

PAYING AGENCY AGREEMENT

This **Paying Agency Agreement** (the "Agreement"), entered into as of the ___ day of _____, 2018 by and between **San Rafael City Elementary School District** (the "Issuer") and **The Bank of New York Mellon Trust Company, N.A.**, a national banking association with its corporate trust office at San Francisco, California (the "Paying Agent"),

WITNESSETH:

WHEREAS, by Resolution of the Board of Education of the Issuer dated _____, 2018 (the "Authorization"), the Issuer authorized the issuance of its Bonds as described in **Exhibit A** attached hereto (the "Bonds") and

WHEREAS, said Authorization authorized the Issuer to enter into an agreement of appointment with a bond registrar/transfer agent and paying agent to service such Bonds.

NOW, THEREFORE, the Issuer and the Paying Agent agree as follows:

Section 1. Appointment and Acceptance. The Issuer hereby appoints The Bank of New York Mellon Trust Company, N.A. as Bond Registrar/Transfer Agent and Paying Agent for the Bonds, and the Paying Agent accepts such appointments, acknowledging the duties, obligations and responsibilities of the Paying Agent as set forth herein.

Section 2. Documents to be Filed with the Paying Agent. The following documents shall be filed with the Paying Agent in connection with its appointment:

- (i) a copy of the Authorization.
- (ii) if not printed on the Bonds, an opinion of bond counsel stating that (a) the Bonds are valid and legally binding obligations of the Issuer, payable in accordance with their terms and (b) the interest on such Bonds is not included in gross income for federal income tax purposes;
- (iii) a specimen certificate in the form approved by the Issuer;
- (iv) if the Bonds have been delivered prior to the Paying Agent's appointment:
 - (1) a list containing the name, address and taxpayer identification number of each Bondholder as of the date of Paying Agent's appointment, indicating the date of issuance, the authentication date, the certificate number and the denomination for each outstanding certificate, and
 - (2) a list of stop transfer orders maintained by the Issuer (or its predecessor paying agent) against outstanding Bond certificates giving details as to certificate numbers, denominations, names of registered owners and dates of stop transfer orders, and, if such certificates have been replaced, the numbers and denominations of the replacement certificates, dates of

replacements and documents evidencing the indemnity accepted in connection with the issuance of the replacement certificates; and

- (v) such other instruments and certificates as the Paying Agent may reasonably request.

Section 3. Registration, Authentication and Delivery of Initial Bonds. If the Bonds are to be newly issued, the Issuer will, or will cause its underwriter to:

- (i) deliver to Paying Agent, not later than five (5) business days prior to the required delivery date, written notice setting forth the maturity date, principal amount and interest rate borne by the Bonds;
- (ii) notify the Paying Agent in writing, not later than three (3) business days prior to the required delivery date, of the name(s) in which Bonds are to be registered, the mailing addresses of the respective registered holders and their respective taxpayer identification numbers, and the quantity, denominations, interest rates, maturity dates and CUSIP numbers of the certificates to be issued to each registered holder.

The Paying Agent shall inscribe the Bonds as directed in Section 3(ii) above, authenticate the initial Bonds and deliver same in accordance with the written directions of the Issuer or its underwriter. If delivered before the Closing, such initial Bonds shall remain subject to the control of the Paying Agent, as agent for the Issuer, until released by the Paying Agent.

Section 4. Transfer or Exchange of Certificates. The Paying Agent is authorized, empowered and directed to inscribe, to countersign or authenticate as registrar, and to record and deliver new certificates for Bonds of the Issuer pursuant to requests for transfer and cancellation of other certificates theretofore outstanding, or to replace lost, destroyed, stolen or mutilated certificates, as provided in Section 6 hereof.

If the transfer and/or exchange of the Bond certificate shall have been documented in the manner authorized or required by law, and if the rules and regulations of the Issuer and of the Paying Agent, governing the transfer and registration of the Bonds shall have been met, then the Paying Agent shall cancel such certificate being transferred and/or exchanged and shall inscribe, authenticate, record and deliver a new certificate for the Bonds so transferred or exchanged. In the transfer of Bond certificates, the Paying Agent may require a guarantee of signature by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

The Paying Agent shall incur no liability for the refusal in good faith to make transfers which it, in its judgment, deems improper or unauthorized. The Paying Agent may, in effecting transfers, rely upon the Uniform Commercial Code of the State of California and/or the rules of the Stock Transfer Association, Inc.

