatives. The President, Fire Chief, Administrative Officer, Secretary, and any other person authorized by the President or 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 issuance of the Bonds, 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 execution and sale of the Bonds (including, but not limited to, the Bond Documents and any documentation necessary in connection with the Bonds, such as bond ratings, bond insurance surety reserve policies or other credit enhancement for the Bonds or relating to the investment of proceeds of the Bonds), 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 the Bond Documents.

Section 5. Approval of Irrevocable Payment Instructions. The Payment Instructions, in substantially the form on file with the Secretary, are hereby approved by the Board. Any Authorized Representative, on behalf of the District, each acting alone, are hereby authorized and directed, for and in the name of the District, to execute and deliver the Payment Instructions in such form, together with such changes, insertions and omissions as may be approved by the District's general counsel, the District's Bond Counsel, and the Authorized Representative, such execution to be conclusive evidence of such approval; and the Secretary is hereby authorized and directed to attest such Indenture and affix the seal of the District thereto. The Board hereby authorizes the delivery and performance of the Payment Instructions.

Section 6. Approval of Indenture. The Bonds shall be issued pursuant to and secured by the Indenture, the form of which is on file with the Secretary and is hereby referred to and incorporated herein by this reference. The Indenture, in substantially the form on file with the Secretary, is hereby approved by the Board. Any Authorized Representative, on behalf of the District, each acting alone, are hereby authorized and directed, for and in the name of the District, to execute and deliver the Indenture in such form, together with such changes, insertions and omissions as may be approved by the District's general counsel, the District's Bond Counsel, and the Authorized Representative, such execution to be conclusive evidence of such approval; and the Secretary is hereby authorized and directed to attest such Indenture and affix the seal of the District thereto. The Board hereby authorizes the delivery and performance of the Indenture. The Trustee shall be compensated for the services rendered by it in accordance with the Indenture on the basis of the fee schedule approved from time to time by an Authorized Representative.

Section 7. Terms of the Bonds. The Bonds shall be dated, shall bear interest at the rates, shall mature on the dates, shall be issued in the form, shall be subject to redemption, and shall otherwise be issued on the terms and conditions, all as set forth in the Bond Documents and in accordance with this Resolution.

Section 8. Appointment of Trustee and Underwriter. The Board hereby appoints Hilltop Securities Inc. to serve as Underwriter for the Bonds, and The Bank of New York Mellon Trust, N.A. to serve as Trustee for the Bonds.

Section 9. Bond Documents in Substantially Final Form; Further Authority. The Bond Documents on file with the Secretary and herein approved are in substantially final form; that is, they are final as to important business terms such as the rate covenant undertaken by the District, as well as the parity bond restrictions, governing limitations on future issues of bonds secured by Revenues, but do not contain such things as the numbers resulting from the sale of the Bonds, which numbers will be inserted once the Bonds are sold, or the provisions for reserve accounts for the Bonds, which will be inserted into the Indenture if and to the extent, upon consultation with the Municipal Advisor and the Bond Counsel, that it is in the best interest of the District to utilize reserve accounts in connection with the Bonds. All Authorized Representatives of the District, each acting alone, is hereby authorized and directed to execute, and the Secretary is hereby authorized and directed to attest to the final form of the Bond Documents for and in the name and on behalf of the District, and the execution thereof shall be conclusive evidence of the Board's approval of any such additions and changes.

Section 10. Rating, Municipal Bond Insurance and Surety Bond. The respective Authorized Representatives, each acting alone, are hereby authorized and directed to take all actions necessary to obtain a rating, municipal bond insurance policy and a reserve account surety bond for the Bonds from a municipal bond insurance company if it is determined, upon consultation with the Municipal Advisor and Bond Counsel, that such municipal bond insurance policy and/or surety bond will reduce the interest cost or increase savings with respect to the Bonds.

Section 11. Taxable Bond Act. The Board hereby determines that interest payable on the Bonds 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 Bonds. 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 Bonds.

