



**COUNTY OF LOS ANGELES  
TREASURER AND TAX COLLECTOR**  
KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET, ROOM 437  
LOS ANGELES, CA 90012



**MARK J. SALADINO**  
TREASURER AND TAX COLLECTOR

December 07, 2010

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**ISSUANCE AND SALE OF  
LOS ANGELES COUNTY REGIONAL FINANCING AUTHORITY  
RECOVERY ZONE FACILITY BONDS (FAIRPLEX PROJECT) SERIES 2010  
(ALL DISTRICTS) (3 VOTES)**

**SUBJECT**

The Treasurer and Tax Collector is seeking authorization for the issuance and sale of Los Angeles County Regional Financing Authority Recovery Zone Facility Bonds (Fairplex Project), Series 2010 for the benefit of the Los Angeles County Fair Association to finance the construction of the Fairplex Conference Center Project.

**IT IS RECOMMENDED THAT YOUR BOARD:**

Adopt the resolution authorizing the issuance and sale of the Los Angeles County Regional Financing Authority Recovery Zone Facility Bonds (Fairplex Project) Series 2010 in one or more series in the maximum principal amount not to exceed \$24,255,000 for the benefit of the Los Angeles County Fair Association (the "Fair Association") and for the purpose of financing the Fairplex Conference Center Project (the "Conference Center Project"); and approving the execution and delivery of various legal documents required to issue the bonds and complete the proposed transaction.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On June 30, 2010, the Chief Executive Office (the CEO) issued a Request for Proposals (RFP) to solicit qualified projects for the Recovery Zone Facility Bond Program (the "RZFB Program"). The RZFB Program, which was authorized as a component of the American Recovery and Reinvestment

Act (ARRA) in February 2009, was designed to facilitate economic growth throughout the United States by allowing non-governmental borrowers to secure cost-effective tax-exempt financing to fund various capital projects that provide a public benefit, as determined by the governing bodies of the state and local governments that have legal jurisdiction over the project areas. The RZFB Program allows private and non-profit borrowers to issue private activity tax-exempt bonds, up to specific allocation amounts for state and local governments authorized by ARRA, to finance private depreciable property that involves the construction of new facilities, or the modernization of existing facilities. The RZFB Program is similar to the concept of industrial development bonds, but is not limited to manufacturing entities, nor does it have specific job creation requirements.

The issuance of tax-exempt RZFBs was authorized by ARRA to finance capital expenditures within designated "Recovery Zones," which are defined as any area designated by the governing body of a state or local government as an Empowerment Zone or Renewal Community, or any area that is experiencing significant levels of poverty and unemployment, rates of home foreclosures or other economic distress. Based upon an analysis of relevant US Census, Housing and Urban Development statistics and other socio-economic data, your Board designated the entire County as a Recovery Zone on January 26, 2010. Any tax-exempt financings for projects approved by state and local governments for the RZFB program must be issued by December 31, 2010. The County's original allocation authorized by ARRA for the RZFB Program was \$271,484,000.

In response to the RFP, the County received nine proposals requesting authorization to issue RZFBs with a total aggregate par amount of approximately \$239.7 million. Eight of the nine proposals were determined by the CEO to have met the preliminary requirements to be considered for the RZFB Program. On August 10, 2010, your Board approved the County's RZFB Program allocation for the eight projects in the aggregate amount of \$214,755,000, subject to the projects meeting certain financial and other requirements prior to the issuance of any bonds. Your Board also approved the voluntary waiver of the County's remaining \$56,729,000 of RZFB program allocation to the California Debt Limit Allocation Committee (CDLAC).

In accordance with County policy for conduit financings, the eight projects that received preliminary approval for the RZFB Program were required to either: (1) secure credit enhancement in the form of a letter of credit for the total par amount of the financing from a commercial bank with a credit rating of not less than "A" by Standard and Poor's Corporation or "A2" by Moody's investor service; or (2) arrange for the private placement of bonds to an accredited investor as defined under Rule 501 of Regulation D of federal securities law. Of the eight projects that received preliminary approval for the RZFB Program, only the Fair Association has met the minimum financial requirements to proceed with a tax-exempt financing issued through the County. The Fair Association has requested the County to approve the issuance of the Bonds in one or more series in the maximum principal amount not to exceed \$24,255,000. The proceeds from the sale of the Bonds will be used to finance the cost of construction of the Conference Center Project, which is a conference center facility located at or near 1101 McKinley Avenue, Pomona, California.

After consultations with County Counsel and the CEO, the Treasurer and Tax Collector (TTC) determined that the most beneficial process for the issuance of bonds under the RZFB Program is for the County to establish a new joint exercise of powers entity in conjunction with the Los Angeles County Public Works Financing Authority (the "PWFA"). In a separate item on today's County Board agenda, the Los Angeles County Regional Financing Authority (the "Authority") was established pursuant to a Joint Exercise of Powers Agreement between the County and the PWFA. Acting as the Board of Directors of the Authority, your Board is now requested to approve the issuance and sale of Recovery Zone Facility Bonds (the "Bonds") in one or more series in the maximum principal amount

not to exceed \$24,255,000.

### **Implementation of Strategic Plan Goals**

This action supports the County's Strategic Plan Goal #1: Operational Effectiveness through collaborative actions by the County and the non-profit sector to facilitate economic development in the County.

### **FISCAL IMPACT/FINANCING**

There will be no fiscal impact to the County budget.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The legal authority to approve the JPA and to establish the Authority is derived pursuant to Articles 1 through 4, Chapter 5, Division 7, Title 1 of the California Government Code (commencing with Section 6500), as amended (the "Act"). The Fair Association financing was approved by the California California Debt Limit Allocation Committee ("CDLAC") and is eligible for the Recovery Zone Facility Bond allocation pursuant to Sections 1400U-1, 1400U-2 and 1400U-3 of the Internal Revenue Code of 1986, as amended. In accordance with Section 6586.5 of the Act, a public hearing was held on November 24, 2010 by TTC, in which members of the general public and interested parties were given an opportunity to be heard on all matters related to the Fair Association financing and the issuance of the Bonds by the Authority.

The Fair Association is a 501(c)(5) non-profit public benefit corporation established under the laws of the State of California. The land associated with the Conference Center Project is owned by the County and leased to the Fair Association. The Conference Center Project will include an 80,000 square foot trade and conference center complex, incorporating the conversion of an existing 34,000 square foot exhibit building with the construction of a new 46,000 square foot facility. The primary users of the new conference center facility are expected to be local and regional trade associations, as well as various other private and corporate entities. The total cost of the Conference Center Project is approximately \$30 million and is expected to be completed by August 2011.

In the Fair Association financing, the Bonds will be issued pursuant to the terms of an Indenture of Trust, (the "Indenture"), between the Authority and U.S. Bank National Association, and a Bond Purchase Agreement ("the BPA") between the Authority and Wells Fargo Bank, N.A ("Wells Fargo"). The Authority will sell the Bonds to Wells Fargo in a private placement offering, and the Authority will loan the proceeds to the Fair Association to finance the construction of the Conference Center Project. The loan from the Authority is secured by the revenue producing activities of the Fair Association in accordance with a Loan Agreement (the "Loan Agreement") between the Authority and the Fair Association. As a private placement offering, the Bonds will be issued without an Official Statement.

The Bonds will be issued as variable rate obligations subject to a mandatory tender on August 26, 2013 and will have a final maturity date of November 1, 2039. The Fair Association has full responsibility for the repayment of the loan to the Authority, the proceeds of which are pledged to the payment of debt service on the Bonds. Neither the County nor the Authority will pledge any funds or have any financial obligation with respect to the repayment of the Bonds. The issuance of the Bonds as tax-exempt obligations will result in significant savings to the Fair Association in the form of lower

interest costs over the life of the Bonds.

The attached resolution and the forms of the Indenture, BPA and Loan Agreement have been reviewed and approved by County Counsel, with consultation provided by outside legal counsel. The Chairman, the Treasurer, the Secretary and all other officers of the Authority are authorized and directed to take the necessary actions required to effectuate the purpose of the resolution and to execute all documents required to issue the Bonds on behalf of the Fair Association. The forms of the Indenture, BPA and Loan Agreement are attached for your reference.

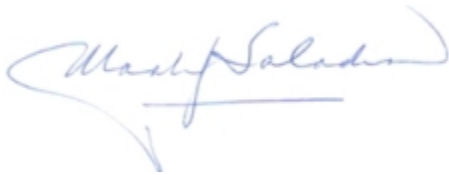
**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Not applicable.

**CONCLUSION**

Upon approval, it is requested that the Executive Officer-Clerk of the Board of Supervisors return two originally executed copies of the adopted resolution to the Treasurer and Tax Collector (Office of Public Finance).

Respectfully submitted,



MARK J. SALADINO  
Treasurer and Tax Collector

MJS:GB:DB:JP:SM

Enclosures

c: Chief Executive Officer  
County Counsel  
Stradling Yocca Carlson & Rauth

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE LOS ANGELES COUNTY  
REGIONAL FINANCING AUTHORITY**

AUTHORIZING THE ISSUANCE OF THE LOS ANGELES COUNTY  
REGIONAL FINANCING AUTHORITY RECOVERY ZONE FACILITY  
BONDS (FAIRPLEX PROJECT) SERIES 2010, AN INDENTURE OF TRUST,  
A LOAN AGREEMENT AND A BOND PURCHASE AGREEMENT IN  
CONNECTION THEREWITH, AND AUTHORIZING OFFICIAL ACTIONS  
RELATED THERETO

WHEREAS, the Los Angeles County Regional Financing Authority (the “Authority”) has been formed pursuant to a Joint Exercise of Powers Agreement, dated December 7, 2010 (the “Agreement”) by and between the County of Los Angeles, California (the “County”) and the Los Angeles County Public Works Financing Authority (“LAPWFA”), and is authorized under the Agreement and under the laws of the State of California to exercise in the manner provided in the Agreement any of the powers which are common to the County and the LAPWFA and all additional powers provided in the Articles 1 through 3, Chapter 5, Division 7, Title 1 of the California Government Code (commencing with Section 6500), as amended (the “Act”), Article 4, Chapter 5, Division 7, Title 1 of the California Government Code (commencing with Section 6584), commonly known as the Marks-Roos Local Bond Pooling Act of 1985, as amended (the “Bond Law”), and any other law now in effect or hereafter enacted, including, but not limited to the power to issue bonds thereunder;

WHEREAS, the Los Angeles County Fair Association (the “Borrower”) has received (i) from the County, Recovery Zone Facility Bond allocation for purposes of Sections 1400U-1, 1400U-2 and 1400U-3 of the Internal Revenue Code of 1986, as amended (the “Code”) in the amount of \$24,255,000 for the purpose of financing the cost of construction of a conference center facility and related infrastructure (the “Project”). The Project will be located on real property owned by the County at 1101 West McKinley Avenue in the City of Pomona and will be used in conjunction with holding the Los Angeles County Fair;

WHEREAS, the Borrower has requested that the Authority approve the issuance of Recovery Zone Facility Bonds (the “Bonds”) in one or more series in the maximum principal amount not to exceed \$24,255,000 by the Authority for the benefit of the Borrower for the purpose of financing the cost of the Project;

WHEREAS, after the holding of a public hearing, the County has found and determined in accordance of Section 6586.5 of the Act, that there will be significant public benefit in the issuance of the Bonds by the Authority;

WHEREAS, the Bonds will be issued pursuant to an Indenture of Trust, (the “Indenture”), between the Authority and U.S. Bank National Association, as trustee (the “Trustee”), and be payable solely from (i) payments made by the Borrower pursuant to a Loan Agreement, (the “Loan Agreement”) between the Authority and the Borrower, pursuant to which the Authority will loan the proceeds of the Bonds to the Borrower; and (ii) any other amounts pledged for the payment of the Bonds pursuant to the Indenture;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority (the "Board") as follows:

Section 1. Approval of Indenture and Issuance of Bonds. The Board hereby approves the form of the Indenture in substantially the form presented to and considered at this meeting of the Board, and the issuance of the Bonds, on or before December 31, 2010, in one or more series, pursuant to the Indenture. The Chair and the Secretary of the Board (each, a "Responsible Officer"), and each of them, are hereby authorized to execute the Indenture, with such revisions, amendments and completions as shall be approved by such Responsible Officer, with the advice of Bond Counsel and County Counsel, such approval to be conclusively evidenced by the execution and delivery thereof by the Responsible Officer.

The aggregate principal amount of the Bonds shall not exceed \$24,255,000 the interest rate applicable to the Bonds shall be calculated in accordance with the Indenture from time to time and shall not exceed the maximum interest rate authorized by law, and the Bonds shall mature no later than November 1, 2039.

The Bonds shall be executed by the manual or facsimile signature of the Chair of the Authority and countersigned by the manual or facsimile signature of the Clerk, and shall be in the form set forth in and otherwise in accordance with the Indenture; and when so executed the Bonds shall be delivered to the Trustee for authentication by the Trustee and delivery by the Trustee to the Purchaser (defined below) thereof in accordance with written instructions of the Authority, which instructions any Responsible Officer, for and on behalf of the Authority, is authorized to execute and deliver to the Trustee and which instructions shall provide for the delivery of the Bonds to the Purchaser upon payment of the purchase price of the Bonds.

Section 2. Approval of the Loan Agreement. The Board hereby approves the form of the Loan Agreement in substantially the form presented to and considered at this meeting of the Board. The Responsible Officers, and each of them, are hereby authorized to execute the Loan Agreement, with such revisions, amendments and completions as shall be approved by the Responsible Officer executing the same, with the advice of Bond Counsel and County Counsel, such approval to be conclusively evidenced by the execution and delivery thereof by such Responsible Officer. The term of the Loan Agreement shall not exceed 30 years.

Section 3. Approval of Sale of the Bonds. The Board hereby approves the sale of the Bonds to Wells Fargo Bank, National Association (the "Purchaser"); provided that the Purchaser shall execute an Investor Letter in the form attached to the Indenture. The Board hereby approves the form of the Bond Purchase Agreement in substantially the form presented to and considered at this meeting of the Board. The Responsible Officers, and each of them, are hereby authorized to execute (i) the Bond Purchase Agreement, with such revisions, amendments and completions as shall be approved by the Responsible Officer executing the same, with the advice of Bond Counsel and County Counsel, such approval to be conclusively evidenced by the execution and delivery thereof by such Responsible Officer and (ii) such documents, certificates and agreements, not inconsistent with this resolution, necessary to effectuate the sale of the Bonds to the Purchaser, with the advice of Bond Counsel and County Counsel.

Section 4. Official Actions. The Chair of the Board of Directors and other officers of the Authority and their authorized representatives are, and each of them acting alone is, hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions in furtherance of the purposes of this Resolution, the issuance of the Bonds, the sale of the Bonds and the execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, deem necessary or advisable in order to consummate the lawful issuance and sale of the Bonds and the consummation of the transactions as described herein, including but not limited to the execution of a letters of representations in customary form with the Depository Trust Company or other securities depository.

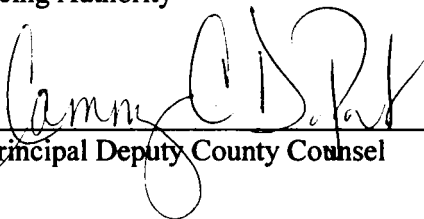
The foregoing Resolution was on the 7th day of December, 2010, adopted by the Board of Directors of the Los Angeles County Regional Financing Authority.

SACHI A. HAMAI  
Executive Officer-Clerk of the Board of  
Directors of the Los Angeles County Regional  
Financing Authority

By: \_\_\_\_\_

APPROVED AS TO FORM:

ANDREA SHERIDAN ORDIN  
Counsel to the Los Angeles County Regional  
Financing Authority

By:   
Principal Deputy County Counsel

---

---

**INDENTURE OF TRUST**

**BY AND BETWEEN**

**LOS ANGELES COUNTY REGIONAL FINANCING AUTHORITY**

**AND**

**U.S. BANK NATIONAL ASSOCIATION,**

**AS TRUSTEE**

**DATED AS OF DECEMBER 1, 2010**

**RELATING TO THE ISSUANCE OF**

**\$24,255,000**

**LOS ANGELES COUNTY REGIONAL FINANCING AUTHORITY  
RECOVERY ZONE FACILITY BONDS  
(FAIRPLEX PROJECT)  
SERIES 2010**

---

---



# TABLE OF CONTENTS

## ARTICLE I

### DEFINITIONS

Section 1.01.	Defined Terms .....	3
Section 1.02.	Rules of Construction .....	20

## ARTICLE II

### THE BONDS

Section 2.01.	Authorized Amount of Bonds.....	20
Section 2.02.	Issuance of Bonds .....	20
Section 2.03.	Interest Rates on Bonds. ....	22
Section 2.04.	Conversion of Interest Rate Determination Method.....	26
Section 2.05.	Disbursement of Bond Proceeds.....	29
Section 2.06.	Tender of Bonds for Purchase. ....	30
Section 2.07.	Remarketing of Bonds. ....	33
Section 2.08.	Delivery of Purchased Bonds .....	34
Section 2.09.	Execution; Limited Obligation .....	35
Section 2.10.	Certificate of Authentication .....	36
Section 2.11.	Form of Bonds. ....	36
Section 2.12.	Delivery of Bonds.....	36
Section 2.13.	Mutilated, Lost, Stolen or Destroyed Bonds.....	37
Section 2.14.	Exchangeability and Transfer of Bonds; Persons Treated as Owners .....	37
Section 2.15.	Replacement Bonds .....	39
Section 2.16.	Cancellation .....	39
Section 2.17.	Ratably Secured .....	39
Section 2.18.	Redemption of Bonds; Partial Redemption of Bonds.....	39
Section 2.19.	Notice of Redemption.....	42
Section 2.20.	Book-Entry System.....	43

## ARTICLE III

### SECURITY

Section 3.01.	Security .....	44
Section 3.02.	Payment of Bonds and Performance of Covenants.....	44
Section 3.03.	Authority.....	45
Section 3.04.	No Litigation.....	45
Section 3.05.	Further Assurances .....	45
Section 3.06.	No Other Encumbrances.....	45
Section 3.07.	No Personal Liability .....	45
Section 3.08.	Credit Facility. ....	46

## ARTICLE IV

### FUNDS

Section 4.01.	Establishment and Use of Bond Fund and Current Account .....	48
Section 4.02.	Establishment and Use of Project Fund and Cost of Issuance Fund.....	50

Section 4.03.	Establishment and Use of Surplus Fund .....	50
Section 4.04.	Establishment and Use of Bond Purchase Fund and Current Purchase Account .....	51
Section 4.05.	Deposit of Bond Proceeds.....	52
Section 4.06.	Records .....	52
Section 4.07.	Investment of Project Fund, Costs of Issuance Fund, Surplus Fund, Bond Fund Monies .....	52
Section 4.08.	Arbitrage; Rebate Fund.....	53
Section 4.09.	Non presentment of Bonds .....	54

## ARTICLE V

### DISCHARGE OF LIEN

Section 5.01.	Discharge of Lien and Security Interest.....	54
Section 5.02.	Provision for Payment of Bonds .....	55
Section 5.03.	Discharge of this Indenture.....	57

## ARTICLE VI

### DEFAULT PROVISIONS AND REMEDIES

Section 6.01.	Events of Default .....	57
Section 6.02.	Acceleration .....	57
Section 6.03.	Other Remedies; Rights of Holders .....	58
Section 6.04.	Right of Holders and Credit Provider to Direct Proceedings .....	59
Section 6.05.	Discontinuance of Default Proceedings.....	59
Section 6.06.	Waiver.....	60
Section 6.07.	Application of Monies .....	60
Section 6.08.	Rights of a Credit Provider .....	61
Section 6.09.	Right of Sole Holder or Beneficial Owner to Require Assignment by Trustee .....	61