Section 5. Bond Certificates. The Issuer will furnish to the Paying Agent a sufficient supply of blank Bond certificates and, from time to time, will replenish such supply upon request of the Paying Agent. Such blank Bond certificates shall be signed by officers of the Issuer, authorized by the Issuer to sign Bond certificates, and shall bear the seal of the Issuer or shall bear, to the extent permitted by law, the

facsimile signature of each such officer and a facsimiles of the seal. If an officer of the Issuer, whose signature appears on any Bond certificate, ceases to be an officer of the Issuer before delivery of said Bond certificate, such signature nevertheless shall be valid and sufficient for all purposes, the same as if such officer of the Issuer had remained in office until such delivery and the Paying Agent may inscribe, authenticate, and deliver such certificate as being that of the Issuer whose signature properly shall have been inscribed on such Bond certificate prior to its issuance.

Section 6. Records of Certificates; Lost or Destroyed Certificates. The Paying Agent may open and keep such books and other records, including a bond register, as shall be required for, or convenient in, the performance of its duties. If Bonds have been issued and delivered prior to the Paying Agent's appointment, the Paying Agent may accept and adopt as a part of such records all lists of holders of records as may have been employed by any former bond registrar/transfer agent and paying agent for such Bonds if certified by such former bond registrar/transfer agent and paying agent. The Paying Agent shall use such list of holders of record of the Issuer's Bond certificates as sufficient basis for its records and verification of Bond certificates therein described.

Upon receiving instructions from the Issuer and indemnity satisfactory to the Paying Agent and the Issuer, the Paying Agent may inscribe, authenticate and deliver, to the persons entitled thereto, new certificates in place of certificates represented to have been lost, stolen or destroyed and likewise may issue a new certificate in exchange for, and upon surrender of, an identifiable mutilated certificate.

Section 7. Payments of Interest and Principal. The Paying Agent shall act as Paying Agent for the Bonds and in such capacity it shall:

- (i) with funds provided by Issuer, pay the interest upon the Bonds by mailing checks to the persons entitled to receive such interest, as determined by the registry of the Issuer maintained by the Paying Agent, provided that Issuer shall have deposited with the Paying Agent, on or before the day upon which interest checks are to be mailed, sufficient funds to cover payment of such interest;
- (ii) with funds provided by Issuer, pay the principal amount (including premium, if any) of the Bonds to the registered holders of such Bonds, upon the maturity date or earlier redemption date upon which the principal is to become payable and upon delivery to the Paying Agent of a Bond certificate with respect to which such principal payment shall have become payable, provided that the Issuer shall have deposited with the Paying Agent, on or before the payment date, sufficient immediately available funds to pay the aggregate principal amount (including premium, if any) due on all Bonds so payable;
- (iii) if a Bondholder shall report to the Paying Agent that any check so mailed for the payment of interest or principal has been lost and that the proceeds thereof, have not been received and if the check has not been paid then, upon execution of an indemnity agreement satisfactory to the Paying Agent and the Issuer, stop payment upon such check, and issue and deliver to such Bondholder a new check for like amount; provided, however, that it may, at its discretion, defer the issuance of the new check for a reasonable period of time;

- (iv) record the fact of payment and cancel Bonds surrendered to it for payment, coincident with such payment being made to the person thereto entitled; and
- (v) have no liability for interest on any funds received by it; any unclaimed funds remaining in the possession of the Paying Agent for payment of the Bonds will be escheated in accordance with applicable law and the Paying Agent's policies and procedures.

Section 8. Redemption Prior to Stated Maturity. If the Bonds are subject to redemption prior to their stated maturity date(s), the Paying Agent shall be governed by the redemption provisions set forth in the Authorization or as stated in the provisions as set forth on the bond form. The Paying Agent shall not be required to transfer any Bond, or portion thereof, that has been called for redemption. Payment of the principal amount (including premium, if any) of any Bond, or portion thereof, called for redemption shall be made by check payable to the registered owner, only upon presentation of the Bond, at the designated corporate trust office of the Paying Agent on or after the redemption date. Where the entire principal amount of the Bond has not been called for redemption, a new Bond of the same series, maturity and interest rate in the amount of the unredeemed portion will be issued to the registered holder or its assignee. Whether or not promptly submitted for redemption, interest on any Bond, or portion thereof, called for redemption shall cease to accrue on and after the redemption date provided that sufficient moneys therefore are on deposit with the Paying Agent.

Section 9. Payment of Costs of Issuance. The Issuer and the Paying Agent agree as follows:

The Paying Agent will receive funds from the Issuer or the purchaser of the Bonds and place the funds in an account established by the Paying Agent in the name of the Issuer and referencing the Bonds (the "Elementary School District COI Account").