Section 12. 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 13. 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 at a meeting thereof on the 21st day of December 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

BY:

Don Chapin, President

ATTEST:

Ramon Gomez, Secretary

INDENTURE OF TRUST

by and between the

NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY

and

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee**

Dated as of ____ __, 2022

Relating to

**\$ _____
NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY
(Monterey County)
SERIES 2022 TAXABLE REVENUE BONDS
(CalPERS UAL Prepayment Project)**

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INDENTURE OF TRUST

THIS INDENTURE OF TRUST (the “Indenture”), made and entered into as of ____ 1, 2022, by and between the NORTH COUNTY FIRE PROTECTION DISTRICT OF MONTEREY, a fire protection district organized and existing under the constitution and laws of the State of California (the “District”), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United State of America, with a corporate trust office in San Francisco, California, and being qualified to accept and administer the trusts hereby created, as trustee (the “Trustee”);

WITNESSETH:

WHEREAS, the District owns and operates the fire protection and emergency services system within the service area of the District (the “Fire Protection and Emergency Services System”); and

WHEREAS, the District is a member of the California Public Employees’ Retirement System (“CalPERS”) and, as such, 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 (as amended, the “CalPERS Contract”), to make contributions to CalPERS to (a) fund pension benefits for its employees who are members of CalPERS, (b) amortize the unfunded actuarial accrued liability (the “UAL”) with respect to such pension benefits, and (c) appropriate funds for the purposes pension benefits and such UAL; and

WHEREAS, the District is legally obligated under the CalPERS Contract to pay any 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 District, after due investigation and deliberation, has determined that it is in the interests of the District at this time to provide for the issuance of its \$ _____ North County Fire Protection District of Monterey, Series 2022 Taxable Revenue Bonds (CalPERS UAL Prepayment Project) (the “Series 2022 Bonds”) pursuant to Articles 10 (commencing with Section 53570) and 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the “Bond Law”), a Resolution adopted by the Board of Directors of the District on December 21, 2021 (the “Resolution”) and this Indenture for the purpose of refunding certain of the District’s financial obligations set forth in the CalPERS Contract, and paying the costs of issuing the Series 2022 Bonds; and

WHEREAS, the Series 2022 Bonds will be secured by a pledge of the Revenues, as defined herein, of the Fire Protection and Emergency Services System and certain other moneys and securities held by the District and the Trustee hereunder; and

WHEREAS, in order to provide for the authentication and delivery of the Series 2022 Bonds, to establish and declare the terms and conditions upon which the Series 2022 Bonds are to be issued and secured and to secure the payment of the principal thereof and of the interest and premium, if any, thereon, the Board has authorized the execution and delivery of this Indenture; and

WHEREAS, all acts and proceedings required by law necessary to make the Series 2022 Bonds, when executed by the District, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal special obligations of the District, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth, in accordance with its terms, have been done and taken; and the execution and delivery of this Indenture have been in all respects duly authorized.

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that in order to secure the payment of the principal of and the interest and premium (if any) on all Series 2022 Bonds at any time issued and Outstanding under this Indenture, according to their tenor, 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 Series 2022 Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Series 2022 Bonds by the Owners thereof, and for other valuable considerations, the receipt whereof is hereby acknowledged, the District does hereby covenant and agree with the Trustee, for the benefit of the respective Owners from time to time of the Series 2022 Bonds, as follows:

ARTICLE I

DEFINITIONS; AUTHORIZATION AND PURPOSE OF BONDS; EQUAL SECURITY

SECTION 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section shall for all purposes of this Indenture and of any Parity Obligation Instrument and of the Series 2022 Bonds and of any certificate, opinion, request or other documents herein mentioned have the meanings herein specified.

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

(i) An allowance for Net Revenues from any additions or improvements to the Fire Protection and Emergency Services System to be made with the proceeds of such Parity Obligations and also for Net Revenues from any such additions or improvements 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 Obligations, 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 or improvements for the first 36 month period in which each addition or improvement is respectively to be in operation, all as shown by the certificate or opinion of an Independent Consultant retained by the District.

(ii) An allowance for Net Revenues arising from any increase in the charges made for service from the Fire Protection and Emergency Services System which has become effective prior to the incurring of such Parity Obligations 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 Obligations, 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 Financial Consultant employed by the District.

“Authorized Representative” means the President of the Board, Fire Chief, Administrative Officer, Secretary, or the designee of either the President or Fire Chief.

“Average Annual Debt Service” means the total aggregate Debt Service for the entire period during which the Bonds are Outstanding divided by the number of Fiscal Years or portions thereof during which the Bonds are Outstanding.

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

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

“Bond Law” means Articles 10 (commencing with Section 53570) and 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California.