## ARTICLE VII

### THE TRUSTEE; THE PAYING AGENT; THE REGISTRAR; THE REMARKETING AGENT

Section 7.01.	Appointment of Trustee .....	62
Section 7.02.	Compensation and Indemnification of Trustee, Paying Agent and Registrar; Trustee's Prior Claim.....	65
Section 7.03.	Intervention in Litigation .....	66
Section 7.04.	Resignation; Successor Trustees.....	66
Section 7.05.	Removal of Trustee.....	67
Section 7.06.	Paying Agent.....	67
Section 7.07.	Qualifications of Paying Agent.....	68
Section 7.08.	Resignation of Paying Agent; Removal; Successors. ....	68
Section 7.09.	Instruments of Holders.....	68
Section 7.10.	Power to Appoint Co Trustees.....	69
Section 7.11.	Filing of Financing Statements .....	71
Section 7.12.	Remarketing Agent .....	71
Section 7.13.	Qualifications of Remarketing Agent; Resignation; Removal .....	71
Section 7.14.	Several Capacities.....	72

Section 7.15.	Trustee Not Responsible for Duties of Remarketing Agent, Registrar and Paying Agent.....	72
Section 7.16.	Cooperation of the Issuer.....	72
Section 7.17.	Cooperation of the Trustee, the Remarketing Agent, the Registrar and the Paying Agent.....	72

## ARTICLE VIII

### AMENDMENTS, SUPPLEMENTAL INDENTURES

Section 8.01.	Supplemental Indentures.....	73
Section 8.02.	Amendments to Indenture; Consent of Holders, the Credit Provider and the Company.....	74
Section 8.03.	Amendments to the Security Documents and the Agreement Not Requiring Consent of Holders.....	75
Section 8.04.	Other Amendment Provisions.....	75
Section 8.05.	Amendments, Changes and Modifications to the Credit Facility.....	75
Section 8.06.	Notice to and Consent of Holders.....	76
Section 8.07.	Approving Opinion Required.....	76

## ARTICLE IX

### MISCELLANEOUS

Section 9.01.	Right of Trustee to Pay Taxes and Other Charges.....	76
Section 9.02.	Limitation of Rights.....	77
Section 9.03.	Severability.....	77
Section 9.04.	Notices.....	77
Section 9.05.	Payments Due on Non Business Days.....	78
Section 9.06.	Binding Effect.....	78
Section 9.07.	Captions.....	78
Section 9.08.	Governing Law.....	78
Section 9.09.	Limited Liability of Issuer.....	78
Section 9.10.	Notices to Rating Agency.....	78
Section 9.11.	Execution in Counterparts.....	79
Section 9.12.	Attorney's Fees.....	79
Section 9.13.	Patriot Act Compliance.....	79
Section 9.14.	Certain References Ineffective Except During a Period in Which a Credit Facility Is in Effect.....	79
Section 9.15.	Third Party Beneficiaries.....	79

EXHIBIT A	Form of Bond (for any Short Term Rate Period or Long Term Rate Period).....	A 1
EXHIBIT B	Form of Bond (for Index Interest Rate Period Only).....	B 1
EXHIBIT C	Form of Conversion Notice.....	C 1
EXHIBIT D	Form of Notice of Credit Modification Date.....	D 1
EXHIBIT E	Form of Notice of Mandatory Purchase Date.....	E 1
EXHIBIT F	Form of Investor Letter.....	F 1
EXHIBIT G	Form of Project Payment Request.....	G 1
EXHIBIT H	Form of Cost of Issuance Payment Request.....	H 1

## **Indenture of Trust**

THIS INDENTURE OF TRUST, dated as of December 1, 2010 (this “Indenture”), is made and entered into by and between Los Angeles County Regional Financing Authority, a joint powers authority organized and existing under the laws of the State of California (the “Issuer”), and U.S. Bank National Association, a national banking association, as trustee, and its successors and assignees in trust (the “Trustee”).

### W I T N E S S E T H:

WHEREAS, the Issuer is a joint powers authority duly organized and existing under and pursuant to that certain Joint Exercise of Powers Agreement dated as of December 1, 2010, by and between the County of Los Angeles, California (the “County”) and the County of Los Angeles Public Works Financing Authority, and under the provisions of Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code of the State of California (the “Act”), and is authorized pursuant to Article 4 of the Act to borrow money for the purpose of financing public capital improvements;

WHEREAS, in furtherance of the public purpose for which the Issuer was created, the Issuer proposes to issue its \$24,255,000 in principal amount Recovery Zone Facility Bonds (Fairplex Project), Series 2010 (the “Bonds”), pursuant to this Indenture, and to lend the proceeds of the sale of the Bonds to the Los Angeles County Fair Association, a California nonprofit mutual benefit corporation (the “Company”), pursuant to the Agreement (as hereinafter defined), in order to finance the Project (as hereinafter defined);

WHEREAS, it has been determined that the estimated amount necessary to finance the cost of the acquisition, construction and equipping of the Project, including necessary expenses incidental to the issuance of the Bonds, will require the issuance, sale and delivery of Bonds in the aggregate principal amount of \$24,255,000, as hereinafter provided; and

WHEREAS, all things necessary to (i) make the Bonds, when authenticated by the Trustee and issued as provided in this Indenture, the valid, binding and legal obligations of the Issuer according to the import thereof, (ii) constitute this Indenture a valid assignment and pledge of the payments, including payment of the principal or Purchase Price of, premium, if any, and interest on the Bonds, under the Agreement (except for Reserved Rights (as hereinafter defined)), and (iii) constitute this Indenture a valid assignment of the rights of the Issuer under the Agreement (except for Reserved Rights and as otherwise stated herein), have been done and performed, and the creation, execution and delivery of this Indenture, and the issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that (i) to secure the payment of principal of, redemption premium, if any, and interest on the Bonds and any other cost or pecuniary liability of the Issuer relating to the Bonds or any proceeding, document or certification incidental to the issuance of the Bonds according to their true intent and meaning, and all other amounts due from time to time under this Indenture, including those due to the Trustee, (ii) to secure the performance and observance of all of the covenants, agreements, obligations and conditions contained in the Bonds and in this Indenture, (iii) to declare the terms and conditions upon and subject to which the Bonds are intended to be issued, held, secured and enforced, (iv) as collateral trustee for each payee and obligee thereunder, to secure the payment of all amounts due from time to time by the Company

under any Continuing Covenant Agreement, Reimbursement Agreement and/or other Bond Document, and (iv) in consideration of the premises and the acceptance by the Trustee of the trusts created herein and of the purchase and acceptance of the Bonds by the Holders and for other good and valuable consideration, the receipt of which is acknowledged, the Issuer has executed and delivered this Indenture and absolutely and irrevocably pledges and assigns to the Trustee and its successors, in trust, and grants a security interest in, on the basis set forth herein, and its and their assigns, all right, title and interest of the Issuer in and to the Trust Estate as defined in Section 1.01;

TO HAVE AND TO HOLD unto the Trustee and its successors in trust and its and their assigns forever;

BUT IN TRUST NEVERTHELESS, and subject to the provisions hereof;

- (a) for the equal and proportionate benefit, security and protection of all Bonds;
- (b) for the enforcement of the payment of the principal of, redemption premium, if any, and interest on the Bonds, and all other amounts due from time to time under this Indenture, including those due to the Trustee, when payable, according to the true intent and meaning thereof and of this Indenture;
- (c) to secure the performance and observance of and compliance with the covenants, agreements, obligations, terms and conditions of this Indenture and the other Bond Documents; and
- (d) for the enforcement of the payment by the Company of all principal, interest, fees and other amounts due from time to time under any Continuing Covenant Agreement and any Reimbursement Agreement, when payable, according to the true intent and meaning thereof;

provided, however, that payments required to be made in each case, without preference, priority or distinction, as to lien or otherwise except as provided herein, of any one Bond over any other by reason of designation, number, date of the Bonds or of authorization, issuance, sale, execution, authentication, delivery or maturity thereof, or otherwise, so that each Bond and all Bonds shall have the same right, lien and privilege under this Indenture and shall be secured equally and proportionately by this Indenture, it being intended that the lien and security of this Indenture shall take effect from the date hereof, without regard to the date of the actual issue, sale or disposition of the Bonds, as though upon that date all of the Bonds were actually issued, sold and delivered to purchasers for value; provided further, however, that, upon satisfaction of and in accordance with the provisions of Article V, the rights assigned hereby shall cease, determine and be void to the extent described therein; otherwise, such rights shall be and remain in full force and effect;

IT IS DECLARED that all Bonds issued under and secured by this Indenture are to be issued, authenticated and delivered, and that all moneys assigned or pledged hereby are to be dealt with and disposed of under, upon and subject to, the terms, conditions, stipulations, covenants, agreements, obligations, trusts, uses and purposes provided in this Indenture; and the Issuer has agreed and covenanted, and agrees and covenants with the Trustee and with each and all Holders, as follows.

## ARTICLE I

### DEFINITIONS

Section 1.01. Defined Terms. In addition to terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture and the preambles hereto shall have the following meanings unless the context or use clearly indicates another or different meaning or intent and any other words and terms defined in the Agreement shall have the same meanings when used herein as assigned in the Agreement unless the context or use clearly indicates another or different meaning or intent.

“1933 Act” has the meaning ascribed to such term in Section 2.04(j)(ii).

“Act” means Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code of the State of California.

“Act of Bankruptcy” means any of the following events:

(i) The Company, the Guarantors (or any other Person obligated, as guarantor or otherwise, to make payments on the Bonds or under the Agreement, any Continuing Covenant Agreement or any Reimbursement Agreement), or the Issuer shall (1) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator or the like of the Company, the Guarantors (or such other Person) or the Issuer or of all or any substantial part of their respective property, (2) commence a voluntary case under the Bankruptcy Code, (3) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts; or

(ii) A proceeding or case shall be commenced, without the application or consent of the Company, the Guarantors (or any other Person obligated, as guarantor or otherwise, to make payments on the Bonds or under the Agreement, any Continuing Covenant Agreement, or any Reimbursement Agreement) or the Issuer in any court of competent jurisdiction, seeking (1) the liquidation, reorganization, dissolution, winding up, or composition or adjustment of debts, of the Company, any Guarantor (or any such other Person) or the Issuer, (2) the appointment of a trustee, receiver, custodian, liquidator or the like of the Company, any Guarantor (or any such other Person), the Issuer or of all or any substantial part of their respective property, or (3) similar relief in respect of the Company, any Guarantor (or any such other Person) or the Issuer under any law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts.

“Advances” means during any Index Interest Rate Period prior to the Completion Date, all advances by the Trustee from the Project Fund to pay Costs of the Project and Costs of Issuance made pursuant to Section 2.05 hereof.

“Advance Termination Date” has the meaning set forth in Section 2.05(a).

“Agreement” means the Loan Agreement dated as of December 1, 2010, between the Issuer and the Company, and any modifications, amendments and supplements thereto permitted hereunder.

“Alternate Credit Facility” means an irrevocable, direct pay letter of credit delivered to, and accepted by, the Trustee pursuant to Section 3.08(e), in substitution for the Credit Facility then in effect.

“Alternate Weekly Index” means, with respect to the Bonds, for any Computation Date, (i) if the Bonds are (or were) bearing interest at a Weekly Rate during the Weekly Interest Period ending on or immediately after such Computation Date that was determined by the Remarketing Agent without applying the Alternate Weekly Index, the Weekly Rate for such Weekly Interest Period, and (ii) if the Weekly Rate for the Weekly Interest Period ending on or immediately after such Computation Date was determined by applying the Alternate Weekly Index or if such Computation Date is the first Computation Date that occurs in connection with any change or deemed change in the Interest Rate Determination Method to a Weekly Rate pursuant to Section 2.03(c) or (d) or Section 2.04(a), the SIFMA Index plus 0.10%.

“Applicable Factor” means (i) during the Initial Period, 67% and (ii) during any other Index Interest Rate Period, 67%, or, with an Approving Opinion, such other percentage as may be designated in writing by the Company as the Applicable Factor for such Index Interest Rate Period pursuant to Section 2.04(a).

“Applicable Spread” means, with respect to each Index Interest Rate Period:

- (i) During the Initial Period, 155 basis points (1.55%).
- (ii) During any Index Interest Rate Period other than the Initial Period, the number of basis points determined by the Remarketing Agent in accordance with Section 2.04(a) on or before the first day of such Index Interest Rate Period that, when added to the product of the LIBOR Index or the SIFMA Index, as applicable, and the Applicable Factor, would equal the minimum interest rate per annum that would enable the Remarketing Agent to sell the Bonds on such date at a price equal to the principal amount thereof.

“Approving Opinion” shall mean, with respect to any action relating to the Bonds, the occurrence of which requires an Opinion of Counsel, delivered by Bond Counsel, to the effect that such action (i) is permitted by this Indenture and the Act, (ii) will not adversely affect the exclusion of interest on the Bonds from gross income of the Holders for purposes of federal income taxation.

“Authorized Denomination” means (i) during any Short-Term Rate Period or any Medium Term Rate Period, \$100,000 and multiples of \$5,000 in excess thereof, or if the aggregate principal amount of Bonds Outstanding is at any time less than \$100,000, the aggregate principal amount of Bonds then Outstanding; (ii) during any Fixed Rate Period, \$5,000 and integral multiples thereof; and (iii) during any Index Interest Rate Period, \$100,000 and multiples of \$5,000 in excess thereof or if the aggregate principal amount of Bonds Outstanding is at any time less than \$100,000, the aggregate principal amount of Bonds then Outstanding.

“Authorized Officer of the Issuer” shall mean the Chair or Secretary of the Authority The Chairman or other authorized officer of the Authority as designated in a resolution of the Authority.

“Bank” means, during any Index Interest Rate Period, except as otherwise provided in the applicable Continuing Covenant Agreement, the Holder of the Bonds, provided, that there is a single Holder of all of the Bonds and provided, further, that the Bonds are not then held under the Book-Entry System. If there is more than one Holder of the Bonds, “Bank” means Holders owning a majority of the aggregate principal amount of the Bonds then Outstanding. If the Bonds are then held under the Book-Entry System, “Bank” means the Beneficial Owner of the Bonds, provided that there is a single Beneficial Owner of all of the Bonds. If there is more than one Beneficial Owner of

the Bonds, “Bank” means Beneficial Owners who are the beneficial owners of a majority of the aggregate principal amount of the Bonds then Outstanding. Notwithstanding the foregoing, during the Initial Period, the Bank shall be Wells Fargo Bank, National Association.

“Bank Direct Payment Period” has the meaning ascribed to such term in Section 2.02.

“Bank Rate” shall have the meaning given such term in the applicable Continuing Covenant Agreement.

“Bankruptcy Code” means Title 11 of the United States Code, as amended, and any successor statute or statutes having substantially the same function.

“Beneficial Owner” means the Person in whose name a Bond is recorded as beneficial owner of such Bond by the Securities Depository or a Participant or an Indirect Participant on the records of such Securities Depository, Participant or Indirect Participant, as the case may be, or such Person’s subrogee.

“Bond” or “Bonds” means the Issuer’s \$24,255,000 Recovery Zone Facility Bonds (Fairplex Project) Series 2010 issued pursuant hereto.

“Bond Counsel” means an attorney, or firm of attorneys, nationally recognized and experienced in legal work relating to the financing of facilities through the issuance of tax exempt bonds.

“Bond Documents” means collectively this Indenture, the Agreement, the Bond Purchase Agreement, the Bonds, any Continuing Covenant Agreement or Reimbursement Agreement, the Security Documents and the Tax Certificate.

“Bond Fund” means the fund of that name created pursuant to Section 4.01.

“Bond Proceeds” has the meaning ascribed to such term in the Agreement.

“Bond Purchase Agreement” means the Bond Purchase Agreement dated December \_\_, 2010, between the Issuer and the Bank.

“Bond Purchase Fund” means the fund of that name created pursuant to Section 4.04.

“Book-Entry System” means a Book-Entry System established and operated for the recordation of Beneficial Owners of the Bonds pursuant to Section 2.20.

“Business Day” means any day on which (a) the offices of the Credit Provider at which drawings on the Credit Facility are made (if a Credit Facility is in effect), the Trustee, the Paying Agent, the Registrar, the Calculation Agent and the Remarketing Agent, if any, are each open for business, (b) the Federal Reserve System is in operation, (c) the New York Stock Exchange is not closed and (d) banks in the State and in New York are open for business.

“Calculation Agent” means, during the Initial Period, the Bank, and thereafter means any other Person appointed by the Company, with the consent of the Bank or the Credit Provider, as applicable, to serve as calculation agent for the Bonds.



“Ceiling Rate” means the lesser of (i) 12% per annum and (ii) the maximum rate permitted by applicable law.

“Code” means the Internal Revenue Code of 1986, as amended, and the rulings and regulations (including temporary and proposed regulations) promulgated thereunder or under the Internal Revenue Code of 1954, as amended.

“Collateral Agent” means the collateral agent appointed pursuant to the Security, Intercreditor and Collateral Agency Agreement and any successor collateral agent. The “Collateral Agent” shall initially be U.S. Bank National Association.

“Company” means Los Angeles County Fair Association, a California nonprofit mutual benefit corporation and its successors and assigns.

“Company Agent” has the meaning ascribed to such term in Section 7.02.

“Company Representative” has the meaning ascribed to such term in the Agreement.

“Completion Date” has the meaning ascribed to such term in the Agreement.

“Computation Date” means (i) the Business Day next preceding the first day of each Weekly Interest Period, (ii) the first Business Day of each Flexible Term Rate Period, (iii) during each SIFMA Index Rate Period, Wednesday of each week, or if any Wednesday is not a Business Day, the next succeeding Business Day, (iv) during each LIBOR Index Rate Period, the second London Business Day preceding each LIBOR Index Reset Date and (v) a date determined by the Remarketing Agent that is not more than twenty (20) nor less than two (2) days prior to any Conversion Date relating to conversion to a Long Term Rate.

“Continuing Covenant Agreement” means, during the Initial Period, the Continuing Covenant Agreement dated as of December 1, 2010, between the Company and Bank, as the same may be amended from time to time, and during any Index Interest Rate Period other than the Initial Period, means any agreement between the Company and the Bank which may be designated as the Continuing Covenant Agreement.

“Conversion Date” means (i) each date on which the Interest Rate Determination Method then in effect is changed to another Interest Rate Determination Method, including a Fixed Rate Conversion Date, (ii) each date on which the interest rate borne by the Bonds is changed from the interest rate applicable during a Medium Term Rate Period to the interest rate applicable during another Medium Term Rate Period and (iii) each date on which the then current Index Interest Rate Period is changed to a new Index Interest Rate Period; provided, however, that Conversion Date shall not include the Initial Mandatory Conversion Date or deemed conversions under Sections 2.03(c) or (d).

“Conversion Notice” has the meaning ascribed to such term in Section 2.04(a).

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the Issuer or the Company and related to the authorization, issuance, sale and delivery of the Bonds, including but not limited to costs of preparation and reproduction of documents, printing expenses, application, filing and recording fees, initial fees and charges of the Issuer, the Trustee, the Bank, legal fees and charges, including the fees and charges of Bond Counsel,

counsel to the Bank, fees and disbursements of consultants and professionals, rating agency fees, fees and charges for preparation, execution and safekeeping of the Bonds and any other cost, charge or fee in connection with the original issuance of the Bonds which constitutes a “cost of issuance” within the meaning of Section 147(g) of the Code.

“Cost of Issuance Fund” means the fund of that name created pursuant to Section 4.02.

“Cost of Issuance Payment Request” means a Written Request by the Company in substantially the form attached hereto as Exhibit H, approved by the Bank and complying with Section 2.05 of this Agreement.

