

10-10-18 Jones Hall Draft

ASSIGNMENT AGREEMENT

This ASSIGNMENT AGREEMENT (this "Agreement"), dated as of November 1, 2018, is between the CITY OF MOUNTAIN VIEW CAPITAL IMPROVEMENTS FINANCING AUTHORITY, a joint exercise of powers authority organized and existing under the laws of the State of California (the "Financing Authority"), and OPUS BANK, a California commercial bank, as assignee (the "Assignee").

BACKGROUND:

1. The City of Mountain View (the "City") operates an enterprise system for the collection, transmission, treatment and disposal of wastewater within the service area of the City (the "Wastewater System").

2. The City wishes to finance certain improvements to the Wastewater System (the "Project").

3. In order to provide funds to finance the Project, the City and the Financing Authority have entered into an Installment Sale Agreement dated as of November 1, 2018 (the "Installment Sale Agreement"), under which the City has agreed to purchase the Project from the Financing Authority and to pay semiannual installment payments (the "Installment Payments") as the purchase price thereof, and the Financing Authority wishes to assign its rights, title and interest under the Installment Sale Agreement, including the right to receive the Installment Payments, to the Assignee as provided herein.

AGREEMENT:

In consideration of the material covenants contained in this Agreement, the parties hereto hereby formally covenant, agree and bind themselves as follows:

SECTION 1. *Defined Terms.* All capitalized terms not otherwise defined herein have the respective meanings given those terms in the Installment Sale Agreement.

SECTION 2. *Assignment.* The Financing Authority hereby assigns to the Assignee all of the Financing Authority's rights, title and interest under the Installment Sale Agreement (excepting only the Financing Authority's duties, obligations, responsibilities and covenants under Section 5.2 of the Installment Sale Agreement), including but not limited to:

- (a) the right to receive and collect all of the Installment Payments from the City under the Installment Sale Agreement,
- (b) the right to receive and collect any proceeds of any insurance maintained thereunder with respect to the Project, or any eminent domain award (or proceeds of sale under threat of eminent domain) paid with respect to the Project, and

- (c) the right to exercise such rights and remedies conferred on the Financing Authority under the Installment Sale Agreement as may be necessary or convenient (i) to enforce payment of the Installment Payments and any amounts required to be credited to the payment or prepayment thereof, or (ii) otherwise to protect the interests of the Financing Authority in the event of a default by the City under the Installment Sale Agreement.

SECTION 3. *Financing Authority Representations, Warranties and Covenants.* The Financing Authority hereby represents, warrants and covenants to and with the Assignee that:

- (a) The Installment Sale Agreement is free and clear of all claims, liens, security interests, encumbrances of any kind or character created by, through or under the Financing Authority, except the rights of the City thereunder, and except as contemplated in the Installment Sale Agreement. The Installment Sale Agreement is and shall remain free of all claims, liens, security interests and encumbrances arising through any act or omission of the Financing Authority.
- (b) The Financing Authority has complied with and performed all of its obligations under the Installment Sale Agreement and all related documents and instruments.
- (c) The Installment Sale Agreement delivered to the Assignee herewith is an original and constitutes the entire writing, obligation and agreement between the Financing Authority and City respecting the Installment Payments due thereunder.

SECTION 4. *Acceptance.* The Assignee hereby accepts the assignments made herein.

SECTION 5. *Further Assurances.* The Financing Authority shall, from time to time at the request of the Assignee, execute and deliver such further acknowledgments, agreements and instruments of assignment, transfer and assurance, and do all such further acts and things as may be necessary or appropriate in the reasonable opinion of the Assignee to give effect to the provisions hereof and to more perfectly confirm the rights, titles and interests hereby assigned and transferred to the Assignee.

SECTION 6. *Execution in Counterparts.* This Agreement may be executed in any number of counterparts, each of which is an original and all together constitute one and the same agreement. Separate counterparts of this Agreement may be separately executed by the Assignee and the Financing Authority, both with the same force and effect as though the same counterpart had been executed by the Assignee and the Financing Authority.

SECTION 7. *Binding Effect.* This Agreement inures to the benefit of and binds the Financing Authority and the Assignee, and their respective successors and assigns, subject, however, to the limitations contained herein.

SECTION 8. *Governing Law.* This Agreement is governed by the Constitution and laws of the State of California.

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

**CITY OF MOUNTAIN VIEW CAPITAL
IMPROVEMENTS FINANCING AUTHORITY, as
Assignor**

By _____
Manager

OPUS BANK, as Assignee

By _____
Dmitry Semenov, Senior Managing Director,
Public Finance