The Paying Agent will hold (pending receipt of disbursement instructions) funds until the 90th day following the date hereof, which date is _____, 2018. All funds in the Elementary School District COI shall be held uninvested in cash. The Paying Agent shall not invest any cash held hereunder in the absence of timely and specific written direction from the Issuer. In no event shall the Paying Agent be liable for the selection of investments or for investment losses incurred thereon. The Paying Agent shall have no liability in respect of losses incurred as a result of the liquidation of any investment prior to its stated maturity or the failure of the Issuer to provide timely written investment direction. The Paying Agent may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge its ordinary and customary fees for such trades, including cash sweep account fees. The Paying Agent may conclusively rely upon such written direction from the Issuer as to both the suitability and legality of the directed investments. The Issuer acknowledges that regulations of the Comptroller of the Currency grant the Issuer the right to receive brokerage confirmations of the security transactions as they occur, at no additional cost. To the extent permitted by law, the Issuer specifically waives compliance with 12 C.F.R. 12 and hereby notifies the Paying Agent that no brokerage confirmations need be sent relating to the security transactions as they occur.

The Paying Agent will pay costs of issuance of the Bonds from funds on deposit in the Elementary School District COI as directed by the Issuer in writing from time to time. Any balances remaining in the Elementary School District COI (including any earnings) on _____, 2018 shall be transferred to the Treasurer-Tax Collector of Marin County for deposit to the Building Fund held on behalf of the Issuer.

Section 10. Compensation; Indemnification. The Issuer agrees to pay the Paying Agent fees as set forth in **Exhibit B** attached hereto and made a part hereof, and, if applicable, to reimburse Paying Agent for its out-of-pocket expenses (including without limitation attorneys' fees and expenses). The Issuer assumes full responsibility and, to the extent permitted by law, will indemnify the Paying Agent and its officers, directors, agents and employees and save it and them harmless from and against any and all actions or suits, whether groundless or otherwise, and from and against any and all losses, liabilities, costs and expenses (including attorneys' fees and expenses) arising out of the agency relationship created by this Agreement, unless such losses, liabilities, costs and expenses shall have been finally adjudicated to have resulted from the bad faith or gross negligence of the Paying Agent, and such indemnification shall survive the Paying Agent's resignation or removal for any reason, or the termination of this Agreement.

Section 11. Instructions From the Issuer and Opinion From Counsel. At any time the Paying Agent may apply to any duly authorized representative of the Issuer for instructions, and shall have the right, but not the obligation, to consult with counsel of choice at the reasonable expense of the Issuer and shall not be liable for action taken or omitted to be taken either in accordance with such instruction or such advice of counsel, or in accordance with any opinion of counsel to the Issuer addressed to the Paying Agent.

Section 12. Concerning the Paying Agent. The Paying Agent shall have only those duties as are specifically provided herein, which shall be deemed purely ministerial in nature, and shall have the right to perform any of its duties hereunder through agents, attorneys, custodians or nominees. The Paying Agent shall not be answerable for other than its gross negligence or willful misconduct. The Paying Agent shall have no responsibility for the form of inscription of ownership upon any Bond certificate which has been made in accordance with directions of the Issuer, the Issuer's underwriter, a broker or a holder of a Bond. The Paying Agent shall be protected in acting upon any paper or document believed by it to be genuine and to have been signed by the proper person or persons and shall not be held to have notice of any change of authority of any person, until receipt of written notice thereof from the Issuer. The Paying Agent shall also be protected in recognizing Bond certificates which it reasonably believes to bear the proper manual or facsimile signatures on behalf of the Issuer. The Paying Agent shall have the right, but not the obligation, to consult with counsel of choice and shall not be liable for action taken or omitted to be taken by Paying Agent either in accordance with the advice of such counsel or in accordance with any opinion of counsel to the Issuer addressed and delivered to the Paying Agent. The Paying Agent shall not be under any obligation to prosecute any action or suit in respect of the agency relationship which, in its sole judgment, may involve it in expense or liability. In any action or suit the Issuer shall, as often as requested, reimburse the Paying Agent for any expense or liability growing out of such action or suit by or against the Paying Agent in its agency capacity; provided, however, that no such reimbursement shall be made for any expense or liability arising as a result of Paying Agent's gross negligence or willful

misconduct. No provision of this Agreement shall require the Paying Agent to risk or expend its own funds.