“Costs of the Project” has the meaning ascribed to such term in the Agreement.

“Counsel” means an attorney, or firm of attorneys, admitted to practice law before the highest court of any state in the United States of America or the District of Columbia, including any Bond Counsel.

“Credit Facility” means the Initial Credit Facility and any Alternate Credit Facility.

“Credit Facility Effective Date” has the meaning ascribed to such term in Section 3.08(e).

“Credit Modification Date” means either (a) the Business Day next preceding the date on which a Credit Facility then in effect is stated to expire (unless extended or replaced by an Alternate Credit Facility), or (b) the proposed Credit Facility Effective Date with respect to an Initial Credit Facility or an Alternate Credit Facility.

“Credit Provider” means the issuer of any Credit Facility, and its successors and assigns; provided, however, that in connection with the acceptance of an Alternate Credit Facility that results in the occurrence of a Mandatory Purchase Date, until the occurrence of such Mandatory Purchase Date, “Credit Provider” shall mean the issuer of the Credit Facility in effect immediately prior to acceptance of such Alternate Credit Facility.

“Credit Provider Bond” means any Bond purchased with moneys advanced under a Credit Facility until remarketed.

“Current Account” means the account of that name within the Bond Fund established pursuant to Section 4.01.

“Current Purchase Account” means the account of that name within the Bond Purchase Fund established pursuant to Section 4.04.

“Default Rate” means the fluctuating rate which is at all times equal to the Prime Rate plus 3.0%; provided that the term “Default Rate” with respect to (i) Bonds bearing interest at an Index Interest Rate shall have the meaning given such term in the applicable Continuing Covenant Agreement and (ii) Bonds secured by a Credit Facility shall have the meaning given such term in the applicable Reimbursement Agreement.

“Determination of Taxability” means and shall be deemed to have occurred on the first to occur of the following:

(a) on that date when the Company files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability shall have in fact occurred;

(b) on the date when the Holder or any former Holder notifies the Issuer and the Company that it has received a written opinion by an attorney or firm of attorneys of recognized standing on the subject of tax-exempt municipal finance to the effect that an Event of Taxability shall have occurred unless, within 180 days after receipt by the Company of such notification from the Holder or any former Holder, the Company shall deliver to the Holder and any former Holder a ruling or determination letter issued to or on behalf of the Issuer or the Company by the Commissioner or any District Director of the Internal Revenue Service (or any other governmental official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred;

(c) on the date when the Issuer or the Company shall be advised in writing by the Commissioner or any District Director of the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that, based upon filings of the Company, or upon any review or audit of the Company or upon any other ground whatsoever, an Event of Taxability shall have occurred; or

(d) on that date when the Company shall receive notice from the Holder or any former Holder that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Holder or such former Holder the interest on the Bonds due to the occurrence of an Event of Taxability;

provided, however, no Determination of Taxability shall occur under subparagraph (c) or (d) hereunder unless the Company has been afforded the opportunity, at its expense, to contest any such assessment, and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined; provided further, however, that upon demand from the Holder or former Holder, the Issuer shall promptly reimburse, but solely from payments made by the Company, such Holder or former Holder for any payments, including any taxes, interest, penalties or other charges, such Holder (or former Holder) shall be obligated to make as a result of the Determination of Taxability.

“Eligible Account” means an account that is either (a) maintained with a federal or state chartered depository institution or trust company that has a short term debt rating issued by S&P of at least “A-2” (or, if no short term debt rating, a long term debt rating of at least “BBB+”); or (b) maintained with the corporate trust department of a federal depository institution or state chartered depository institution subject to regulations regarding fiduciary funds on deposit, which, in either case, has corporate trust powers and is acting in its fiduciary capacity.

“Eligible Funds” means, when a Credit Facility is in effect, moneys held by the Trustee or the Paying Agent under this Indenture which consist of any of the following:

(i) any moneys if, in the written Opinion of Counsel experienced in bankruptcy law matters (which opinion shall be delivered to the Trustee and the Rating Agency, if any, rating the Bonds at or prior to the time of the deposit of such moneys with the Trustee and shall be in form and substance satisfactory to the Rating Agency, if any, rating the Bonds), the deposit and use of such moneys will not constitute an avoidable preferential payment pursuant to Section 547 of the Bankruptcy Code, or an avoidable post petition transfer pursuant to Section 549 of the Bankruptcy Code, recoverable from Holders of the Bonds pursuant to Section 550 of the Bankruptcy Code in the event of an Act of Bankruptcy; or

(ii) moneys paid by the Credit Provider to the Trustee under the Credit Facility which are not commingled with any other moneys.

If no Credit Facility is in effect, any moneys held by the Trustee or the Paying Agent under this Indenture shall constitute “Eligible Funds.”

“Event of Default” means any of the events specified in Section 6.01.

“Excess Interest” has the meaning ascribed to such term in Section 2.03(m).

“Excluded Person” means any Person to whom Bonds may not be remarketed to pursuant to Section 2.07(d).

“Financing Statements” means any and all financing statements (including continuation statements) or other instruments filed or recorded to perfect the Security Interests created in this Indenture and in the Security Documents (or any of them).

“Fitch” means Fitch, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Company with the approval of the Remarketing Agent or the Bank, if any, by notice to the Issuer and the Trustee.

“Fixed Rate” means the Fixed Rate established in accordance with Section 2.03(e).

“Fixed Rate Conversion Date” means the day on which the Interest Rate Determination Method shall be converted to the Fixed Rate.

“Fixed Rate Period” means the period from and including the Fixed Rate Conversion Date to and including the date of payment in full of the Bonds.

“Flexible Term Rate” means the Flexible Term Rate established for each of the Bonds in accordance with Section 2.03(c).

“Flexible Term Rate Period” means any and all periods during which each of the Bonds bears interest at a Flexible Term Rate, as may be determined by the Company pursuant to Section 2.03(c).

“Government Obligations” means (i) direct obligations of the United States of America for the full and timely payment of which the full faith and credit of the United States of America is pledged, and (ii) obligations issued by a Person controlled or supervised by and acting as an instrumentality of the United States of America, the full and timely payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (i) or (ii) issued or held in book entry form on the books of the Department of the Treasury of the United States of America), which obligations, in either case, are not subject to redemption prior to maturity.

“Guarantors” or “Guarantor” means, collectively and each singularly (respectively), Cornucopia Foods, LLC, a California limited liability company, Fairplex Enterprises, Inc., a California corporation, Fairplex Equine Sales, LLC, a Delaware limited liability company, Barretts Equine Limited, a California limited partnership, Event Productions Solutions, LLC, a California limited liability company, and Fairplex RV and Boat Storage, LLC, a California limited liability company, and each of their successors and assigns, and any surviving, resulting or transferee entity as provided in the Guaranty Agreement.

“Guaranty Agreement” means the Guaranty Agreement of even date herewith from the Guarantors, as guarantors, to the Trustee (as assignee of the Issuer), wherein Guarantors guarantee the payment and performance by the Company of its obligations under the Agreement.

“Holder” means the Person who shall be the registered owner of any Bond.

“Indenture” means this Indenture of Trust, as the same may be amended or supplemented from time to time as permitted hereby.

“Index Interest Period” means while the Bonds bear interest at the LIBOR Index Rate, initially the period from (and including) the Issue Date to (but excluding) January 1, 2011, and each period thereafter from (and including) each Interest Payment Date to (but excluding) the next succeeding Interest Payment Date during which period the Bonds bear interest at an Index Interest Rate.

“Index Interest Rate” means each of the LIBOR Index Rate or the SIFMA Index Rate, as applicable.

“Index Interest Rate Period” means any period during which the Bonds bear interest at an Index Interest Rate.

“Indirect Participant” means a broker dealer, bank or other financial institution for which the Securities Depository holds Bonds as a securities depository through a Participant.

“Initial Credit Facility” means the initial Credit Facility issued to secure the Bonds delivered pursuant to Section 3.08(e).

“Initial Mandatory Conversion Date” means August 26, 2013.

“Initial Period” means the period beginning on the Issue Date and ending on the first to occur of (i) the Initial Mandatory Conversion Date, (ii) and the Conversion Date next succeeding the Issue Date (provided that the Bank shall have consented thereto in writing if converting to another Index Rate Period).

“Interest Payment Date” means (i) during any Weekly Rate Period, each Monthly Interest Payment Date, (ii) during any Flexible Term Rate Period, the Business Day immediately succeeding the last day of each Flexible Term Rate Period, but only as to Bonds for which such Flexible Term Rate Period is applicable, (iii) during any Index Interest Rate Period, each Monthly Interest Payment Date, (iv) during any Long Term Rate Period, each Semiannual Interest Payment Date, and (v) each Conversion Date.

“Interest Period” means for all Bonds (or for each Bond if the Interest Rate Mode is the Flexible Term Rate) the period from, and including, each Interest Payment Date to, and including, the day next preceding the next Interest Payment Date; provided, however, that the last Interest Period for the Bonds will end on, and include, the day preceding the maturity date of the Bonds.

“Interest Rate Determination Method” means any of the methods of determining the interest rate on the Bonds described in Section 2.03.

“Interest Rate Mode” means the Weekly Rate, the Flexible Term Rate, the Medium-Term Rate, the Fixed Rate and the Index Interest Rate.

“Investor Letter” means the investor letter attached hereto as Exhibit F.

“Issue Date” means the date on which the Bonds are delivered to the purchaser or purchasers thereof upon original issuance.

“Issuer” means Los Angeles County Regional Financing Authority, a joint powers authority organized and existing under the laws of the State, including the Act, or any successor to its rights and obligations under the Agreement and this Indenture.

“Issuer Representative” has the meaning assigned to such term in the Agreement.

“Issuing Agent” has the meaning ascribed to such term in Section 2.04(h)(A).

“LIBOR Index” means, for any LIBOR Index Reset Date, the rate per annum equal to the rate for deposits in U.S. Dollars for a period of one month commencing on that LIBOR Index Reset Date that appears on the Reuters Screen LIBOR01 (or such other page as may replace LIBOR01 on that service or such other service as may be nominated by the British Bankers’ Association as an information vendor for the purpose of displaying British Bankers’ Association Interest Settlement Rates for U.S. Dollar deposits) as of 11:00 a.m., London time, two London Business Days prior to such LIBOR Index Reset Date; provided that if such rate is not reported on a London Business Day, LIBOR Index shall mean the rate as determined by the Calculation Agent from another recognized source or interbank quotation.

“LIBOR Index Rate” means a per annum rate of interest equal to the product of (i) the Margin Rate Factor multiplied by (ii) the sum of (a) the Applicable Spread plus (b) the product of the LIBOR Index multiplied by the Applicable Factor.

“LIBOR Index Rate Conversion Date” means (i) the date on which the Bonds begin to bear interest at the LIBOR Index Rate or, (ii) if the Bonds have previously borne interest at the LIBOR Index Rate during a LIBOR Index Rate Period then ending, the Mandatory Conversion Date occurring at the end of the then ending LIBOR Index Rate Period.

“LIBOR Index Rate Period” means (i) the Initial Period and (ii) each period thereafter from and including a LIBOR Index Rate Conversion Date to but excluding the earlier of (a) the immediately succeeding Mandatory Conversion Date and (b) the Maturity Date.

“LIBOR Index Reset Date” means the first Business Day of each month.

“Local Time” means Eastern Time (daylight or standard, as applicable) in New York, New York.

“London Business Day” means any Business Day on which commercial banks are open for business in London, England.

“Long-Term Rate” means either a Medium-Term Rate or the Fixed Rate.

“Long-Term Rate Period” means either a Medium-Term Rate Period or the Fixed Rate Period.

“Mandatory Purchase Date” means (i) a proposed Conversion Date (except with respect to a Conversion Date occurring solely due to an event described in clause (iii) of the definition thereof), (ii) a Credit Modification Date, (iii) a proposed Credit Facility Effective Date, (iv) with respect to each Bond then bearing interest at a Flexible Term Rate, the first Business Day immediately succeeding the last day of each Flexible Term Rate Period applicable to such Bond, (v) the fourth Business Day after receipt by the Trustee of a written notice from the Credit Provider that an event of default under the Reimbursement Agreement has occurred and is continuing and a written request from the Credit Provider that all of the Bonds be required to be tendered for purchase, (vi) while the Bonds bear interest at the Weekly Rate, any Business Day designated by the Company with the consent of the Remarketing Agent and the Credit Provider, provided that such designation and consent are made in writing and delivered to the Trustee at least twenty-five (25) days (or such shorter period of time acceptable to the Trustee) prior to such Mandatory Purchase Date, (vii) with respect to each Bond then bearing interest at an Index Interest Rate, the date which is the last Business Day prior to the 120th day following a Taxable Date; and (viii) with respect to each Bond bearing then bearing interest at an Index Interest Rate, the fourth Business Day after receipt by the Trustee of written notice from the Bank that an Event of Default has occurred under the Continuing Covenant Agreement and a written request from the Bank that all Bonds be required to be tendered for purchase. .

“Mandatory Conversion Date” means (i) the Initial Mandatory Conversion Date and (ii) during any Index Interest Rate Period other than the Initial Period, the date designated by the Company pursuant to Section 2.04(a).

“Margin Rate Factor” means the greater of (i) 1.0, and (ii) the product of (a) one minus the Maximum Federal Corporate Tax Rate multiplied by (b) 1.54. The effective date of any change in the Margin Rate Factor shall be the effective date of the decrease or increase (as applicable) in the Maximum Federal Corporate Tax Rate resulting in such change.

“Maturity Date” means November 1, 2039.

“Maximum Federal Corporate Tax Rate” means the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, as in effect from time to time (or, if

as a result of a change in the Code, the rate of income taxation imposed on corporations generally shall not be applicable to the Bank, the maximum statutory rate of federal income taxation which could apply to the Bank).

“Maximum Lawful Rate” shall have the meaning ascribed to such term in Section 2.03(a).

“Medium-Term Rate” means the interest rate on the Bonds established from time to time pursuant to Section 2.03(d).

“Medium-Term Rate Period” means any period of not less than 271 days during which the Bonds bear interest at a Medium-Term Rate.

“Monthly Interest Payment Date” means the first Business Day of each calendar month.

“Moody’s” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Company with the approval of the Remarketing Agent or the Bank, if any, by notice to the Issuer and the Trustee.

“Opinion of Counsel” means any opinion of Counsel delivered pursuant to this Indenture. Each such opinion shall be addressed to the Trustee, the Remarketing Agent, if any, the Company, the Issuer, the Paying Agent, the Bank, if any, and the Credit Provider, if any.

“Optional Tender Date” means, during any Weekly Rate Period, any Business Day.

“Outstanding” means, when used with reference to the Bonds at any date as of which the amount of outstanding Bonds is to be determined, all Bonds that have been authenticated and delivered by the Trustee hereunder, except:

- (i) Bonds cancelled or delivered for cancellation at or prior to such date;
- (ii) Bonds deemed to be paid in accordance with Section 5.02;
- (iii) Bonds in lieu of which others have been authenticated under Sections 2.13, 2.14 and 2.15;
- (iv) Untendered Bonds to the extent that there shall be on deposit with the Paying Agent on the date purchase thereof is required as provided herein an amount to pay the Purchase Price thereof; and
- (v) For purposes of any consent, request, demand, authorization, direction, notice, waiver or other action to be taken by the Holders of a specified percentage of Outstanding Bonds hereunder, all Bonds held by or for the account of the Issuer, the Company or any affiliate of the Company; provided, however, that for purposes of any such consent, request, demand, authorization, direction, notice, waiver or action the Trustee shall be obligated to consider as not being Outstanding only Bonds known by the Trustee by actual notice thereof to be so held; provided, further, that if all of the Bonds are at any time held by or for the account of the Company or any affiliate of the Company,



then such Bonds shall be deemed to be Outstanding at such time for the purposes of this subparagraph (v).

“Participant” means a broker dealer, bank or other financial institution for which the Securities Depository holds Bonds as a securities depository.

“Paying Agent” means U.S. Bank National Association, and its successors appointed and serving under this Indenture.

“Permitted Investments” means any of the following which at the time of investment are (i) legal investments under the laws of the State for the monies proposed to be invested therein and (ii) during any Index Interest Rate Period are not prohibited under the provisions of the Continuing Covenant Agreement:

(a) bonds or obligations of the State, or of any county, municipality or political subdivision of the State;

(b) bonds or other obligations of the United States or subsidiary corporations of the United States government which are fully guaranteed by such government;

(c) obligations of agencies of the United States government issued by the Federal Land Bank, the Federal Home Loan Bank, the Federal Intermediate Credit Bank and the Central Bank for Cooperatives;

(d) bonds or other obligations issued by any public housing agency or municipality in the United States, which such bonds or obligations are fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States government, or project notes issued by any public housing agency, urban renewal agency, or municipality in the United States and secured as to payment of both principal and interest by a requisition, loan, or payment agreement with the United States government;

(e) certificates of deposit of national or state banks located within the State which have deposits insured by the Federal Deposit Insurance Corporation and certificates of deposit of federal savings and loan associations and state building and loan or savings and loan associations located within the State which have deposits insured by the Federal Savings and Loan Insurance Corporation (including the certificates of deposit of any bank, savings and loan association, or building and loan association acting as custodian or trustee for any proceeds of the Bonds); provided, however, that the portion of such certificates of deposit in excess of the amount insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, if any, shall be secured by deposit with the Federal Reserve Bank of [\_\_\_\_\_], or with any national or state bank or federal savings and loan association or state building and loan or savings and loan association located within the State, of one or more of the following securities in an aggregate principal amount equal at least to the amount of such excess: direct and general obligations of the State, or of any county, municipality corporation in the State, or obligations included in subsections (b), (c), or (d) above;

(f) securities of or other interests in any no load, open end management type investment company or investment trust registered under the investment company act of 1940, as

from time to time amended, or any common trust fund maintained by any bank or trust company which holds such proceeds as trustee or by an affiliate thereof so long as:

(i) the portfolio of such investment company or investment trust or common trust fund is limited to the obligations referenced in subsection (b) above and repurchase agreements fully collateralized by any such obligations;

(ii) such investment company or investment trust or common trust fund takes delivery of such collateral either directly or through an authorized custodian;

(iii) such investment company or investment trust or common trust fund is managed so as to maintain its shares at a constant net asset value; and

(iv) securities of or other interests in such investment company or investment trust or common trust fund are purchased and redeemed only through the use of national or state banks having corporate trust powers and located within the State;

(g) any other investments to the extent at the time permitted by then applicable law for the investment of public funds.

“Person” means any natural person, firm, partnership, association, corporation, limited liability company or public body.

“Pomona Contribution Account” has the meaning ascribed to such term in Section 4.02(b).

“Pomona Contribution Funds” means the funds still to be contributed to the Project by the City of Pomona pursuant to that certain Affordable Housing Agreement, dated April 29, 2009, between the City of Pomona and the Company in an aggregate amount of \$1,950,000.

“Prime Rate” means on any day, the rate of interest per annum then most recently established by the Bank as its “prime rate.” Any such rate is a general reference rate of interest, may not be related to any other rate, and may not be the lowest or best rate actually charged by the Bank to any customer or a favored rate and may not correspond with future increases or decreases in interest rates charged by other lenders or market rates in general, and the Bank may make various business or other loans at rates of interest having no relationship to such rate. Each time the Prime Rate changes, the per annum rate of interest on the Bonds bearing interest at a rate, a component of which is the Prime Rate, shall change immediately and contemporaneously with such change in the Prime Rate. If the Bank ceases to exist or to establish or publish a prime rate from which the Prime Rate is then determined, the applicable variable rate from which the Prime Rate is determined thereafter shall be instead the prime rate reported in The Wall Street Journal (or the average prime rate if a high and a low prime rate are therein reported), and the Prime Rate shall change without notice with each change in such prime rate as of the date such change is reported.