“Bond Registration Books” means the books maintained by the Trustee pursuant to Section 2.08 for the registration and transfer of ownership of the Series 2022 Bonds.

“Bond Proceeds Fund” means the fund established and held by the Trustee pursuant to Section 3.02.

“Bonds” means, collectively, the Series 2022 Bonds and any Parity Obligations issued and at any time Outstanding hereunder.

“Bond Year” means the twelve-month period beginning on [February] 2 in each year and ending on [February] 1 in the following year except that (i) the first Bond Year with respect to the Series 2022 Bonds shall begin on the Closing Date, and (ii) the last Bond Year with respect to the

Series 2022 Bonds may end on a redemption date prior to maturity of the Series 2022 Bonds or the final maturity date of the Series 2022 Bonds.

“Business Day” means any day other than a Saturday, Sunday or a day on which the Trustee is authorized by law to remain closed.

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

“Certificate of the District” means a certificate in writing signed by the Authorized Representative or by any other officer of the District duly authorized by the Board for that purpose.

“Charges” means fees, tolls, assessments, rates and charges prescribed by the Board for the services and facilities of the Fire Protection and Emergency Services System furnished by the District.

“Closing Date” means, with respect to the Series 2022 Bonds, the date upon which there is an exchange of the Series 2022 Bonds for the proceeds representing the purchase of such Series by the Original Purchaser thereof.

“Continuing Disclosure Certificate” means that certain Continuing Disclosure Certificate executed and delivered by the District and acknowledged and accepted by the dissemination agent listed therein, dated the date of original execution and delivery of the Series 2022 Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Costs of Issuance Fund” means the fund by that name established pursuant to Section 3.04.

“Costs of Issuance” means all expenses incurred in connection with the authorization, issuance, sale and delivery of the Series 2022 Bonds, including but not limited to compensation, fees and expenses of the District and the Trustee and their respective counsel, compensation to any financial consultants and underwriters, legal fees and expenses, municipal bond insurance or surety bond premiums, filing and recording costs, rating agency fees, costs of preparation and reproduction of documents and costs of printing.

“Debt Service” The term “Debt Service” means, for any period of calculation, the sum of:

(1) the interest payable during such period on all outstanding Bonds, assuming that all outstanding Serial Bonds are retired as scheduled and that all outstanding Term Bonds are redeemed or paid from Sinking Fund Installments as scheduled (except to the extent that such interest is capitalized or is reasonably anticipated to be reimbursed to the District by the United States of America pursuant to Section 54AA of the Code (Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009), or any future similar program);

(2) those portions of the principal amount of all Outstanding Serial Bonds maturing in such period; and

(3) those portions of the principal amount of all Outstanding Term Bonds required to be redeemed or paid in such period;

provided, as to any such Bonds bearing or comprising interest at other than a fixed rate, the rate of interest used to calculate Debt Service shall be the greater of: (a) the actual interest rate on such Bonds on the date of calculation, or if the indebtedness is not yet outstanding, the initial interest rate (if established and binding); (b) if the Bonds have been outstanding for at least twelve months, the average rate over the twelve calendar months immediately preceding the date of calculation; and (c)(i) if interest on the indebtedness is excludable from gross income under the applicable provisions of the Tax Code, the most recently published Securities Industry and Financial Markets Association Index for tax-exempt variable rate obligations; or (ii) if interest is not so excludable, the interest rate on direct U.S. Treasury Obligations with comparable maturities plus 50 basis points; provided, however, that for purposes of any portion of Section 3.05 (Issuance of Parity Obligations) and Section 5.12 (Rates and Charges), measuring actual debt service coverage during a test period, variable rate indebtedness shall be deemed to bear interest at the actual rate per annum applicable during the test period; and

provided further that, if any series or issue of such Bonds have twenty-five percent (25%) or more of the aggregate principal amount of such series or issue due in any one year, Debt Service shall be determined for the Fiscal Year of determination as if the principal of and interest on such series or issue of such Bonds were being paid from the date of incurrence thereof in substantially equal annual amounts over a period of twenty-five (25) years from the date of calculation; and

provided further that, as to any such Bonds or portions thereof bearing no interest but which are sold at a discount and which discount accretes with respect to such Bonds or portions thereof, such accreted discount shall be treated as interest in the calculation of Debt Service; and

provided further that, the amount on deposit in a debt service reserve fund on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the Bonds for which such debt service reserve fund was established and in each preceding year until such amount is exhausted; and

provided further that, Debt Service shall not include interest which is paid from investment earnings on amounts on deposit in reserve funds and transferred to the Debt Service Fund.