The Paying Agent shall not be responsible or liable for any failure or delay in the performance of its obligation under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; wars; terrorism; military disturbances; sabotage; epidemic; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that Paying Agent shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

Anything in this Agreement to the contrary notwithstanding, in no event shall the Paying Agent be liable for special, punitive, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Paying Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

The Paying Agent agrees to accept and act upon instructions or directions pursuant to this Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Issuer shall provide to the Paying Agent an incumbency certificate listing designated persons authorized to provide such instructions, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the Issuer elects to give the Paying Agent e-mail or facsimile instructions (or instructions by a similar electronic method) and the Paying Agent in its discretion elects to act upon such instructions, the Paying Agent's understanding of such instructions shall be deemed controlling. The Paying Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Paying Agent's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Issuer agrees: (i) to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Paying Agent, including without limitation the risk of the Paying Agent acting on unauthorized instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting instructions to the Paying Agent and that there may be more secure methods of transmitting instructions than the method(s) selected by the Issuer; and (iii) that the security procedures (if any) to be followed in connection with its transmission of instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

Any banking association or corporation into which the Paying Agent may be merged, converted or with which the Paying Agent may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Paying Agent shall be a party, or any banking association or corporation to which all or substantially all of the corporate trust business of the Paying Agent shall be transferred, shall succeed to all the Paying Agent's rights, obligations and immunities hereunder without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding.

Section 13. Notices. Until changed by notice in writing, communications between the parties shall be delivered to:

If to Issuer:
San Rafael City Elementary School District
310 Nova Albion Way
San Rafael, CA 94903
Attn: Assistant Superintendent of Business Services

If to the Paying Agent:
The Bank of New York Mellon Trust Company, N.A.
2001 Bryan Street, Suite 3001
Dallas, TX 75201
Attn: Corporate Trust

Section 14. Destruction of Instruments, Records and Papers. The Paying Agent may retain in its files records, instruments, and papers maintained by it in relation to its agency as long as the Paying Agent shall consider that such retention is necessary. The Paying Agent shall destroy or dispose of canceled Bonds in accordance with its customary procedures, unless contrary instructions are received from the Issuer.

Section 15. Resignation or Removal of Paying Agent. Any time, other than on a day during the forty-five (45) day period preceding any payment date for Issuer's Bonds, the Paying Agent may resign by giving at least forty-five (45) days' prior written notice to Issuer; and the Paying Agent's agency shall be terminated and its duties shall cease upon expiration of such forty-five (45) days or such lesser period of time as shall be mutually agreeable to Paying Agent and Issuer. At any time, following at least forty-five (45) days' prior notice from the Issuer (or such lesser period of time as shall be mutually agreeable to the Paying Agent and the Issuer) the Paying Agent may be removed from its agency. Such removal shall become effective upon the expiration of the forty-five (45) day or agreed lesser time period, and upon payment to the Paying Agent of all amounts payable to it in connection with its agency. In such event, the Paying Agent shall deliver to the Issuer, or to the Issuer's designated representative, all Bonds and cash belonging to the Issuer and, at the Issuer's expense, shall furnish to the Issuer, or to the Issuer's designated representative, reasonably detailed information regarding the status of the Issuer's outstanding Bonds and copies of other pertinent records then in the Paying Agent's possession, reasonably requested by the Issuer.

Section 16. Effectiveness and Term. If the Bonds already are outstanding as of the date of the execution and delivery of this Agreement, this Agreement is effective as of the date hereof and shall continue until terminated as provided herein.

If the Bonds are to be newly issued, then this Agreement shall become effective as of the date that the Bonds are delivered to the original purchaser(s) thereof, and shall continue until terminated. If said Bonds are not delivered to original purchaser(s), this Agreement shall be null, void and of no effect.

This Agreement shall remain in effect and the agency established by the Agreement shall continue until (i) terminated by mutual agreement of Issuer and Paying Agent, (ii) the resignation or removal of Paying Agent pursuant to Section 15 hereof, or (iii) after all Bonds have been retired by payment or otherwise, or funds

have been deposited for their retirement, and any remaining funds have either been returned to the Issuer or escheated in accordance with law.

Section 17. Conflicts Between Documents. In the event of any conflict between any provision of this Agreement and the Authorization, the terms of the Authorization shall govern.

Section 18. Jury Trial Waiver. Each party hereto hereby agrees not to elect a trial by jury of any issue triable of right by jury, and waives any right to trial by jury fully to the extent that any such right shall now or hereafter exist with regard to this Agreement, or any claim, counterclaim or other action arising in connection herewith. This waiver of right to trial by jury is given knowingly and voluntarily by each party, and is intended to encompass individually each instance and each issue as to which the right to a trial by jury would otherwise accrue.

Section 19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their duly authorized officers as of the date first above written.

**San Rafael City Elementary
School District**

By _____
Name:
Title:

**The Bank of New York Mellon
Trust Company, N.A.**

By _____
Name:
Title:

EXHIBIT A

DESCRIPTION OF BONDS

\$ _____

San Rafael City Elementary School District
(Marin County, California)
Election of 2015 General Obligation Bonds, Series B

EXHIBIT B

FEE SCHEDULE

Registrar, Transfer Agent and Paying Agent
For Fully Registered Tax Exempt Bond Issues