“Principal Amount” means the outstanding principal amount of the Bonds.

“Project” has the meaning ascribed to such term in the Agreement.

“Project Fund” means the fund of that name created pursuant to Section 4.02.

“Project Payment Request” means a Written Request by the Company in substantially the form attached hereto as Exhibit G, approved by the Bank and complying with Section 2.05 of this Agreement.

“Purchase Price” means an amount equal to 100% of the principal amount of any Bond tendered or deemed tendered for purchase pursuant to Section 2.06, plus accrued and unpaid interest thereon to the date of purchase.

“Rate” means any SIFMA Index Rate, LIBOR Index Rate, Weekly Rate, Flexible Term Rate or Long-Term Rate.

“Rate Period” means any SIFMA Index Rate Period, LIBOR Index Rate Period, Weekly Rate Period, Flexible Term Rate Period, Medium-Term Rate Period or Fixed Rate Period.

“Rating Agency” means Fitch when the Bonds are rated by Fitch, Moody’s when the Bonds are rated by Moody’s, and S&P when the Bonds are rated by S&P.

“Rebate Amount” has the meaning ascribed to such term in Section 4.08.

“Rebate Fund” means the fund of that name created pursuant to Section 4.08.

“Record Date” means with respect to each Interest Payment Date (i) during any Short-Term Rate Period or Index Interest Rate Period, the Trustee’s close of business on the Business Day next preceding such Interest Payment Date, and (ii) during any Long-Term Rate Period, the Trustee’s close of business on the fifteenth (15th) day of the calendar month next preceding the calendar month during which such Interest Payment Date occurs, regardless of whether such day is a Business Day.

“Register” means the register of the record owners of Bonds maintained by the Registrar.

“Registrar” means the Trustee.

“Reimbursement Agreement” means any agreement between the Company and a Credit Provider relating to a Credit Facility, as such agreement may be amended or supplemented from time to time pursuant to its terms.

“Remarketing Agent” means any Person appointed and serving in such capacity pursuant to Section 7.12 of this Indenture and the successors thereof.

“Remarketing Agreement” means any agreement between the Company and a Remarketing Agent relating to the Bonds, as such agreement may be amended or supplemented from time to time pursuant to its terms.

“Repayments” means all amounts required to be paid by or on behalf of the Company to the Issuer (and the Trustee, as the assignee of the Issuer) pursuant to Section 5.02 of the Agreement.

“Replacement Bonds” means Bonds issued pursuant to Section 2.15, which Bonds shall contain the terms and provisions specified herein as being applicable to the Bonds following a Mandatory Purchase Date and have excised therefrom the terms and provisions that are not so applicable and added thereto terms that have become applicable.

“Reserved Rights” has the meaning ascribed to such term in the Agreement.

“Rule” has the meaning ascribed to such term in Section 2.04(g).

“S&P” means Standard & Poor’s Ratings Services, a division of The McGraw Hill Companies, Inc., a corporation organized and existing under the laws of the State of New York, its successors and their assigns and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Company with the approval of the Remarketing Agent or the Bank, if any, by notice to the Issuer and the Trustee.

“S&P Weekly High Grade Index” means for a Computation Date, the level of the “S&P Weekly High Grade Index” (formerly known as the J.J. Kenny Index) maintained by Standard and Poor’s Securities Evaluations Inc. for a one week maturity as published each Wednesday, or if any Wednesday is not a Business Day, on the next succeeding Business Day.

“Security, Intercreditor and Collateral Agency Agreement” means that certain Security, Intercreditor and Collateral Agency Agreement, dated of even date herewith, by and among the Company and each of the Guarantors, and acknowledged and agreed to by the Collateral Agent and Bank.

“Securities Depository” means The Depository Trust Company and any substitute for or successor to such securities depository that shall maintain a Book-Entry System with respect to the Bonds.

“Securities Depository Nominee” means the Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the Register the Bonds to be delivered to such Securities Depository during the continuation with such Securities Depository of participation in its Book-Entry System.

“Security Documents” means, the Security, Intercreditor and Collateral Agency Agreement, the Guaranty Agreement, and each other agreement from time to time delivered by the Company as security for its obligations under the Agreement and the Bonds.

“Security Interest” or “Security Interests” means the security interests created herein and in the Security Documents (or any of them) and has the meanings set forth in the U.C.C.

“Semiannual Interest Payment Date” means each March 1 and September 1.

“Short-Term Rate” means either the Weekly Rate or the Flexible Term Rate.

“Short-Term Rate Period” means any period during which the Bonds bear interest at a Short Term Rate.

“SIFMA Index” means, for any Computation Date, the level of the index which is issued weekly and which is compiled from the weekly interest rate resets of tax exempt variable rate issues included in a database maintained by Municipal Market Data which meet specific criteria established from time to time by the Securities Industry and Financial Markets Association and issued on Wednesday of each week, or if any Wednesday is not a Business Day, the next succeeding Business Day. If the SIFMA Index is no longer published, then “SIFMA Index” shall mean the S&P Weekly

High Grade Index. If the S&P Weekly High Grade Index is no longer published, then “SIFMA Index” shall mean the prevailing rate determined by the Calculation Agent for tax exempt state and local government bonds meeting criteria determined in good faith by the Calculation Agent to be comparable under the circumstances to the criteria used by the Securities Industry and Financial Markets Association to determine the SIFMA Index immediately prior to the date on which the Securities and Financial Markets Association ceased publication of the SIFMA Index.

“SIFMA Index Rate” means a per annum rate of interest equal to the product of (i) the sum of the Applicable Spread plus the SIFMA Index, multiplied by (ii) the Margin Rate Factor.

“SIFMA Index Rate Conversion Date” means (i) the date on which the Bonds begin to bear interest at the SIFMA Index Rate or, (ii) if the Bonds have previously borne interest at the SIFMA Index Rate during a SIFMA Index Rate Period then ending, the Mandatory Conversion Date occurring at the end of the then ending SIFMA Index Rate Period.

“SIFMA Index Rate Period” means each period from and including a SIFMA Index Rate Conversion Date to but excluding the earlier of (i) the immediately succeeding Mandatory Conversion Date and (ii) the Maturity Date.

“SIFMA Rate Reset Date” means Thursday of each week.

“State” means the State of California.

“Surplus Bond Proceeds” means all moneys and any unliquidated investments remaining in the Project Fund or the Costs of Issuance Fund on the Completion Date and after payment in full of the Costs of the Project and any Costs of Issuance (except for either of such costs not then due and payable for which the Trustee shall have retained amounts pursuant to the Agreement).

“Surplus Fund” means the fund of that name created pursuant to Section 4.03.

“Tax Certificate” means the tax certificate of the Company dated the Issue Date.

“Taxable Date” means the date as of which interest on the Bonds is first includable in the gross income of the Holder or any Beneficial Owner (including, without limitation, any previous Holder or Beneficial Owner) thereof as determined pursuant to (i) an opinion of Bond Counsel, (ii) a final decree or judgment of any federal court or a final action by the Internal Revenue Service that is delivered to the Trustee and the Company, or (iii) the Determination of Taxability.

“Taxable Rate” means an interest rate per annum at all times equal to the product of the Index Interest Rate then in effect multiplied by the Taxable Rate Factor.

“Taxable Rate Factor” means 1.54.

“Trustee” means U.S. Bank National Association, as trustee hereunder, and any successor trustee appointed under this Indenture.

“Trust Estate” means all of the Trustee’s right, title and interest in, to and under the Security Documents and all collateral pledged or hypothecated thereunder, all products and proceeds thereof, and all cash, funds and other property realized, collected or obtained upon the exercise of the

Trustee's rights and remedies hereunder and thereunder, and all right, title and interest of the Issuer, as assigned to the Trustee hereunder, in and to:

(i) all Repayments received by the Issuer under the Agreement, which Repayments are to be paid directly by the Company to the Trustee and deposited in the Bond Fund or the Bond Purchase Fund in accordance with this Indenture;

(ii) all moneys in the Surplus Fund, the Project Fund, the Cost of Issuance Fund, and the Bond Fund, including proceeds of the Bonds pending disbursement thereof;

(iii) all of the Issuer's rights, title and interest in the Agreement (except Reserved Rights) and the Guaranty Agreement;

(iv) all other rights and interests granted to the Issuer in connection with the Agreement (except Reserved Rights) as set forth herein or granted directly to the Trustee as provided herein;

(v) all moneys available to be drawn by the Trustee under any Credit Facility that may be in effect from time to time to support payments due on or with respect to the Bonds;

(vi) all of the proceeds of the foregoing (except the amounts payable to or on behalf of the Issuer on account of its Reserved Rights), including without limitation investments thereof; and

(vii) all other property of every name and nature from time to time hereafter by delivery or by writing mortgaged, pledged, delivered or hypothecated as and for additional security under this Indenture by the Issuer or by anyone on its behalf or with its written consent in favor of the Trustee.

"U.C.C." means the Uniform Commercial Code of the State as now in effect or hereafter amended.

"Unremarketed Bonds" means any Unremarketed Bond as defined in Section 2.07(a).

"Untendered Bond" means any Untendered Bond as defined in Section 2.06(f).

"Unscheduled Redemptions" has the meaning ascribed to such term in Section 2.18(d).

"Weekly Interest Period" means, with respect to the Bonds bearing interest at a Weekly Rate, the period from and including the first day on which the Interest Rate Determination Method is changed to the Weekly Rate to and including the next Wednesday and, in each case, each succeeding period from and including each Thursday to and including the following Wednesday.

"Weekly Rate" means the interest rate on the Bonds established pursuant to Section 2.03(b).

"Weekly Rate Period" means any period during which the Bonds bear interest at a Weekly Rate.

"Written Request" means a written request signed by or on behalf of the Company by the Company Representative, or by any person who is specifically authorized by a resolution of the Company to execute such a document on its behalf.

Section 1.02. Rules of Construction. Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Indenture:

(a) All terms defined in the Agreement and not defined herein shall have the meaning ascribed thereto in the Agreement.

(b) Words importing the singular number shall include the plural number and vice versa.

(c) The table of contents, captions, and headings herein are for convenience of reference only and shall not constitute a part of this Indenture nor shall they affect its meaning, construction or effect.

(d) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders, and words of the neuter gender shall be deemed and construed to include correlative words of the masculine and feminine genders.

(e) All references in this Indenture to particular Articles or Sections are references to Articles or Sections of this Indenture, unless otherwise indicated.

## **ARTICLE II**

### **THE BONDS**

Section 2.01. Authorized Amount of Bonds. No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The total maximum principal amount of Bonds that may be issued and outstanding hereunder is expressly limited to \$24,255,000, subject to the provisions of Sections 2.13, 2.14 and 2.15. The Bonds shall be designated “Los Angeles County Regional Financing Authority Variable Rate Demand Recovery Zone Facility Bonds (Fairplex Project) Series 2010.” While the Bonds bear interest at a Short Term Rate or a Long Term Rate, the Bonds shall be in substantially the form of Exhibit A. While the Bonds bear interest at an Index Interest Rate, the Bonds shall be in substantially the form of Exhibit B.

Section 2.02. Issuance of Bonds. The Bonds shall bear interest from the Issue Date, until paid, at the rates set forth in Section 2.03 (computed on the basis of a 365-day year (366 days in a leap year) for the actual days elapsed during any Weekly Rate Period or SIFMA Index Rate Period, a 360-day year of twelve 30-day months during any Long-Term Rate Period and a 360-day year for actual days elapsed during any Flexible Term Rate Period or LIBOR Index Rate Period (calculated by multiplying the principal amount of Bonds by the interest rate, dividing that sum by 360, and multiplying that amount by the actual days elapsed)), and shall mature, unless sooner paid, on the Maturity Date, on which date all unpaid principal, redemption premium, if any, and interest on the Bonds shall be due and payable.

The Bonds shall be issued as fully registered bonds without coupons in Authorized Denominations. The Bonds shall be numbered from R-1 upwards bearing numbers not then contemporaneously Outstanding (in order of issuance) according to the records of the Registrar.

The Bonds shall be dated the Issue Date. Interest on the Bonds shall be computed from the Interest Payment Date to which interest has been paid or duly provided for next preceding the date of

authentication thereof, unless (a) such date of authentication shall be prior to the first Interest Payment Date, in which case interest shall be computed from the Issue Date, or (b) such date of authentication shall be an Interest Payment Date to which interest on the Bonds has been paid in full or duly provided for, in which case interest shall be computed from such date of authentication; provided, however, that if interest on the Bonds shall be in default, Bonds issued in exchange for Bonds surrendered for registration of transfer or exchange shall bear interest from the last date to which interest has been paid or duly provided for on the Bonds or, if no interest has been paid or duly provided for on the Bonds, from the Issue Date.

The principal of, redemption premium, if any, and the interest on the Bonds shall be payable in lawful currency of the United States. The principal of and redemption premium, if any, on the Bonds shall be payable at the corporate trust office of the Paying Agent upon presentation and surrender of the Bonds to the Paying Agent. Payments of interest on the Bonds will be mailed to the persons in whose names the Bonds are registered on the Register at the close of business on the Record Date next preceding each Interest Payment Date; provided that any Holder of a Bond or Bonds in an aggregate principal amount of not less than \$1,000,000 may, by prior written instructions filed with the Paying Agent (which instructions shall remain in effect until revoked by subsequent written instructions), instruct that interest payments for any period prior to the Fixed Rate Conversion Date be made by wire transfer to an account in the continental United States or other means acceptable to the Paying Agent.

Notwithstanding anything herein to the contrary, for so long as the Bonds bear interest at an Index Interest Rate, the Issuer and the Trustee agree that all amounts payable to the Bank with respect to any Bonds held by the Bank may be made by the Company to the Bank, upon the Bank's written notice to the Trustee and the Company (without any presentment thereof, except upon the payment of the final installment of principal, and without any notation of such payment being made thereon), in such manner or at such address in the United States as may be designated by the Bank in writing to the Trustee (the "Bank Direct Payment Period"). During any Bank Direct Payment Period, (i) any payment made shall be accompanied by sufficient information to identify the source and proper application of such payment, (ii) the Bank shall notify the Trustee in writing of any failure of the Company to make any payment of the principal of or interest on the Bonds when due, and the Trustee shall not be deemed to have any notice of such failure unless it has received such notice in writing, and (iii) if any Bonds are sold or transferred, the Bank shall notify the Trustee and the Company in writing of the name and address of the transferee, and it will, prior to delivery of such Bonds, make a notation on such Bonds of the date to which interest has been paid thereon and of the amount of any prepayments made on account of the principal thereof. Furthermore, to the extent that the Company has made the required payments to the Bank during any Bank Direct Payment Period, the Paying Agent shall have no obligations to make payments of the principal of or interest on the Bonds, nor shall the Trustee be obligated to collect Repayments, pursuant to the Agreement, to act as Bond Registrar or to take any other action in respect thereof, except at the express written direction of the Bank or the Issuer.



Section 2.03. Interest Rates on Bonds.

(a) *Initial Rate - General.* The Bonds shall bear interest as provided herein from the Issue Date to the date of payment in full of the Bonds. Interest accrued on the Bonds (or the applicable portion of the Bonds if the Bonds then bear interest at a Flexible Term Rate) shall be paid on each Interest Payment Date (or, if such day is not a Business Day, the next succeeding Business Day) commencing on the earlier of the first Monthly Interest Payment Date following the Issue Date or the first Conversion Date. Except as hereinafter provided, the interest rate on the Bonds will be determined as provided in this Section except that, except as otherwise hereinafter provided, no rate shall exceed the Ceiling Rate. The Bonds shall initially bear interest at a LIBOR Index Rate from the Issue Date until the date on which the Interest Rate Determination Method is changed as described in Section 2.04 and interest on the Bonds shall be calculated on the Principal Amount. Notwithstanding anything herein to the contrary, each Interest Rate Determination Method in effect from time to time shall continue in effect until the date on which such Interest Rate Determination Method is changed as described in Sections 2.03(c) or (d) or Section 2.04. The same Interest Rate Determination Method shall apply to all Bonds. Notwithstanding anything herein to the contrary, the interest rate on Credit Provider Bonds and Bonds bearing interest at an Index Interest Rate and Unremarketed Bonds shall not be subject to the Ceiling Rate; provided, however, that the interest rate on Credit Provider Bonds and Bonds bearing interest at an Index Interest Rate shall not exceed the maximum rate allowed by law (the "Maximum Lawful Rate").

(b) *Weekly Rate.* During any Weekly Rate Period, the Bonds will bear interest at the Weekly Rate. During any Weekly Rate Period, the Remarketing Agent will determine the Weekly Rate for the applicable Weekly Interest Period by 4:00 p.m., Local Time, on the applicable Computation Date. Each Weekly Rate shall be the rate of interest which, if borne by the Bonds, would, in the judgment of the Remarketing Agent, having due regard for the prevailing financial market conditions for revenue bonds or other securities the interest on which is included or excluded (as applicable) from gross income of the holders thereof for federal income tax purposes of the same general nature as the Bonds or securities the interest on which is included or excluded (as applicable) from gross income of the holders thereof for federal income tax purposes that are comparable as to credit and maturity (or comparable with respect to optional tender provisions) with the credit and maturity or the optional tender provisions of the Bonds, be the interest rate necessary, but would not exceed the interest rate necessary, to enable the Remarketing Agent to place the Bonds at a price of par (plus accrued interest, if any) on the first Business Day of such Weekly Interest Period; provided, that, if for any reason the Weekly Rate for any Weekly Interest Period is not established as aforesaid by the Remarketing Agent, no Remarketing Agent shall be serving as such hereunder or the rate so established is held to be invalid or unenforceable with respect to any Weekly Interest Period, then the Weekly Rate for such Weekly Interest Period shall be equal to the Alternate Weekly Index on the date such interest rate was (or would have been) determined as provided above. The Remarketing Agent (or if no Remarketing Agent is serving as such hereunder, the Trustee) shall notify the Company immediately by telephone if the Alternate Weekly Index is applicable, with written notice to follow promptly. In connection with any change or deemed change in the Interest Rate Determination Method to a Weekly Rate pursuant to Section 2.03(c) or (d) or Section 2.04(a), the initial Weekly Rate shall be determined as provided above on the applicable Computation Date.

(c) *Flexible Term Rate.* During any Flexible Term Rate Period, each of the Bonds will bear interest at a Flexible Term Rate. With respect to any Flexible Term Rate Period, the Company shall determine the Flexible Term Rate, and the Remarketing Agent shall determine the Flexible Term Rate to be applicable to each Bond by 1:00 p.m., Local Time, on the applicable

Computation Date. No Flexible Term Rate Period applicable to any Bond may (A) be less than one or more than 270 days in length, (B) extend beyond any scheduled Mandatory Purchase Date or the final Maturity Date of the Bonds, or (C) end on a day preceding a non Business Day. The Company may assign different Flexible Term Rate Periods to different Flexible Term Rate Bonds. For each Flexible Term Rate Bond, the Flexible Term Rate shall be the rate of interest which, if borne by such Bond for its applicable Flexible Term Rate Period, would, in the judgment of the Remarketing Agent, having due regard for the prevailing financial market conditions for revenue bonds or other securities the interest on which is included or excluded (as applicable) from gross income of the holders thereof for federal income tax purposes of the same general nature as such Bond or securities the interest on which is included or excluded (as applicable) from gross income of the holders thereof for federal income tax purposes which are comparable as to credit and maturity (or period for tender) with the credit and maturity of such Bond, be the interest rate necessary, but would not exceed the interest rate necessary, to enable the Remarketing Agent to place such Bond at a price of par (plus accrued interest, if any) on the first Business Day of such Flexible Term Rate Period. If for any reason the applicable rate is not established as aforesaid by the Remarketing Agent, no Remarketing Agent shall be serving as such hereunder or the rate so established is held to be invalid or unenforceable, then the Interest Rate Determination Method shall be deemed to have converted to the Weekly Rate on the date such interest rate was (or would have been) determined as provided above. The Remarketing Agent (or if no Remarketing Agent is serving as such hereunder, the Trustee) shall notify the Company, the Trustee and the Paying Agent immediately by telephone if such a conversion is deemed to have occurred, with written notice to follow promptly. In connection with any change in the Interest Rate Determination Method to a Flexible Term Rate pursuant to Section 2.04, the initial Flexible Term Rate and Flexible Term Rate Period for each Bond shall be determined as provided above on the applicable Computation Date.