“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.

“Debt Service Fund” means the fund by that name established and held by the Trustee pursuant to Section 4.03.

“Defeasance Securities” means any of the following: (a) non-callable direct obligations of the United States of America (“Treasury”), (b) evidence of ownership of proportionate interests

in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, and (c) pre-refunded municipal obligations rated "AAA" and "Aaa" by S&P and Moody's, respectively (or any combination thereof), which shall be authorized to be used to effect defeasance of the Bonds.

"Depository" means (a) initially, DTC, and (b) any other Securities Depositories acting as Depository pursuant to Section 2.11.

"Depository System Participant" means any participant in the Depository's book-entry system.

"District" or "Issuer" means the North County Fire Protection District of Monterey, a fire protection district duly organized and validly existing under and pursuant to the Constitution and laws of the State, and any successor thereto.

"DTC" means The Depository Trust Company, New York, New York, and its successors and assigns.

"Equipment Lease" means an equipment lease or installment sale agreement whereby the District leases/acquires equipment for its Fire Protection and Emergency Services System operations, and whereby the sole source of collateral is the equipment being leased or acquired.

"Event of Default" means any of the events described in Section 8.01.

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

"Fire Protection and Emergency Services System" means, collectively, the entire fire protection 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, 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.

“GAAP” or “Generally Accepted Accounting Principles” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, that are applicable to the circumstances as of the date of determination.

“Fiscal Year” means the period commencing on July 1 of each year and terminating on the next succeeding June 30.

“Improvement” means any addition, extension, improvement, equipment, machinery or other facilities to or for the Fire Protection and Emergency Services System.

“Indenture” means this Indenture of Trust, as originally executed or as it may from time to time be supplemented, modified or amended pursuant to the provisions hereof.

“Independent Certified Public Accountant” means any certified public accountant or firm of such accountants appointed and paid by the District, and who, or each of whom-

- (a) is in fact independent and not under domination of the District;
- (b) does not have any substantial identity of interest, direct or indirect, with the District;
and
- (c) is not and no member of which is connected with the District as an officer or employee of the District, but who may be regularly retained to make annual or other audits of the books of or reports to the District.

“Independent Consultant” means any financial or engineering consultant with an established reputation in the field of municipal finance or firm of such consultants appointed and paid by the District, and who, or each of whom-

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

(b) does not have any substantial identity of interest, direct or indirect, with the District; and

(c) is not and no member of which is connected with the District as an officer or employee of the District.

“Information Services” means in accordance with then-current guidelines of the Securities and Exchange Commission, the Electronic Municipal Market Access System (referred to as EMMA”), a facility of the Municipal Securities Rulemaking Board (at <http://emma.msrb.org>), or such service or services as the District may designate in a certificate delivered to the Trustee.

“Interest Payment Date” means, with respect to the Series 2022 Bonds, [February] 1 and [August] 1 in each year, beginning [August] 1, 2022, and with respect to any Parity Obligations, any date on which interest is due and payable thereon, and continuing so long as any Bonds or Parity Obligations remain Outstanding.

“Interest Requirement” means, as of any particular date of calculation, the amount equal to any unpaid interest then due and payable, plus an amount that will on the next succeeding Interest Payment Date be equal to the interest to become due and payable on Series 2022 Bonds or Parity Obligations on such next succeeding Interest Payment Date or payment date for interest on Parity Obligations.

“Irrevocable Payment Instructions” means the written irrevocable payment instructions dated as of ____ 1, 2022, given by the District to the Trustee relating to the wire transfer of a certain portion of the proceeds of the Bonds, and the corresponding prepayment of a definitive portion of the UAL.