(d) *Medium-Term Rate.* During any Medium-Term Rate Period, the Bonds shall bear interest at the Medium-Term Rate. The interest rate to be borne by the Bonds from the applicable Conversion Date to the last day of the applicable Medium-Term Rate Period shall be the rate determined by the Remarketing Agent on the applicable Computation Date to be the rate which, if borne by the Bonds would, in the judgment of the Remarketing Agent having due regard for prevailing market conditions for revenue bonds or other securities the interest on which is included or excluded (as applicable) from gross income of the holders thereof for federal income tax purposes and that are comparable to the Bonds, be the interest rate necessary, but would not exceed the interest rate necessary, to enable the Remarketing Agent to place the Bonds at a price of par (plus accrued interest, if any) on the applicable Conversion Date. If for any reason the applicable rate is not established as aforesaid by the Remarketing Agent, no Remarketing Agent shall be serving as such hereunder or the rate so established is held to be invalid or unenforceable, then the Interest Rate Determination Method shall be deemed to have converted to the Weekly Rate on the date such interest rate was (or would have been) determined as provided above. The Remarketing Agent (or if no Remarketing Agent is serving as such hereunder, the Trustee) shall notify the Company, the Trustee and the Paying Agent immediately by telephone if such a conversion is deemed to have occurred, with written notice to follow promptly.

On the Computation Date with respect to a Medium-Term Rate, the Company shall determine the Medium Term Rate Period. No Medium-Term Rate Period may be (A) less than 271 days, (B) extend beyond any scheduled Mandatory Purchase Date or the Maturity Date of the Bonds or, (C) end on a day preceding a non-Business Day. If the Company fails to determine the Medium Term Rate Period or the Medium-Term Rate Period so established is held to be invalid or unenforceable, the Medium-Term Rate Period shall be (i) if the Interest Rate Determination Method

in effect immediately prior to such Conversion Date was a Medium-Term Rate, the shorter of (a) the period equal to the Medium-Term Rate Period for such Medium-Term Rate (provided, however, that if the last day of such period would not be a day immediately preceding a Business Day, such period shall be extended to the next succeeding day that is a day immediately preceding a Business Day) and (b) the remaining maturity of the Bonds, or (ii) if the Interest Rate Determination Method in effect immediately prior to such Conversion Date was not a Medium-Term Rate, the shorter of (a) the period ending on the first date that is a day immediately preceding a Business Day and is at least 271 days after the Conversion Date and (b) the remaining maturity of the Bonds.

If requested in the Conversion Notice by the Company, the Remarketing Agent may also determine on the Computation Date redemption premiums, different from those set forth in Section 2.18, for optional redemption of the Bonds during the Medium-Term Rate Period. These redemption premiums shall be consistent with the prevailing market conditions, in the reasonable judgment of the Remarketing Agent. The Remarketing Agent shall not, however, establish redemption premiums different from those set forth in Section 2.18 unless an Approving Opinion shall be furnished.

(e) *Fixed Rate.* The Bonds shall bear interest at the Fixed Rate during the Fixed Rate Period. The interest rate to be borne by the Bonds from the Fixed Rate Conversion Date to the date of payment in full of the Bonds shall be the rate determined by the Remarketing Agent on the applicable Computation Date to be the rate which, if borne by the Bonds would, in the judgment of the Remarketing Agent having due regard for the prevailing market conditions for revenue bonds or other securities the interest on which is included or excluded (as applicable) from gross income of the holders thereof for federal income tax purposes and that are comparable to the Bonds, be the interest rate necessary, but would not exceed the interest rate necessary, to enable the Remarketing Agent to place the Bonds at a price of par (plus accrued interest, if any) on the Fixed Rate Conversion Date. If for any reason the Fixed Rate is not established as aforesaid by the Remarketing Agent or no Remarketing Agent shall be serving as such hereunder, then the provisions of the last paragraph of Section 2.04(e) shall apply; if the Fixed Rate established by the Remarketing Agent is held to be invalid or unenforceable, the interest rate to be borne by the Bonds from the Fixed Rate Conversion Date to the date of payment in full of the Bonds shall be determined by the Remarketing Agent based on the criteria in the preceding sentence and avoiding the cause of invalidity or unenforceability.

If requested in the Conversion Notice by the Company, the Remarketing Agent may also determine on the Computation Date redemption premiums, different from those set forth in Section 2.18, for optional redemption of the Bonds during the Fixed Rate Period. These redemption premiums shall be consistent with the prevailing market conditions, in the reasonable judgment of the Remarketing Agent. The Remarketing Agent shall not, however, establish redemption premiums different from those set forth in Section 2.18 unless an Approving Opinion shall be furnished.

(f) *Index Interest Rates.*

(i) During each SIFMA Index Rate Period, the Bonds shall, subject to Section 2.03(k) and Section 2.03(l), bear interest at the SIFMA Index Rate. The Calculation Agent shall determine the SIFMA Index Rate on each Computation Date during the SIFMA Index Rate Period, and such rate shall become effective on the SIFMA Rate Reset Date next succeeding such Computation Date. The SIFMA Index Rate shall be rounded upward to the third decimal place.

(ii) During each LIBOR Index Rate Period, the Bonds shall, subject to Section 2.03(k) and Section 2.03(l), bear interest at the LIBOR Index Rate, which interest shall be payable on the Interest Payment Date immediately following the last day of such Index Rate Period. The Calculation Agent shall determine the LIBOR Index Rate for such Index Rate Period on each Computation Date, and such rate shall become effective on the LIBOR Index Reset Rate next succeeding such Computation Date.. The LIBOR Index Rate shall be rounded upward to the third decimal place. The LIBOR Index Rate shall be rounded upward to the third decimal place. The LIBOR Index Rate for the Index Interest Period commencing on the Issue Date until but excluding January 1, 2011 shall be equal to [\_\_\_\_]%. .

(g) *Notice of Rates and Deemed Conversions.* Promptly following the determination of any Rate, the Remarketing Agent or the Calculation Agent, as applicable, shall give notice thereof to the Trustee and the Paying Agent. Promptly upon receipt from the Remarketing Agent of any Medium Term Rate or Fixed Rate, the Paying Agent shall give each Holder notice of the new Rate. The Company and any Holder or Beneficial Owner may obtain any Rate on or after the applicable Computation Date upon request to the Remarketing Agent or Calculation Agent, as applicable. Promptly upon receipt from the Remarketing Agent or the Trustee of notice of any deemed conversion to the Weekly Rate under this Section, the Paying Agent shall give each Holder, the Credit Provider, if any, and the Rating Agency, if any, then rating the Bonds notice of the deemed conversion.

(h) *Determination of Rate Conclusive.* The determination of any Rate by the Remarketing Agent or the Calculation Agent, as applicable, shall be conclusive and binding upon the Issuer, the Company, the Trustee, the Paying Agent, the Remarketing Agent, the Credit Provider, if any, and the Holders or Beneficial Owners absent manifest error.

(i) *No Liability.* In determining the interest rate or rates that the Bonds shall bear as provided in this Section, neither the Remarketing Agent nor the Calculation Agent shall have any liability to the Company, the Trustee, the Paying Agent, the Registrar, the Credit Provider or any Holder or Beneficial Owners, except for its gross negligence or willful misconduct.

(j) *Credit Provider Bonds.* Notwithstanding anything herein to the contrary, interest on Credit Provider Bonds shall be payable at the rates, on the dates and in the manner provided in the applicable Reimbursement Agreement.

(k) *Adjustments to Index Interest Rates.* From and after any Taxable Date, the interest rate on Bonds in an Index Interest Rate Period shall be established at a rate at all times equal to the Taxable Rate.

(l) *Interest Rate During Event of Default.* Notwithstanding the foregoing, upon the occurrence and during the continuation of an Event of Default, from and after the effective date of such Event of Default (and, in the case of an Event of Default described in Section 6.01(f) or (g), without regard to whether the Trustee has been directed to accelerate the Bonds), the interest rate for the Bonds during an Index Interest Rate Period shall be established at a rate at all times equal to the greater of (i) the Default Rate and (ii) the interest rate that otherwise would be applicable to the Bonds pursuant to subsection (f) above but for the provisions of this paragraph, but in any event, no greater than the Maximum Lawful Rate.

(m) *Excess Interest.* Anything herein to the contrary notwithstanding, if the rate of interest payable on the Bonds during an Index Interest Rate Period shall exceed the Maximum Lawful Rate for any Interest Period, then (i) such Bonds shall bear interest at the Maximum Lawful Rate during such Interest Period and (ii) interest on such Bonds at the rate equal to the difference between (A) the rate of interest borne by such Bonds without regard to the Maximum Lawful Rate and (B) the Maximum Lawful Rate (the “Excess Interest”) shall be deferred until such date as the rate of interest borne by such Bonds without regard to the Maximum Lawful Rate ceases to exceed the Maximum Lawful Rate, at which time such portion of the deferred Excess Interest shall be payable with respect to such Bonds as will cause the rate of interest then paid thereon to equal the Maximum Lawful Rate, which payments of deferred Excess Interest shall continue to apply until all deferred Excess Interest with respect to such Bonds is fully paid.

#### Section 2.04. Conversion of Interest Rate Determination Method.

(a) *Conversion Notice.* The Interest Rate Determination Method for the Bonds may be changed under this Section from any Short Term Rate, Index Interest Rate or Medium Term Rate to any other Interest Rate Determination Method, or from a Medium Term Rate to a new Medium Term Rate, or, with the consent of the Bank, from an Index Interest Rate to a new Index Interest Rate on any Conversion Date by the Company giving written notice of such change (a “Conversion Notice”) to the Remarketing Agent, if any, the Trustee and, during an Index Interest Rate Period, the Bank, with a copy to the Issuer, the Paying Agent, the Rating Agency, if any, rating the Bonds and the Credit Provider, if any; provided, however, that during the Initial Period the Interest Rate Determination Method may not be changed to another Interest Rate Determination Method or to a new Index Interest Rate Period without the prior written consent of the Bank. The Conversion Notice must be received by the Remarketing Agent, if any, the Trustee and, during an Index Interest Rate Period, the Bank, at least twenty five (25) days prior to the proposed Conversion Date.

Each Conversion Notice shall state (i) that the Company elects to change the Interest Rate Determination Method to a new Interest Rate Determination Method, or from the interest rate applicable during a Medium Term Rate Period to a new interest rate during a new Medium Term Rate Period, or from an Index Interest Rate Period to a new Index Interest Rate Period, (ii) the proposed Conversion Date, (iii) the Interest Rate Determination Method to be in effect from and after such Conversion Date, (iv) whether a Credit Facility is to be in effect from and after such Conversion Date, and, if so, the terms of such Credit Facility, and (v) if a Long Term Rate is to be in effect from and after such Conversion Date, and if redemption premiums different from those set forth in Section 2.18 are to be applicable as described in Section 2.03(d) and(e), the redemption premiums to be applicable during such Long Term Rate Period. In addition, if an Index Interest Rate is to be in effect immediately following such Conversion Date, such Conversion Notice shall state (x) whether such Index Interest Rate shall be a SIFMA Index Rate or a LIBOR Index Rate, (y) the applicable Mandatory Conversion Date, and (z) the Applicable Factor, if applicable, and the Applicable Spread. In addition, if an Index Interest Rate is to be in effect immediately following such Conversion Date, the Company shall provide a copy of the Conversion Notice to the Calculation Agent contemporaneously with the Trustee.

Each Conversion Notice to a Short-Term Rate or Medium-Term Rate shall be accompanied by evidence that a Remarketing Agent shall have been appointed and accepted such appointment.

(b) *Opinions With Respect to Conversions.* The Company shall deliver to the Credit Provider, the Remarketing Agent, or the Bank, if applicable, and the Trustee, by 10:00 a.m., Local Time, on the proposed Conversion Date under this Section an Approving Opinion.

(c) *Conversion Date.* If the Interest Rate Determination Method in effect prior to the Conversion Date under this Section is:

(i) a Weekly Rate, the Conversion Date may be any Business Day;

(ii) a Flexible Term Rate, the Conversion Date must be the day that would otherwise be an Interest Payment Date for all of the Bonds, such Interest Payment Date to be determined at the time the Conversion Notice is received by the Remarketing Agent;

(iii) an Index Interest Rate, a Conversion Date (A) must be a day that would otherwise be an Interest Payment Date and (B) shall be subject to any conditions set forth in the applicable Continuing Covenant Agreement; or

(iv) a Medium Term Rate, the Conversion Date must be the Business Day immediately succeeding the last day of the Medium Term Rate Period.

(d) *Notice of Conversions to Holders.* The Trustee shall give written notice to the Holders of a Conversion Date, which notice shall be in substantially the form attached to this Indenture as Exhibit C, appropriately completed, and shall be sent by first class mail, postage prepaid, at least fifteen (15) days prior to the proposed Conversion Date.

(e) *Failure or Revocation of Conversion.* If (i) the Company fails to deliver to the Trustee, the Credit Provider, the Remarketing Agent or the Bank, if applicable, and the Remarketing Agent by 10:00 a.m., Local Time, on the proposed Conversion Date the Approving Opinion required by paragraph (b) of this Section, or (ii) an Event of Default shall have occurred and be continuing hereunder, the Interest Rate Determination Method for the Bonds shall not be changed on the proposed Conversion Date and the Trustee shall immediately notify by telephone the Credit Provider, if any, the Remarketing Agent, if any, the Issuer, the Bank (during an Index Interest Rate Period) and the Paying Agent that the Interest Rate Determination Method for the Bonds shall not be changed on the proposed Conversion Date.

Notwithstanding any other provision in this Indenture to the contrary, no conversion of the Interest Rate Determination Method to the Fixed Rate shall occur if the Company, not later than 10:00 a.m., Local Time, on the Business Day immediately preceding the applicable Computation Date, directs the Remarketing Agent not to change the Interest Rate Determination Method to the Fixed Rate by written notice, with a copy to the Trustee, the Issuer, the Paying Agent, the Remarketing Agent, the Bank (during an Index Interest Rate Period) and the Credit Provider, if any.

If a proposed conversion of the Interest Rate Determination Method is cancelled pursuant to the provisions of the two preceding paragraphs, all Bonds shall nevertheless be tendered for purchase on the proposed Conversion Date and shall be purchased by the Issuer on the proposed Conversion Date. If the Issuer shall fail to so purchase the Bonds on such proposed Conversion Date, such failure shall constitute an Event of Default] and, except as otherwise provided in Section 2.03(k) and Section 2.03(l) hereof, the Bonds shall continue to bear interest in accordance with the Interest Rate

Determination Method in effect prior to the proposed Conversion Date and, in the case of a proposed change from a Medium Term Rate, for a Medium Term Rate Period ending on the first day that is a day immediately preceding a Business Day and that occurs on or after the day that is the same number of days after the proposed Conversion Date as the number of days in the immediately preceding Medium Term Rate Period (but in no event later than the maturity of the Bonds); provided, however, that the rate of interest that the Bonds will bear shall be determined on the proposed Conversion Date.

So long as no declaration of acceleration of the Bonds pursuant to Section 6.02 of this Indenture has occurred, the Event of Default described in the preceding paragraph may be cured by the subsequent successful conversion of the Bonds in accordance with this Section 2.04.

(f) *Failure to Mail Certain Notices.* Failure to mail the notice described in paragraph (d), or any defect therein, shall not affect the validity of any interest rate or change in the Interest Rate Determination Method for any of the Bonds or the requirement that the Bonds shall be tendered pursuant to Section 2.06(e) or extend the period for tendering any of the Bonds for purchase, and the Trustee shall not be liable to any Holder by reason of its failure to mail such notice or any defect therein.

(g) *Compliance with Rule 15c2-12.* Notwithstanding any provision in this Indenture to the contrary, no conversion of the Interest Rate Determination Method shall be permitted unless the Trustee, the Issuer and the Remarketing Agent shall have received, at least two (2) Business Days prior to the proposed Conversion Date, either (a) a copy of a continuing disclosure agreement imposing obligations upon the Company or any other responsible party to comply with the requirements of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the “Rule”), with respect to the Bonds, together with such disclosure documents as the Remarketing Agent shall require in order to comply with the Rule, if the Rule will be applicable upon such conversion or (b) an Opinion of Counsel that, notwithstanding such conversion, the Rule will not be applicable to the Bonds as of and after the Conversion Date.

(h) *Conversion to Flexible Term Rate or a Long Term Rate.* The Interest Rate Determination Method may not be converted to (i) a Flexible Term Rate unless the interest component of the Credit Facility to be in effect immediately following such conversion, if any, provides for payment of at least 271 days of interest on the Bonds at the Ceiling Rate or (ii) a Long Term Rate unless the interest component of the Credit Facility to be in effect immediately following such conversion, if any, provides for payment of at least 183 days of interest on the Bonds at such Long Term Rate. If a rating for the Bonds is to be maintained after any such conversion, the Trustee and the Remarketing Agent must receive, prior to the effective date of such conversion, written confirmation from each Rating Agency rating the Bonds of the credit rating to be applicable following such conversion.

The following additional conditions must be satisfied before a Conversion to a Flexible Term Rate shall become effective:

(A) The Company must engage, at its expense, an issuing and paying agent (the “Issuing Agent”), reasonably acceptable to the Trustee and the Paying Agent, having access to DTC’s electronic money market issuing and payment system and otherwise eligible to serve as an issuing and paying agent under DTC’s policies and procedures for the issuance and payment of Flexible Term Rate Bonds;

(B) The Remarketing Agent must arrange for the execution and delivery to DTC of the required DTC letter of representation for eligibility of the Bonds in the Flexible Term Rate in DTC's Book-Entry System and the provision of any needed CUSIP numbers; and

(C) The Issuer and the Company shall take all other action needed to comply with DTC requirements applicable to the issuance and payment of the Bonds while in the Flexible Term Rate.

(i) *Exchange of Bonds.* Upon conversion to an Index Interest Rate from a different Interest Rate Determination Method, or from an Index Interest Rate to a different Interest Rate Determination Method, the Issuer shall execute at the written request and sole expense of the Company, and the Trustee shall authenticate and deliver, new Bonds of like dates and denominations and in the form attached hereto as Exhibit A when converting from an Index Interest Rate Period and Exhibit B when converting to an Index Interest Rate Period, all in accordance with Section 2.20. Upon conversion to an Index Interest Rate Period, the Book-Entry System no longer will be in effect with respect to the Bonds, and upon conversion from an Index Interest Rate Period to a Short Term Period or a Long Term Period, the Bonds will be issued in the name of the Securities Depository, in each case pursuant to Section 2.20.

(j) *Provision applicable to All Conversions.* Notwithstanding anything herein to the contrary, the following conditions must be met with respect to any conversion of the Interest Rate Determination Method:

(i) Upon such conversion, the Bonds will be secured by a letter of credit or other financial guaranty from a commercial bank or other financial institution with a credit rating not lower than "A" by S&P or "A2" by Moody's; or

(ii) Upon such conversion, the Bonds will be sold to a single "accredited investor" (as defined under Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended (the "1933 Act")) or "qualified institutional buyer" as defined in Rule 144A of the 1933 Act, in either case which executes an Investor Letter. With respect to any conversions to an Interest Rate Period in which this clause (ii) is utilized, any subsequent transfer of the Bonds during such Interest Rate Period must be to a purchaser meeting the requirements of this clause (ii), and the Bonds shall contain a legend to that effect.

#### Section 2.05. Disbursement of Bond Proceeds

(a) The Issuer and the Trustee acknowledge and agree that during the period from the Issue Date until the earliest to occur of (i) the date when all amounts in the Project Fund, including the Pomona Contribution Account, and the Cost of Issuance Fund, have been disbursed, (ii) the Completion Date, and (iii) the Taxable Date (the earliest such date herein referred to as the "Advance Termination Date"), the Bond Proceeds will be disbursed in installments through the making of Advances by the Trustee to the Company in accordance with the terms and conditions of this Agreement and the Continuing Covenant Agreement. Following the Advance Termination Date, no additional Advances may be made.

(b) Before any Advance is made from the Project Fund or the Cost of Issuance Fund and the accounts therein by the Trustee, the Company shall file with the Trustee a Project



Payment Request or a Cost of Issuance Payment Request, in either case in the form appended to this Indenture, and approved by the Bank pursuant to the Continuing Covenant Agreement, showing with respect to each payment to be made: (i) whether such request relates to the Project or Costs of Issuance; (ii) the name and address of the Person to whom payment is due; (iii) the amount to be paid; and (iv) the purpose for which the obligation to be paid was incurred.

Each such Project Payment Request and Cost of Issuance Payment Request of the Company shall state and shall be sufficient evidence to the Trustee:

(i) that obligations in the stated amounts are a proper charge either (x) against the Project Account of the Project Fund and has not been previously reimbursed from the Project Account of the Project Fund, as applicable, or (y) against the Cost of Issuance Fund for Costs of Issuance and has not been previously reimbursed from the Cost of Issuance Fund;

(ii) that there does not then exist or is not then continuing any Event of Default and that there has not been filed with or served upon the Company notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable to any of the Persons named in such Project Payment Request or Cost of Issuance Payment Request of the Company which has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen's or mechanics' liens accruing by mere operation of law; and

(iii) with respect to payments from the Project Account of the Project Fund, that the Company certifies that: (i) if such payment is to be made to the Contractor under the Construction Contract (as such term is defined in the Continuing Covenant Agreement), that such payment is required to be paid under such Construction Contract and all conditions for such payment have been satisfied; and (ii) the amounts remaining on deposit therein after said transfer, together with other moneys available to the Company, are sufficient to complete the Project, as applicable.

Upon receipt of each such Project Payment Request or Cost of Issuance Payment Request approved by the Bank, the Trustee shall pay the amount set forth therein as directed by the terms thereof, except that no such payment shall be made by the Trustee in the event it has received notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys to be so paid which has not been released or will not be released simultaneously with such payment.

Notwithstanding any other provision hereof, no withdrawal from the Project Fund or the Cost of Issuance Fund or the accounts therein shall occur so long as any Event of Default has occurred and is continuing. The Trustee may conclusively rely on such Project Payment Request or Cost of Issuance Payment Request acknowledged and agreed by the Bank as complete authorization to disburse funds in accordance with this Section.

Section 2.06. Tender of Bonds for Purchase.

(a) *Optional Tender During Weekly Rate Period.* During any Weekly Rate Period, the Holders of the Bonds shall have the right to tender any such Bond (or portion thereof in

an Authorized Denomination, provided that any Bond or portion thereof remaining is also in an Authorized Denomination) for purchase by the Issuer on any Optional Tender Date, but only upon:

(i) delivery to the Remarketing Agent at its principal office, not later than 4:00 p.m., Local Time, on or before the seventh (7th) day (or on the immediately preceding Business Day, if such seventh (7th) day is not a Business Day) next preceding such Optional Tender Date, of an irrevocable written, telephonic (followed by written or facsimile confirmation delivered to the Remarketing Agent no later than the close of business on the next succeeding Business Day), facsimile or telegraphic notice (with a written or facsimile copy to the Trustee) stating (1) that such Holder will tender for purchase all or any portion of his/her Bonds in an Authorized Denomination and the amount of Bonds to be tendered and (2) the Optional Tender Date on which such Bonds will be tendered; and

(ii) delivery of such Bond (with an appropriate instrument of transfer duly executed in blank) to the Trustee at its corporate trust office at or prior to 10:00 a.m., Local Time, on such Optional Tender Date; provided, however, that no Bond (or portion thereof) shall be purchased unless such Bond as delivered to the Trustee shall conform in all respects to the description thereof in the aforesaid notice.

(b) *Optional Tender by Beneficial Owners.* If the Bonds are held in a Book-Entry System, a purchase notice pursuant to Section 2.06(a)(i) may be delivered by a Beneficial Owner. Such purchase notice must be delivered as set forth in Section 2.06(a)(i) and must state that such Beneficial Owner will cause its beneficial interest (or portion thereof in an Authorized Denomination) to be tendered, the amount of such interest to be tendered, the Optional Tender Date on which such interest will be tendered and the identity of the Participant through which the Beneficial Owner maintains its interest. Upon delivery of such notice, the Beneficial Owner must make arrangements to have its beneficial ownership interest in the Bonds being tendered transferred to the Trustee at or prior to 10:00 a.m., Local Time, on the Optional Tender Date, but need not otherwise comply with Section 2.06(a)(ii).

(c) *Election to Tender Irrevocable.* Any election of a Holder to tender Bonds for purchase on an Optional Tender Date in accordance with paragraph (a) above shall be irrevocable and shall be binding on the Holder making such election and on any transferee of such Holder.

(d) *Notices.* The Remarketing Agent shall give prompt notice by telephone of receipt of any tender notice received by it in accordance with subparagraph (i) of paragraph (a) above to the Trustee, the Paying Agent and the Credit Provider, if any.

(e) *Mandatory Purchase on Mandatory Purchase Date.* The Bonds (or the applicable portion of the Bonds during any Flexible Term Rate Period) shall be purchased by the Issuer on each Mandatory Purchase Date at the Purchase Price thereof; provided that if the Mandatory Purchase Date shall be the conversion from one Index Interest Rate Period to another Index Interest Rate Period, any owner of the Bonds may elect to retain its Bonds by filing with the Trustee not less than five (5) days prior to such Mandatory Purchase Date a written notice identifying such Bonds and the principal amount it wishes to retain.. Holders of Bonds subject to mandatory tender for purchase shall tender such Bonds to the Trustee by 10:00 a.m., Local Time, on each Mandatory Purchase Date.

(f) *Bonds Deemed Tendered.* If (i) with respect to a Mandatory Purchase Date, a Holder fails to deliver such Bond to the Trustee on or before the Mandatory Purchase Date, or (ii) with respect to an Optional Tender Date, a Holder gives notice pursuant to Section 2.06(a) to the Remarketing Agent and thereafter fails to deliver such Bonds (or portion thereof) to the Trustee, as required, then such Bond (or portion thereof) that is not delivered to the Trustee shall be deemed to have been properly tendered (such Bond being hereinafter referred to as an “Untendered Bond”) and, to the extent that there shall be on deposit with the Paying Agent on the date purchase thereof is required as provided herein Eligible Funds sufficient to pay the Purchase Price thereof, such Untendered Bond shall cease to constitute or represent a right to payment of principal or interest thereon and shall constitute and represent only the right to the payment of the Purchase Price payable on such date.

(g) *Source of Funds for Purchase of Bonds.* On each Optional Tender Date and each Mandatory Purchase Date the Issuer shall purchase (but solely from funds set forth below) the Bonds (or portions thereof), tendered (or deemed tendered) to the Trustee for purchase in accordance with this Section at the applicable Purchase Price. Funds for the payment of the Purchase Price for such Bonds (or in the case of an Optional Tender Date, portions thereof), shall be paid by the Paying Agent solely from the following sources and in the following order of priority:

(i) proceeds of the remarketing of such Bonds (or portions thereof) pursuant to Section 2.07 that have been transferred to the Paying Agent pursuant to such Section;

(ii) if a Credit Facility is then in effect, moneys drawn under such Credit Facility pursuant to Section 2.07(b) and Section 3.08(a)(ii);

(iii) moneys from the Bond Purchase Fund constituting Eligible Funds, if any, that have been transferred to the Paying Agent pursuant to Section 4.04; and

(iv) any other moneys furnished to the Trustee and available for such purpose.

Bonds (or portions thereof) purchased as provided above shall be registered for transfer as provided in Section 2.08.

(h) *Notice of Mandatory Purchase Date.* Not less than fifteen (15) days prior to each Mandatory Purchase Date occurring as a result of a Credit Modification Date, or at the Company’s direction, and not less than three (3) days prior to each Mandatory Purchase Date occurring at the Credit Provider’s direction, the Trustee shall give written notice of such Mandatory Purchase Date to the Remarketing Agent, the Paying Agent and, by first class mail, postage prepaid, the Holders, which notice shall be in substantially the form of Exhibit D or E, as applicable, hereto appropriately completed. With respect to a Mandatory Purchase Date that is a Conversion Date, the Trustee shall provide notice to the Holders as set forth in Section 2.04(d). With respect to a Mandatory Purchase Date that is a Credit Facility Effective Date, the Trustee shall provide notice to the Holders as set forth in Section 3.08(e). With respect to a Mandatory Purchase Date that is the third Business Day after the Trustee receives written notice from the Bank that an Event of Default has occurred and directing the Trustee to call the Bonds for mandatory tender for purchase, the Trustee shall promptly thereafter provide written notice thereof to the Holders. With respect to a Mandatory Purchase Date that is the first Business Day immediately succeeding the last day of each

Flexible Term Rate Period applicable to a Bond, no notice of mandatory tender shall be sent to the Holder of such Bond. Failure to mail such notice or any defect therein shall not affect the rights or obligations of Holders and the Trustee shall not be liable to any Holder by reason of its failure to mail such notice or any defect therein.

Section 2.07. Remarketing of Bonds.

(a) *Best Efforts to Place Bonds.* The Remarketing Agent shall use its best efforts to place Bonds (or portions thereof) at a price of par plus accrued interest, if any, on each date that such Bonds (or portions thereof) are required to be purchased pursuant to Section 2.06(e) and if such Bonds are not placed on such date (such Bonds being hereinafter referred to as “Unremarketed Bonds”), the Remarketing Agent shall continue to use its best efforts to place such Unremarketed Bonds at a price of par plus accrued interest, if any. By 12:00 noon, Local Time, on the Business Day prior to each date that the Bonds (or portions thereof) are required to be purchased pursuant to Section 2.06(e), the Remarketing Agent shall give initial notice by telephone (promptly confirmed by telecopy) of the principal amount of the Bonds for which it has arranged placement, together with the principal amount of the Bonds, if any (and such other particulars with respect thereto as the Trustee may deem necessary), for which it has not arranged placement, to the Trustee, the Company and the Credit Provider, if any, and the Paying Agent.

Such initial notice shall be confirmed by telephone notice by 9:00 a.m., Local Time, on the date that such Bonds are to be purchased (such notice to be promptly confirmed in writing) of the amount of Bonds not remarketed and the information necessary to enable the Trustee to prepare new Bond certificates with respect to the Bonds that were remarketed. By 9:30 a.m., Local Time, the Remarketing Agent shall transfer to the Paying Agent the proceeds of the remarketing of such Bonds. By 10:30 a.m., Local Time, the Paying Agent shall notify the Trustee of the amount of remarketing proceeds it received from the Remarketing Agent.

Notwithstanding anything herein to the contrary, Bonds may be remarketed only at a price of par plus accrued interest, if any.

(b) *Draws on Credit Facility.* In the event that moneys from the source described in Section 2.06(g)(i) are insufficient to pay the Purchase Price of Bonds tendered or deemed tendered on an Optional Tender Date or a Mandatory Purchase Date, if a Credit Facility is then in effect, the Trustee shall, by 11:00 a.m., Local Time, on such Optional Tender Date or Mandatory Purchase Date, take all action required to cause the Purchase Price of such Bonds, to the extent not available from the source described in Section 2.06(g)(i), to be paid from the Credit Facility. In the event the Purchase Price of Bonds is paid from the Credit Facility as described herein, and the Company does not reimburse the Credit Provider for such Purchase Price, upon the remarketing of such Bonds as described in Section 2.07(a), the Paying Agent shall deliver the proceeds of the remarketing of such Bonds to the Credit Provider.

(c) *No Remarketing During Default.* The Remarketing Agent shall not be required to remarket any Bonds pursuant to this Section if it has actual knowledge that an Event of Default shall have occurred and be continuing hereunder or if the Remarketing Agent determines, in its sole discretion, that the remarketing of the Bonds would be unlawful or would be likely to result in the imposition of liability or damages against the Issuer, the Remarketing Agent, the Paying Agent, the Trustee, the Credit Provider, if any, or the Company.

(d) *Remarketing to Company or Issuer.* If a Credit Facility is then in effect, the Remarketing Agent shall not remarket any Bonds to (i) the Company, (ii) any Guarantor or any other Person obligated (as guarantor or otherwise) to make payments on the Bonds or under the Agreement or the Reimbursement Agreement, (iii) an “affiliate” of the Company as defined in Bankruptcy Code §101(2) (if the Remarketing Agent has actual knowledge that such Person is an “affiliate” at the time of such remarketing), or (iv) the Issuer, pursuant to this Section prior to the expiration or earlier termination of the Credit Facility unless, prior to such remarketing, the Trustee, the Rating Agency, if any, rating the Bonds, the Credit Provider and the Remarketing Agent shall have received an unqualified Opinion of Counsel experienced in bankruptcy law matters to the effect that such remarketing would not result in a preferential payment pursuant to the provisions of Section 547 of the Bankruptcy Code recoverable from Holders of the Bonds pursuant to Section 550 of the Bankruptcy Code in the event of an Act of Bankruptcy, and if a Rating Agency is rating the Bonds, such Rating Agency has confirmed to the Trustee in writing that its rating will not be withdrawn or reduced as a result of such remarketing.

(e) *Notice to Proposed Purchasers of Bonds.* The Remarketing Agent will give any Person to whom Bonds are proposed to be remarketed written notice of any Mandatory Purchase Date, acceleration of maturity of Bonds or redemption of Bonds, notice of which has been given to Holders, prior to remarketing Bonds to such Person.

(f) *No Remarketing Under Certain Conditions.* Notwithstanding anything to the contrary herein provided, the Bonds shall not be remarketed unless (i) a Credit Facility providing for the payment of the principal of and interest on, and Purchase Price of, the Bonds will be in effect following the remarketing of such Bonds, (ii) no such Credit Facility will be in effect, but at the time of such remarketing, the Bonds are rated by a Rating Agency and such long term and/or short term rating is satisfactory to the Remarketing Agent in its sole discretion, or (iii) no such Credit Facility will be in effect, but following the remarketing of such Bonds, the Bonds will bear interest at a Long Term Rate or an Index Interest Rate. Notwithstanding anything to the contrary herein provided, the Bonds shall not be remarketed following a Mandatory Purchase Date occurring at the Credit Provider’s direction unless and until the Remarketing Agent has received the consent of the Credit Provider to such remarketing.

Section 2.08. Delivery of Purchased Bonds. Bonds (or portions thereof) purchased pursuant to Section 2.06(e) shall be delivered as follows:

(a) *Bonds Purchased from Remarketing Proceeds.* Bonds purchased with moneys described in Section 2.06(g)(i) shall be delivered to the purchasers thereof upon receipt of payment therefor. Prior to such delivery the Registrar shall provide for registration of transfer to the Holders, as provided in a written notice from the Remarketing Agent.

(b) *Bonds Purchased from Draws Under Credit Facility.* Credit Provider Bonds shall be surrendered to the Trustee for registration of transfer in the name of the Credit Provider, and no such Bond shall be released, pledged or otherwise transferred or disposed of until remarketed or the Trustee shall have received written notice from the Credit Provider that amounts so drawn under the Credit Facility for the purchase of such Credit Provider Bonds, together with interest thereon, if any, due pursuant to any Reimbursement Agreement, have been reimbursed to the Credit Provider and that the amount so drawn under the Credit Facility with respect to such Bonds has been, or upon such release will be correspondingly and fully reinstated.

(c) *Bonds Purchased with Other Moneys.* Bonds (or portions thereof) purchased with any other moneys pursuant to Section 2.06(g) shall be delivered to the Trustee (i) for cancellation and shall be cancelled, or (ii) if the Company requests, for registration of transfer to the Company.

(d) *During Book-Entry System.* Notwithstanding anything herein to the contrary, so long as the Bonds are held under the Book-Entry System, Bonds will not be delivered as set forth in (a) through (c) above (except as set forth in the last sentence of Section 2.08(b) above); rather, transfers of beneficial ownership and pledges of the Bonds to the Persons indicated above will be effected on the books of the Securities Depository and its Participants pursuant to the rules and procedures of such Securities Depository.

Section 2.09. Execution; Limited Obligation. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of an Authorized Officer of the Issuer and attested by the manual or facsimile signature of a second Authorized Officer of the Issuer.

In case any officer whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such manual or facsimile signatures shall nevertheless be valid and sufficient for all purposes.

The Bonds shall be limited obligations of the Issuer. The Bonds and the interest thereon, the Purchase Price, and redemption premium, if any, shall not be deemed to constitute or create an indebtedness, liability or obligation of the Issuer (except to the extent that the moneys pledged herein are sufficient therefor), the County, the State or any political subdivision or agency thereof within the meaning of any State constitutional provision or statutory limitation or a pledge of the faith and credit or the taxing power of the State or any such political subdivision or agency, including the Issuer and the County. The Issuer has no taxing power. The Bonds and the Purchase Price and interest thereon are payable solely from and secured by the Trust Estate, including the moneys available to be drawn by the Trustee under any Credit Facility that may be in effect from time to time to support payments due on or with respect to the Bonds, all as described in and subject to limitations set forth in this Indenture, for the equal and ratable benefit of the Holders, from time to time, of the Bonds.

THE ISSUANCE OF THE BONDS WILL NOT CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE ISSUER OR THE COUNTY, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF WILL BE PLEDGED TO THE PAYMENT OF THE BONDS. NEITHER THE ISSUER, THE STATE, NOR ANY POLITICAL SUBDIVISION OF THE STATE SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON ANY OF THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT UNDERTAKEN BY THE ISSUER EXCEPT TO THE EXTENT THAT THE MONEYS PLEDGED HEREIN ARE SUFFICIENT THEREFOR. NO OWNER OF ANY BONDS HAS THE RIGHT TO COMPEL ANY EXERCISE OF TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF TO PAY THE BONDS OR THE INTEREST THEREON, AND THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE, OR A LOAN OF CREDIT OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION. THE ISSUER HAS NO TAXING POWER.

Section 2.10. Certificate of Authentication. No Bonds shall be secured hereby or entitled to the benefit hereof or shall be or become valid or obligatory for any purpose unless there shall be endorsed thereon a certificate of authentication, substantially in the form as set forth in the respective forms of Bond referred to in Section 2.11, as applicable, executed by an authorized representative of the Trustee; and such certificate on any Bond issued by the Issuer shall be conclusive evidence and the only competent evidence that it has been duly authenticated and delivered hereunder.

Section 2.11. Form of Bonds.

(a) The Bonds, the Trustee's certificate of authentication and the form of assignment shall be in substantially the forms set forth as Exhibit A or Exhibit B hereto, as applicable, with such appropriate variations, omissions, substitutions and insertions as are permitted or required hereby or are required by law and may have such letters, numbers or other marks of identification and such legends and endorsements placed thereon as may be required to comply with any applicable laws or rules or regulations.