“Maintenance and Operation Costs” means reasonable and necessary costs spent or incurred for maintenance and operation of the Fire Protection and Emergency Services System calculated in accordance with GAAP, including (among other things) the reasonable and necessary expenses of management and repair and other expenses necessary to maintain and preserve the Fire Protection and Emergency Services System in good repair and working order, including, but not limited to, salaries and wages of employees, payments to the Public Employees Retirement System, overhead, insurance, taxes (if any), fees of auditors, accountants, attorneys, consultants or engineers and insurance premiums, and including all other reasonable and necessary costs of the District or charges, but excluding (i) debt service payments or other similar payments on the Parity Obligations or other obligations required to be paid by it to comply with the terms of this Indenture or any contract or resolution or indenture authorizing the issuance of any bonds or obligations, and (ii) depreciation, replacement and obsolescence charges or reserves therefor and amortization of intangibles or other bookkeeping entries of a similar nature.

“Maximum Annual Debt Service” means, as of the date of calculation, the maximum amount of Debt Service for the current or any future Fiscal Year, or other annualized period of time for which such calculation is required to be made.

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

“Net Revenues” means, with respect to the Fire Protection and Emergency Services System, for any period of computation, the amount of the Revenues received from the Fire Protection and Emergency Services System during such period, less the amount of Maintenance and Operation Costs of the Fire Protection and Emergency Services System becoming payable during such period.

“Original Purchaser” means, in the case of the Series 2022 Bonds, _____, as the original underwriter for the Bonds.

“Outstanding”, when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 7.03) hereof all Bonds theretofore executed, issued and delivered by the District under this Indenture except:

(a) Bonds theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation;

(b) Bonds paid or deemed to have been paid within the meaning of Section 9.03 hereof;

(c) Bonds in lieu of or in substitution for which other Bonds shall have been executed, issued and delivered by the District pursuant to this Indenture or any Parity Obligation Instrument; and

(d) Bonds that have become due (at maturity, on redemption, or otherwise) and for the payment of which sufficient moneys, including interest accreted or accrued to the due date, are held by the Trustee.

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

“Parity Obligation” means any obligation or indebtedness (including leases and installment sale agreements, bonds or contracts) hereafter issued or incurred and secured by a pledge of and lien upon the Revenues issued or incurred in compliance with Section 3.05 or 3.06 hereof.

“Parity Obligation Instrument” means the resolution, trust indenture or installment sale agreement or other evidence of indebtedness adopted, entered into or executed and delivered by the District, and under which Parity Obligations are issued.

“Participating Underwriter” has the meaning ascribed thereto in the Continuing Disclosure Certificate.

“Permitted Investments” means the following:

(1) Direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America (“U.S. Government Securities”).

(2) Direct obligations* of the following federal agencies which are fully guaranteed by the full faith and credit of the United States of America:

- a. Export-Import Bank of the United States – Direct obligations and fully guaranteed certificates of beneficial interest
- b. Federal Housing Administration – debentures
- c. General Services Administration – participation certificates
- d. Government National Mortgage Association (“GNMAs”) – guaranteed mortgage-backed securities and guaranteed participation certificates
- e. Small Business Administration – guaranteed participation certificates and guaranteed pool certificates
- f. U.S. Department of Housing & Urban Development – local authority bonds
- g. U.S. Maritime Administration – guaranteed Title XI financings
- h. Washington Metropolitan Area Transit Authority – guaranteed transit bonds

(3) Direct obligations* of the following federal agencies which are not fully guaranteed by the faith and credit of the United States of America:

- a. Federal National Mortgage Association (“FNMA”) – senior debt obligations rated Aaa by Moody’s and AAA by S&P
- b. Federal Home Loan Mortgage Corporation (“FHLMCs”) – participation certificates and senior debt obligations rated Aaa by Moody’s and AAA by S&P
- c. Federal Home Loan Banks – consolidated debt obligations
- d. Student Loan Marketing Association – debt obligations
- e. Resolution Funding Corporation – debt obligations

(4) Direct, general obligations of any state of the United States of America or any subdivision or agency thereof whose uninsured and unguaranteed general obligation debt is rated, at the time of purchase, A2 or better by Moody’s and A or better by S&P, or any obligation

*The following are explicitly excluded from the securities enumerated in 2 and 3:

- (i) All derivative obligations, including without limitation inverse floaters, residuals, interest-only, principal-only and range notes;
- (ii) Obligations that have a possibility of returning a zero or negative yield if held to maturity;
- (iii) Obligations that do not have a fixed par value or those whose terms do not promise a fixed dollar amount at maturity or call date; and
- (iv) Collateralized Mortgage-Backed Obligations (“CMOs”).

fully and unconditionally guaranteed by any state, subdivision or agency whose uninsured and unguaranteed general obligation debt is rated, at the time of purchase, A2 or better by Moody's and A or better by S&P.