(b) The Bonds shall be in either typewritten or printed form, as the Company shall direct, on behalf of the Issuer, with approval of the Trustee; provided that any expenses, including but not limited to expenses of printing, incurred in connection therewith shall be paid by the Company.

(c) On and after any Mandatory Purchase Date, Bonds authenticated and delivered hereunder shall have omitted from the text thereof such provisions contained in the forms of the Bonds set forth as Exhibit A or Exhibit B, as applicable, hereto as are not applicable to the Bonds on and after such date or shall include such provisions as will become applicable after such date including, without limitation, any reference to entitlement to any benefit of the Credit Facility, if then in effect, and any redemption provisions made applicable as a result of the occurrence of a Conversion Date relating to a conversion to a Long Term Rate.

Section 2.12. Delivery of Bonds. Upon the execution and delivery hereof, the Issuer shall execute the Bonds and deliver them to the Trustee, and the Trustee shall authenticate the Bonds and deliver them to such purchaser or purchasers as shall be directed in writing by the Issuer as hereinafter provided in this Section.

Prior to the authentication of and delivery by the Trustee of any of the Bonds, there shall be filed with the Trustee:

(a) A certified copy of all resolutions adopted and proceedings had by the Issuer authorizing execution of the Indenture and the Agreement and the issuance of the Bonds;

(b) An original executed counterpart of this Indenture, the Agreement, the Bond Purchase Agreement, and each of the Security Documents;

(c) An original executed counterpart of the Continuing Covenant Agreement;

(d) Copies of any Financing Statements filed to perfect the Security Interests;

(e) An original executed counterpart of the Tax Certificate;

(f) An Opinion of Counsel to the Issuer to the effect that the Issuer is duly formed and existing and that the resolution of the Issuer authorizing the issuance of the Bonds was duly adopted; and

(g) An Opinion of Counsel given by Bond Counsel to the effect that the Bonds have been duly authorized and validly issued, that the Indenture and the Agreement have been duly authorized, executed and delivered by the Issuer and are legal, valid and binding agreements of the Issuer, that the Indenture creates a valid lien on the Trust Estate and that interest on the Bonds will not be included in gross income of the Holders thereof for federal tax purposes;

(h) One or more Opinions of Counsel for the Company and the Guarantors to the effect that (i) the Agreement, the Security Documents and the other Bond Documents to which the Company is a party have been duly authorized, executed and delivered by the Company and are legal, valid and binding agreements of the Company enforceable against the Company in accordance with their terms; and (ii) the Guaranty Agreement has been duly authorized, executed and delivered by each the Guarantor and is the legal, valid and binding agreement each of the Guarantors and is enforceable against each the Guarantor in accordance with its terms;

(i) A request and authorization to the Trustee on behalf of the Issuer and signed by an Authorized Officer of the Issuer directing the Trustee to authenticate and deliver the Bonds in such specified denominations as permitted herein to the initial purchaser or purchasers upon payment to the Trustee, but for the account of the Issuer, of a specified sum of money; and

(j) An Investor Letter in the form attached hereto as Exhibit F signed by a duly authorized officer of the Bank.

Upon receipt of the foregoing, the Trustee shall authenticate and deliver the Bonds as provided above.

Section 2.13. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Trustee may authenticate and deliver a new Bond of the same maturity, interest rate, principal amount and tenor in lieu of and in substitution for the Bond mutilated, lost, stolen or destroyed; provided, that there shall be first furnished to the Trustee evidence satisfactory to it and the Issuer of the ownership of such Bond and of such loss, theft or destruction (or, in the case of a mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee), together with indemnity satisfactory to the Trustee and the Issuer and compliance with such other reasonable regulations as the Issuer and the Trustee may prescribe. If any such Bond shall have matured or a redemption date pertaining thereto shall have passed, instead of issuing a new Bond the Issuer may pay the same without surrender thereof, upon receipt of such evidence, indemnification and payment of fees and expenses as described herein. The Issuer and the Trustee may charge the Holder of such Bond with their reasonable fees and expenses in connection with this Section.

Section 2.14. Exchangeability and Transfer of Bonds; Persons Treated as Owners. Books for the registration of the Bonds and for the registration of transfer of the Bonds as provided herein shall be kept by the Registrar.

Any Holder of a Bond, in person or by such Holder's duly authorized attorney, may transfer title to such Holder's Bond on the Register upon surrender thereof at the principal office of the Trustee, and by providing the Registrar with a written instrument of transfer (in substantially the



form of assignment attached to the Bond) executed by the Holder or such Holder's duly authorized attorney, and thereupon, the Issuer shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of the same aggregate principal amount tenor as the Bond surrendered (or for which transfer of registration has been effected) and of any Authorized Denomination or Authorized Denominations.

Subject to the provisions of Section 2.04(j), Bonds may be exchanged upon surrender thereof at the principal office of the Registrar with a written instrument of transfer satisfactory to the Registrar executed by the Holder or such Holder's attorney duly authorized in writing, for an equal aggregate principal amount of Bonds of the same tenor as the Bonds being exchanged and of any Authorized Denomination or Authorized Denominations. The Issuer shall execute and the Trustee shall authenticate and deliver Bonds that the Holder making the exchange is entitled to receive, bearing numbers not contemporaneously then outstanding.

Such registrations of transfer or exchanges of Bonds shall be without charge to the Holders of such Bonds, but any taxes or other governmental charges required to be paid with respect to the same shall be paid by the Holder of the Bond requesting such registration of transfer or exchange as a condition precedent to the exercise of such privilege. Any service charge made by the Registrar for any such registration of transfer or exchange and all reasonable expenses of the Issuer and the Trustee shall be paid by the Company.

The Registrar shall not register any transfer of any Bond, except pursuant to a tender of Bonds on an Optional Tender Date or a Mandatory Purchase Date, after notice calling such Bond (or portion thereof) for redemption has been given and prior to such redemption, except in the case of any Bond to be redeemed in part, the portion thereof not to be redeemed. In connection with any such transfer pursuant to a tender of Bonds on an Optional Tender Date or a Mandatory Purchase Date, the Registrar shall deliver to the transferee a copy of the applicable notice of redemption.

The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of either principal or interest shall be made only to or upon the order of the registered owner thereof or such Holder's duly authorized attorney, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

All Bonds issued upon any registration of transfer or exchange of Bonds shall be legal, valid and binding limited obligations of the Issuer, evidencing the same debt, and entitled to the same security and benefits under this Indenture, as the Bonds surrendered upon such registration of transfer or exchange.

Notwithstanding the foregoing, (i) for so long as the Bonds are held under the Book-Entry System, transfers of beneficial ownership will be effected pursuant to rules and procedures established by the Securities Depository, and (ii) prior to the transfer of any Bonds bearing interest at the Index Interest Rate, and/or any Bonds which do not meet the minimum rating requirements of Section 2.04(j), there shall first be filed with the Trustee, the Issuer and the Company an Investor's Letter in the form attached hereto as Exhibit F executed by a duly authorized officer of the purchaser thereof.

Section 2.15. Replacement Bonds. Except when the Bonds are held in the Book-Entry System, the Issuer shall execute and the Trustee shall authenticate and deliver Replacement Bonds to replace Untendered Bonds. Any such Replacement Bond shall be executed and authenticated as provided in this Indenture. The Company shall bear all expenses in connection with the preparation and delivery of the Replacement Bonds.

Section 2.16. Cancellation. All Bonds that have been surrendered to the Registrar pursuant to Sections 2.13, 2.14 or 2.15 of this Indenture or for the purpose of purchase upon an Optional Tender Date or a Mandatory Purchase Date, or for payment upon maturity or redemption prior to maturity, shall be cancelled and destroyed by the Registrar and a certificate of destruction shall be delivered to the Issuer and the Company.

Section 2.17. Ratably Secured. All Bonds issued hereunder are and are to be, to the extent provided in this Indenture, equally and ratably secured by this Indenture without preference, priority or distinction on account of the actual time or times of the authentication, delivery or maturity of the Bonds so that subject as aforesaid, all Bonds at any time Outstanding shall have the same right, lien and preference under and by virtue of this Indenture and shall all be equally and ratably secured hereby with like effect as if they had all been executed, authenticated and delivered simultaneously on the date hereof, whether the same, or any of them, shall actually be disposed of at such date, or whether they, or any of them, shall be disposed of at some future date. Notwithstanding the foregoing, any Credit Provider Bond or Bonds held by or registered in the name of any Excluded Person shall not be entitled to any benefit of the Credit Facility, if any.

Section 2.18. Redemption of Bonds; Partial Redemption of Bonds.

(a) *Optional Redemption.* During any Weekly Rate Period, the Bonds are subject to redemption, at the direction of the Company, in whole or in part on any Business Day or in whole or in part on any Interest Payment Date at a redemption price equal to the principal amount of the Bonds to be redeemed plus accrued interest thereon to, but not including, the redemption date.

Subject to any limitations set forth in a Continuing Covenant Agreement, during any Index Interest Rate Period, the Bonds are subject to redemption on any Interest Payment Date at the direction of the Company, on behalf of the Issuer in whole or in part, at a redemption price equal to the principal amount of the Bonds to be redeemed plus accrued interest thereon to, but not including, the redemption date.

During any Flexible Term Rate Period, the Bonds are subject to redemption, at the direction of the Company, on behalf of the Issuer, in whole or in part on any Interest Payment Date applicable to such Bond to be redeemed, at a redemption price equal to the principal amount of such Bond plus accrued interest thereon to, but not including, the redemption date.

During any Long Term Rate Period, the Bonds are subject to redemption, at the direction of the Company, on behalf of the Issuer, in whole or in part on any Interest Payment Date occurring on or after the "First Day of Redemption Period," as described below, at the principal amount thereof, plus a redemption premium (expressed as a percentage of principal amount) plus accrued interest thereon to, but not including, the redemption date as follows; provided, however, if a Credit Facility is then in effect, such redemption premium shall be paid only from Eligible Funds described in clause (i) of the definition of Eligible Funds on deposit in the Bond Fund, unless such Credit Facility provides for payment of such premium:

<b>LENGTH OF LONG-TERM RATE PERIOD FROM CONVERSION DATE UNTIL END OF RATE PERIOD (EXPRESSED IN YEARS)</b>	<b>FIRST DAY OF REDEMPTION PERIOD</b>	<b>REDEMPTION PREMIUM AS A PERCENTAGE OF PRINCIPAL AMOUNT OF BONDS</b>
More than 15	10th Anniversary of Conversion Date	0%
More than 10 but not more than 15	7th Anniversary of Conversion Date	3% declining by 1% every year after the 7th Anniversary of the Conversion Date until reaching 0%, and thereafter 0%
More than 5 but not more than 10	4th Anniversary of Conversion Date	2% declining by 1% every year after the 4th Anniversary of the Conversion Date until reaching 0%, and thereafter 0%
5 or less	Bonds not redeemable pursuant to this paragraph	N/A

The above premiums may be changed upon the conversion to a Long Term Rate upon the receipt of an Approving Opinion subject to and in accordance with the provisions of Sections 2.03(d) and (e).

(b) *Extraordinary Optional Redemption.* The Bonds are subject to redemption in whole, at the direction of the Company, on behalf of the Issuer, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus accrued interest thereon to, but not including, the redemption date, on any date for which the requisite notice of redemption can be given, within one hundred eighty (180) days of the occurrence of any of the following events:

(i) the Project shall have been damaged or destroyed to such an extent that in the judgment of the Company (A) it cannot reasonably be restored within a period of three (3) consecutive months to the condition thereof immediately preceding such damage or destruction, (B) the Company is thereby prevented from carrying on its normal operations at the Project for a period of three (3) consecutive months, or (C) it would not be economically feasible for the Company to replace, repair, rebuild or restore the same;

(ii) title in and to, or the temporary use of, all or substantially all of the Project shall have been taken under the exercise of the power of eminent domain by any governmental authority or any Person acting under governmental authority (including such a taking as, in the judgment of the Company, results in the Company being prevented thereby from carrying on its normal operations at the Project for a period of three (3) consecutive months);

(iii) as a result of any changes in the Constitution of the State, or the Constitution of the United States of America or by legislative or administrative action (whether state or federal) or by final decree, judgment, decision or order of any court or administrative body (whether state or federal), the Agreement shall have become void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed therein;

(iv) unreasonable burdens or excessive liabilities shall have been imposed on the Company with respect to the operations of the Project, including, without limitation federal, state or other ad valorem, property, income or other taxes not being imposed on the date of this Indenture that, in the judgment of the Company, render the continued operation of the Project uneconomical;

(v) changes which the Company cannot reasonably control or overcome in the economic availability of materials, supplies, labor, equipment and other properties and things necessary for the efficient operation of the Project for the purposes contemplated by the Agreement shall have occurred or technological changes that the Company cannot reasonably overcome shall have occurred that, in the judgment of the Company, render the continued operation of the Project uneconomical;

(vi) legal curtailment of the Company's use and occupancy of all or substantially all of the Project for any reason other than that set forth in (ii) above, which curtailment shall, in the judgment of the Company, prevent the Company from carrying on its normal operations at the Project for a period of three (3) consecutive months; or

(vii) the Agreement is terminated prior to its expiration for any reason other than the occurrence of an Event of Default under the Agreement.

Notwithstanding the foregoing provisions of this subsection (b), during any Index Interest Rate Period, any redemption under this subsection (b) shall be subject to the provisions of the applicable Continuing Covenant Agreement, including, without limitation, any redemption premium provided for therein, and the written direction or consent of the Bank.

(c) *Mandatory Sinking Fund Redemptions.* The Bonds shall be subject to mandatory sinking fund redemptions at a redemption price equal to the principal amount thereof with interest to, but not including, the redemption date in whole or in part, without premium, on the dates and in the amounts as set forth below:

<u>Date</u> <u>(November 1)</u>	<u>Redemption Amount</u>
2031	\$1,070,000
2032	2,295,000
2033	2,445,000
2034	2,605,000
2035	2,780,000
2036	2,960,000
2037	3,155,000
2038	3,360,000
2039*	3,585,000

\* Final Maturity.

(d) *Adjustment of Sinking Fund Redemptions.* The mandatory sinking fund redemption amounts set forth in subsection (c) of this Section 2.18 shall be reduced in connection with any optional or extraordinary redemption of the Bonds or if the Stated Principal Amount of the Bonds is subject to automatic redemption as provided in the form of the Bonds. The principal amount of such optional, extraordinary or automatic redemptions (the "Unscheduled Redemptions")

shall be credited against such concurrent or future sinking fund redemption requirements in such order and in such amounts and years as is specified by the Company in writing to the Trustee; provided, however, during any Index Interest Rate Period, any such adjustments to the sinking fund redemption schedule shall be subject to the prior written consent of the Bank and if such consent is not provided, the principal amount of any Unscheduled Redemption shall be credited against the current sinking fund redemption schedule in reverse order of payment; provided that so long as the Bonds do not bear interest at the Taxable Rate, and prior to any such adjustments becoming effective (other than an adjustment in reverse order of payment), the Company shall also provide the Trustee with an Approving Opinion with respect to any such adjustments.

(e) *Selection of Bonds to be Redeemed.* If less than all the Outstanding Bonds shall be called for redemption, the Registrar or, if the Bonds are held in the Book-Entry System, the Securities Depository shall first select and call for redemption of any Credit Provider Bonds. If, following such selection, additional Bonds must be selected and called for redemption, the Registrar or, if the Bonds are held in the Book-Entry System, the Securities Depository shall select or arrange for the selection, in such manner as it shall deem fair and equitable and pursuant to its rules and procedures, the Bonds, in Authorized Denominations, provided that any Bond or portion thereof remaining Outstanding shall be in an Authorized Denomination. If there shall be called for redemption less than the principal amount of a Bond, the Issuer shall execute and the Trustee shall authenticate and deliver, upon surrender of such Bond, without charge to the Holder thereof in exchange for the unredeemed principal amount of such Bond at the option of such Holder, Bonds in any of the Authorized Denominations or, if the Bonds are held in the Book-Entry System, the Securities Depository shall, acting pursuant to its rules and procedures, reflect in said system the partial redemption and the Trustee shall (i) either exchange the Bond or Bonds held by the Securities Depository for a new Bond or Bonds in the appropriate principal amount, if such Bond is presented to the Trustee by the Securities Depository, or (ii) obtain from the Securities Depository a written confirmation of the reduction in the principal amount of the Bonds held by such Securities Depository.

Section 2.19. Notice of Redemption. The Company shall exercise its option to prepay Repayments (and thereby cause a redemption of Bonds) by giving written notice to the Issuer, the Remarketing Agent, the Trustee, the Paying Agent and the Credit Provider, if a Credit Facility is then in effect, and the Bank, if during an Index Interest Rate Period, not less than sixty (60) days prior to the date selected for redemption; provided, however, that, if such redemption is pursuant to Section 2.18(b), the Company shall also deliver a certificate of a Company Representative certifying that the conditions precedent to such redemption have been met; and provided, further, that during any Index Interest Rate Period, the Company shall also deliver a certificate of a Company Representative certifying that, if such redemption is pursuant to Sections 2.18(a) or (b), any conditions to such redemption set forth in a Continuing Covenant Agreement have been met.

To exercise any optional redemption pursuant to Section 2.18(a), so long as a Credit Facility is in effect, at least one day before the Trustee is to give notice of such redemption, the Trustee must have received written consent from the Credit Provider to a draw on the Credit Facility in the amount of such redemption price if moneys in the Bond Fund constituting Eligible Funds under clause (i) of the definition of Eligible Funds will not be available to reimburse the Credit Provider for such drawing on the date of such redemption. If the Credit Provider does not consent to a drawing for such optional redemption of Bonds pursuant to Section 2.18(a) and/or a redemption premium the payment of which is not provided for in the Credit Facility will be payable in connection with such optional redemption of Bonds pursuant to Section 2.18(a), the Trustee shall condition such call for

redemption upon the deposit with the Trustee of sufficient moneys constituting Eligible Funds under clause (i) of the definition of Eligible Funds on or prior to the date selected for redemption to reimburse the Credit Provider for such drawing and/or to pay such redemption premium, and if sufficient moneys constituting Eligible Funds under clause (i) of the definition of Eligible Funds are not so available on the date selected for redemption, such call for redemption shall be revoked.

Notice of redemption shall be mailed by the Trustee by first class mail, postage prepaid, at least thirty (30) days before the redemption date to each Holder of the Bonds to be redeemed in whole or in part at such Holder's last address appearing on the Register, but no defect in or failure to give such notice of redemption shall affect the redemption or the validity of the proceedings for the redemption of the Bonds. A notice of optional redemption shall describe whether and the conditions under which the call for redemption shall be revoked. All Bonds properly called for redemption will cease to bear interest on the date fixed for redemption, provided Eligible Funds for their redemption have been duly deposited with the Trustee and, thereafter, the Holders of such Bonds called for redemption shall have no rights in respect thereof except to receive payment of the redemption price from the Trustee and a new Bond for any portion not redeemed.

Notwithstanding the foregoing provisions of this Section 2.19, during any Index Interest Rate Period, in the event any of the Bonds are called for redemption, in whole or in part, pursuant to the provisions of Section 2.18, the Company shall give notice thereof to the Bank, in the name of the Issuer, at least 30 days prior to the date fixed for redemption, which notice shall specify the anticipated redemption date and the principal amount of the Bonds to be redeemed. On a date no later than the date fixed for redemption in such notice, the Company shall pay, on behalf of the Issuer, to the [Holder] [Bank] moneys in an amount sufficient, together with other moneys, if any, held by the Trustee and available for the redemption of the Bonds, to redeem the Bonds at the redemption price set forth above.