(5) Commercial paper (having original maturities of not more than 270 days) rated, at the time of purchase, P-1 by Moody's and A-1 or better by S&P.

(6) Certificates of deposit, savings accounts, deposit accounts or money market deposits in amounts that are continuously and fully insured by the Federal Deposit Insurance Corporation ("FDIC"), including the Bank Insurance Fund and the Savings Association Insurance Fund, and including funds for which the Trustee or its affiliates provide investment advisory or other management services.

(7) Certificates of deposit, deposit accounts, federal funds or bankers' acceptances (in each case having maturities of not more than 365 days following the date of purchase) of any domestic commercial bank or United States branch office of a foreign bank, provided that such bank's short-term certificates of deposit are rated P-1 by Moody's and A-1 or better by S&P (not considering holding company ratings).

(8) Investments in money-market funds rated AAAM or AAAM-G by S&P, including funds for which the Trustee and its affiliates provide investment advisory or other management services.

(9) Repurchase agreements that meet the following criteria:

a. A master repurchase agreement or specific written repurchase agreement, substantially similar in form and substance to the Public Securities Association or Bond Market Association master repurchase agreement, governs the transaction.

b. Acceptable providers shall consist of (i) registered broker/dealers subject to Securities Investor's Protection Corporation ("SIPC") jurisdiction or commercial banks insured by the FDIC, if such broker/dealer or bank has an uninsured, unsecured and unguaranteed rating of A3/P-1 or better by Moody's and A-/A-1 or better by S&P, or (ii) domestic structured investment companies rated Aaa by Moody's and AAA by S&P.

c. The repurchase agreement shall require termination thereof if the counterparty's ratings are suspended, withdrawn or fall below A3 or P-1 from Moody's, or A- or A-1 from S&P. Within ten (10) days, the counterparty shall repay the principal amount plus any accrued and unpaid interest on the investments.

d. The repurchase agreement shall limit acceptable securities to U.S. Government Securities and to the obligations of GNMA, FNMA or FHLMC described in 2(d), 3(a) and 3(b) above. The fair market value of the securities in relation to the amount of the repurchase

obligation, including principal and accrued interest, is equal to a collateral level of at least 104% for U.S. Government Securities and 105% for GNMA's, FNMA's or FHLMC's. The repurchase agreement shall require (i) the Trustee or the Agent to value the collateral securities no less frequently than weekly, (ii) the delivery of additional securities if the fair market value of the securities is below the required level on any valuation date, and (iii) liquidation of the repurchase securities if any deficiency in the required percentage is not restored within two (2) business days of such valuation.

e. The repurchase securities shall be delivered free and clear of any lien to the Trustee or to an independent third party acting solely as agent ("Agent") for the Trustee, and such Agent is (i) a Federal Reserve Bank, or (ii) a bank which is a member of the FDIC and which has combined capital, surplus and undivided profits or, if appropriate, a net worth, of not less than \$50 million, and the Trustee shall have received written confirmation from such third party that such third party holds such securities, free and clear of any lien, as agent for the Trustee.

f. A perfected first security interest in the repurchase securities shall be created for the benefit of the Trustee, and the issuer and the Trustee shall receive an opinion of counsel as to the perfection of the security interest in such repurchase securities and any proceeds thereof.

g. The repurchase agreement shall have a term of one year or less, or shall be due on demand.

h. The repurchase agreement shall establish the following as events of default, the occurrence of any of which shall require the immediate liquidation of the repurchase securities:

- (i) insolvency of the broker/dealer or commercial bank serving as the counterparty under the repurchase agreement;
- (ii) failure by the counterparty to remedy any deficiency in the required collateral level or to satisfy the margin maintenance call under item 9(d) above; or
- (iii) failure by the counterparty to repurchase the repurchase securities on the specified date for repurchase.

(10) Investment agreements, collateralized at 102%, (also referred to as guaranteed investment contracts) that meet the following criteria:

a. A master agreement or specific investment agreement governs the transaction.

b. Acceptable providers of uncollateralized investment agreements shall consist of (i) domestic FDIC-insured commercial banks, or U.S. branches of foreign banks, rated at least Aa2 by Moody's and AA by S&P; (ii) domestic