Section 2.20. Book-Entry System. Upon the initial issuance of the Bonds, the Trustee shall authenticate and deliver the Bonds to the Bank [, as the registered owner]. Upon conversion of the Interest Rate Determination Method of the Bonds from an Index Interest Rate to a Short Term Rate or a Long Term Rate, the Bonds will be issued pursuant to a Book-Entry System administered by the Securities Depository with no physical distribution of Bond certificates to be made except as provided in this Section. Upon conversion of the Interest Rate Determination Method of the Bonds from a Short Term Rate or a Long Term Rate to an Index Interest Rate, the Trustee shall withdraw the Bonds from the Book-Entry System and authenticate and deliver the Bonds to the Holders thereof. Any provision of this Indenture or the Bonds requiring physical delivery of the Bonds shall, with respect to any Bonds held under the Book-Entry System, be deemed to be satisfied by a notation on the Register maintained by the Registrar that such Bonds are subject to the Book-Entry System. The Book-Entry System shall not be in effect with respect to the Bonds during an Index Interest Rate Period.

So long as a Book-Entry System is being used, one Bond in the aggregate principal amount of the Bonds and registered in the name of the Securities Depository Nominee will be issued and deposited with the Securities Depository and held in its custody. The Book-Entry System will be maintained by the Securities Depository and the Participants and Indirect Participants and will evidence beneficial ownership of the Bonds in Authorized Denominations, with registration of transfers of ownership effected on the records of the Securities Depository, the Participants and the Indirect Participants pursuant to rules and procedures established by the Securities Depository, the Participants and the Indirect Participants. So long as a Book-Entry System is being used, the

principal of, interest and any premium on each Bond shall be payable to the Securities Depository Nominee or any other person appearing on the Register as the registered Holder of such Bond or such Holder's registered assigns or legal representative at the principal office of the Registrar. So long as the Book-Entry System is in effect, the Securities Depository will be recognized as the Holder of the Bonds for all purposes (except as provided in Section 2.06(b)). Transfer of principal, interest and any premium payments or notices to Participants and Indirect Participants will be the responsibility of the Securities Depository, and transfer of principal, interest and any premium payments or notices to Beneficial Owners will be the responsibility of the Participants and the Indirect Participants. No other party will be responsible or liable for such transfers of payments or notices or for maintaining, supervising or reviewing such records maintained by the Securities Depository, the Participants or the Indirect Participants. While the Securities Depository Nominee or the Securities Depository, as the case may be, is the registered owner of the Bonds, notwithstanding any other provisions set forth herein, payments of principal of, redemption premium, if any, and interest on the Bonds shall be made to the Securities Depository Nominee or the Securities Depository, as the case may be, by wire transfer in immediately available funds to the account of said Holder as may be specified in the Register maintained by the Registrar or by such other method of payment as the Trustee may determine to be necessary or advisable with the concurrence of the Securities Depository.

If (i) the Securities Depository determines not to continue to administer a Book-Entry System for the Bonds, or (ii) the Remarketing Agent, with the consent of the Trustee, elects to remove the Securities Depository, then the Remarketing Agent, with the consent of the Trustee, may appoint a new Securities Depository. The Remarketing Agent may elect to remove the Securities Depository at any time.

If (i) the Securities Depository determines not to continue to administer a Book-Entry System for the Bonds or has been removed and the Remarketing Agent fails to appoint a new Securities Depository, or (ii) the Remarketing Agent, with the consent of the Trustee, determines that continuation of a Book-Entry System of evidence and transfer of ownership of the Bonds would adversely affect the interests of the Beneficial Owners, the Book-Entry System will be discontinued, in which case the Trustee will deliver replacement Bonds in the form of fully registered certificates in Authorized Denominations in exchange for the Outstanding Bonds as required by the Trustee and the Beneficial Owners.

### **ARTICLE III**

#### **SECURITY**

Section 3.01. Security. The Bonds and the interest and any premium thereon shall be a limited obligation of the Issuer as provided in Section 2.09, and shall be secured by and payable from the Trust Estate. The Issuer and Trustee agree that the Security Documents shall name the Trustee as beneficiary thereunder and that the Trustee shall act in such capacity on behalf and for the benefit of the Holders and Beneficial Owners and each other payee or obligee secured by the Trust Estate.

Section 3.02. Payment of Bonds and Performance of Covenants. The Issuer shall promptly pay, but only out of the Trust Estate, the principal of, premium, if any, the Purchase Price and interest on the Bonds at the place, on the dates and in the manner provided in the Bonds. The Issuer shall promptly perform and observe all covenants, undertakings and obligations set forth herein, in the Agreement or the Bonds on its part to be performed or observed. The Issuer shall fully cooperate

with the Trustee in the enforcement by the Trustee of any such rights granted to the Issuer under the Agreement.

Section 3.03. Authority. The Issuer represents and warrants that; (i) it is duly authorized under the Constitution and laws of the State to issue the Bonds, and to execute, deliver and perform the terms of the Agreement and this Indenture; (ii) all action on its part for the issuance of the Bonds and execution and delivery of the Agreement and this Indenture has been duly taken; (iii) the Bonds, upon issuance and authentication, and the Agreement and this Indenture upon delivery, assuming that they are the respective legal, valid, binding and enforceable obligations of the other parties thereto, shall be valid and enforceable obligations of the Issuer in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights generally and general equitable principles; (iv) it has not heretofore conveyed, assigned, pledged, granted a security interest in or otherwise disposed of the Trust Estate; (v) it has not received any payments under the Agreement; (vi) without making any independent investigation, it has no knowledge of any right of set off, defense or counterclaim to payment or performance of the terms or conditions of the Agreement; and (vii) the execution, delivery and performance of the Agreement and this Indenture and issuance of the Bonds are not in contravention of law or any agreement, instrument, indenture or other undertaking to which it is a party or by which it is bound and no other approval, consent or notice from any governmental agency is required on the part of the Issuer.

Section 3.04. No Litigation. The Issuer represents and warrants that there is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending, or, to the best knowledge of the Issuer, threatened against or affecting the Issuer wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the validity or enforceability of, the Bonds, this Indenture or the Agreement or (ii) the tax exempt status of interest on the Bonds.

Section 3.05. Further Assurances. The Issuer covenants that it will cooperate to the extent necessary with the Company, the Trustee, the Bank and any Credit Provider in their defenses of the Trust Estate against the claims and demands of all Persons and, upon payment or provision for payment of the fees and expenses to be incurred by the Issuer in connection therewith, will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee, the Bank or any Credit Provider may reasonably require for the better pledging of the Trust Estate. The Issuer shall not cause or permit to exist any amendment, modification, supplement, waiver or consent with respect to the Agreement without the prior written consent of the Trustee, which consent shall be governed by Article VIII.

Section 3.06. No Other Encumbrances. The Issuer covenants that, except as otherwise provided herein and in the Agreement, it will not sell, convey, mortgage, encumber or otherwise dispose of any portion of the Trust Estate.

Section 3.07. No Personal Liability. No recourse shall be had for the enforcement of any obligation, promise or agreement of the Issuer contained herein or in the Bonds or the other Bond Documents to which the Issuer is a party or for any claim based hereon or thereon or otherwise in respect hereof or thereof against any director, member, officer, agent, attorney or employee, as such, in his or her individual capacity, past, present or future, of the Issuer or of any successor entity, either directly or through the Issuer or any successor entity whether by virtue of any constitutional



provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise. No personal liability whatsoever shall attach to, or be incurred by, any director, member, officer, agent, attorney or employee as such, past, present or future, of the Issuer or of any successor entity, either directly or through the Issuer or any successor entity, under or by reason of any of the obligations, promises or agreements entered into in the Bonds or between the Issuer and the Trustee, whether herein contained or to be implied herefrom as being supplemental hereto; and all personal liability of that character against every such director, member, officer, agent, attorney and employee is, by the execution of this Indenture and as a condition of, and as part of the consideration for, the execution of this Indenture, expressly waived and released.

Section 3.08. Credit Facility.

(a) *Draws on Credit Facility.* Except with respect to Bonds registered in the name of any Excluded Person and Credit Provider Bonds (which Bonds shall not be entitled to any benefit of any Credit Facility) at any time a Credit Facility is in effect (i) the Trustee shall draw moneys under such Credit Facility in accordance with the terms of the Credit Facility to the extent necessary to make timely payments of principal, premium, if any (if such Credit Facility provides for payment of such premium), and interest on the Bonds, in accordance with Section 4.01, (ii) the Trustee shall draw moneys, in accordance with Section 2.07(b), under such Credit Facility in accordance with the terms of the Credit Facility to the extent available in order to effect the purchase of Bonds (or portions thereof in Authorized Denominations) on a Mandatory Purchase Date or an Optional Tender Date, and (iii) upon declaration of acceleration of the Bonds pursuant to Section 6.02, the Trustee shall draw on the Credit Facility in accordance with the terms of the Credit Facility to the extent available in an amount equal to the full unpaid principal of and accrued interest on the Bonds. The Paying Agent shall promptly provide notice to the Trustee of any failure to pay principal of, premium, if any, or interest on the Bonds or the Purchase Price thereof.

(b) *Reduction of Credit Facility.* Upon any redemption or defeasance of any Bonds or upon cancellation of any Bonds upon purchase thereof as contemplated by Section 2.08, the Trustee shall send notice to the Credit Provider to reduce the amount available to be drawn on the Credit Facility (with written notice of the same to the Company) and the Trustee shall, upon request, confirm to the Credit Provider and the Company the principal amount of Bonds redeemed, cancelled or defeased.

(c) *Extensions of Credit Facility.* In the event that the term of the Credit Facility is extended, unless it is automatically extended by its terms or is extended by amendment, the Trustee shall surrender the instrument evidencing the Credit Facility to the Credit Provider in exchange for a new instrument conforming, in the Opinion of Counsel, in all material respects to the instrument evidencing the Credit Facility being surrendered, except that the term thereof shall reflect the new term of the Credit Facility. The Trustee shall promptly surrender the instrument evidencing the Credit Facility to the Credit Provider for cancellation upon discharge of the Indenture pursuant to Section 5.01, subject to Section 3.08(d), or following a Credit Modification Date. If the Bonds are rated by a Rating Agency, notice of any extension of the Credit Facility (unless automatically extended by its terms) shall be furnished to such Rating Agency by the Trustee.

(d) *Expiration or Termination of Credit Facility.* If the Credit Facility provides that its term will be extended automatically unless the Credit Provider notifies the Trustee that the term will not be extended, then if the Trustee receives notice from the Credit Provider that the term of the Credit Facility will not be extended the Trustee shall mail a copy of such notice to the

Company, the Remarketing Agent, the Paying Agent and any Rating Agency then rating the Bonds no later than the Business Day after the Trustee receives such notice. The Trustee shall give notice to the Remarketing Agent and the Paying Agent, in the name of the Credit Provider, of the expiration or earlier termination of any Credit Facility then in effect, which notice shall specify the date of such expiration or earlier termination of the Credit Facility. If the Bonds are rated by a Rating Agency, notice of any such expiration or termination of the Credit Facility shall be furnished to such Rating Agency by the Trustee. On any Credit Modification Date, the Trustee shall not surrender any evidence of the Credit Facility that is expiring or being terminated until the Trustee shall have made such drawings, if any, and taken such other actions, if any, thereunder as shall be required under this Indenture in order to provide sufficient money for payment of the Purchase Price of Bonds tendered or deemed tendered on such Credit Modification Date to the extent necessary pursuant to Section 2.06(g), and shall have received the proceeds of such drawing from the Credit Provider. Notwithstanding any provision hereof to the contrary, the Company may not cause any Credit Facility to be terminated prior to its stated expiration date (whether in connection with the delivery of an Alternate Credit Facility or otherwise) during a Flexible Term Rate Period or a Long Term Rate Period.

(e) *Delivery of Initial Credit Facility and Alternate Credit Facility.* At any time, upon at least twenty five (25) days prior written notice to the Trustee, the Paying Agent, the Rating Agency, if any, rating the Bonds, and the Remarketing Agent, the Company may, with the consent of the Remarketing Agent, provide for delivery to the Trustee of an Initial Credit Facility or an Alternate Credit Facility, as the case may be, in accordance with the terms and conditions contained in this Section. Not less than fifteen (15) days prior to the proposed Credit Facility Effective Date (as defined below), which shall be a Credit Modification Date, the Trustee shall give each Holder notice of such Credit Modification Date by first class mail, postage prepaid, which notice shall be in substantially the form of Exhibit D attached hereto, appropriately completed; provided, however, that if the proposed Credit Facility Effective Date (as defined below) is also a Conversion Date, the notice provisions of Section 2.04(d) shall apply.

If the terms and conditions contained in this Section are satisfied, the Trustee shall accept an Initial Credit Facility or an Alternate Credit Facility, and such Initial Credit Facility or Alternate Credit Facility shall become effective, on the date such Initial Credit Facility or Alternate Credit Facility, as applicable, is delivered to the Trustee (the "Credit Facility Effective Date"). During any Weekly Rate Period, the Credit Facility Effective Date may be any Business Day. During any Flexible Term Rate Period, the Credit Facility Effective Date must be a day that would otherwise be an Interest Payment Date for all of the Bonds. During any Long Term Rate Period, the Trustee shall not accept an Initial Credit Facility or Alternate Credit Facility. The Trustee may accept an Initial Credit Facility or an Alternate Credit Facility on the first day of any Long Term Rate Period.

An Initial Credit Facility and any Alternate Credit Facility shall be an irrevocable direct pay letter of credit issued by a commercial bank organized and doing business in the United States or a branch or agency of a foreign commercial bank located in the United States and subject to regulation by state or federal banking regulatory authorities. On or before the date of the delivery of an Initial Credit Facility or any Alternate Credit Facility to the Trustee, as a condition to the acceptance of such Initial Credit Facility or Alternate Credit Facility by the Trustee, the Company shall furnish to the Issuer and the Trustee (i) written evidence that the issuer of such Initial Credit Facility or Alternate Credit Facility is a commercial bank organized and doing business in the United States or a branch or agency of a foreign commercial bank located and doing business in the United States and subject to regulation by state or federal banking regulatory authorities, (ii) an Approving Opinion,

(iii) an Opinion of Counsel satisfactory to the Rating Agency, if any, rating the Bonds, the Issuer, and the Remarketing Agent to the effect that the Initial Credit Facility or Alternate Credit Facility has been duly executed, issued and delivered by, and is the legal, valid and binding obligation of the Credit Provider (or, in the case of a branch or agency of a foreign commercial bank, the branch or agency) issuing the same, enforceable in accordance with its terms, that the Initial Credit Facility or Alternate Credit Facility is not subject to the registration requirements of the Securities Act of 1933, as amended, and if required by the Rating Agency, if any, rating the Bonds, that payments of principal, premium, if any, or Purchase Price of or interest on the Bonds from the proceeds of a drawing on the Initial Credit Facility or Alternate Credit Facility will not constitute avoidable preferences under the Bankruptcy Code, and (iv) evidence of written consent of the Remarketing Agent. In the case of an Initial Credit Facility or Alternate Credit Facility issued by a branch or agency of a foreign commercial bank, there shall also be delivered an Opinion of Counsel licensed to practice law in the jurisdiction in which the head office of such bank is located, satisfactory to the Rating Agency, if any, rating the Bonds, the Issuer and the Remarketing Agent, to the effect that the Initial Credit Facility or Alternate Credit Facility has been duly executed, issued and delivered by and is the legal, valid and binding obligation of such bank enforceable in accordance with its terms. The Trustee shall accept any such Initial Credit Facility or Alternate Credit Facility only in accordance with the terms, and upon the satisfaction of the conditions, contained in this Section and any other provisions applicable to acceptance of an Initial Credit Facility or Alternate Credit Facility under this Indenture.

(f) *Subrogation.* The Credit Provider shall be subrogated to all of the rights possessed hereunder by the Trustee and the owners of the Bonds against the Issuer and the Company to the extent that funds are drawn pursuant to the Credit Facility and used to pay the principal of or interest on the Bonds. For purposes of the subrogation rights of the Credit Provider hereunder, (i) any reference herein to the owners or registered owners of the Bonds, the principal of and interest on which have been paid with moneys collected pursuant to the Credit Facility shall be deemed to be a reference to the Credit Provider, and (ii) any principal or Purchase Price of, or interest on, the Bonds paid with moneys collected pursuant to the Credit Facility shall be deemed to be unpaid hereunder. The subrogation rights granted to the Credit Provider hereunder are not intended to be exclusive of any other remedy or remedies available to the Credit Provider, and such subrogation rights shall be cumulative and shall be in addition to every other remedy given hereunder or under the Reimbursement Agreement, or any other instrument or agreement with respect to the reimbursement of moneys paid by the Credit Provider pursuant to the Credit Facility, and every other remedy now or hereafter existing at law or in equity or by statute.

## ARTICLE IV

### FUNDS

Section 4.01. Establishment and Use of Bond Fund and Current Account. There is hereby created and established with the Trustee the Bond Fund and, while a Credit Facility is in effect, within such Fund a special account designated the “Current Account.” The Trustee shall establish with the Paying Agent a separate subaccount of the Bond Fund that, while a Credit Facility is in effect, shall be used for depositing moneys drawn by the Trustee under the Credit Facility for the payment of principal, premium (if any) and interest on the Bonds. Neither the Trustee nor the Paying Agent shall commingle proceeds of a drawing under the Credit Facility with any other funds. There shall be deposited in the Bond Fund (a) all Repayments specified in the Agreement to be deposited in the Bond Fund, including all proceeds resulting from the enforcement of the Trust Estate or its

realization as collateral, (b) all other moneys received by the Trustee under the Agreement for deposit by it in the Bond Fund, (c) all monies received by the Trustee under and pursuant to the Guaranty Agreement and (d) all moneys drawn under any Credit Facility to pay principal, premium, if any (if the Credit Facility provides for the payment of such premiums), or interest on the Bonds.

While a Credit Facility is in effect, each deposit into the Bond Fund not constituting Eligible Funds described in clause (i) of the definition thereof shall be placed in the Current Account within the Bond Fund and shall not be commingled with other moneys in the Bond Fund. The Trustee shall establish separate subaccounts within the Current Account for each deposit (including any investment income thereon) made into the Bond Fund so that the Trustee may at all times ascertain the date of deposit of the moneys in each subaccount.

Moneys in the Bond Fund shall be held in trust for the Holders and, except as otherwise expressly provided herein, shall be used solely for the payment of the interest on the Bonds and for the payment of principal of and premium, if any, on the Bonds upon maturity, whether stated or accelerated, or upon mandatory or optional redemption.

The Issuer hereby authorizes and directs the Trustee, and the Trustee hereby agrees, to withdraw and make available at the principal office of the Paying Agent sufficient funds from the Bond Fund to pay the principal of, premium, if any, and interest on the Bonds as the same become due and payable, but only in the following order of priority:

**FIRST:** Amounts drawn by the Trustee under a Credit Facility then in effect (provided, however, that such amounts shall not be used to pay any amounts with respect to any Bonds owned by or for the benefit of any Excluded Person, or any premium on the Bonds unless such Credit Facility provides for the payment of such premium);

**SECOND:** If a Credit Facility is then in effect, from the monies constituting Eligible Funds described in clause (i) of the definition thereof; and

**THIRD:** Any other amounts (whether or not Eligible Funds) in the Bond Fund.

If moneys in the Bond Fund available pursuant to items FIRST and SECOND above are insufficient to make any payment of principal of, premium, if any or interest on the Bonds, whether due by maturity, acceleration, redemption or otherwise, or if there is no Credit Facility in place, or if the Credit Provider has dishonored its obligations under the Credit Facility, the Trustee, on or after the date such payment is to be made, shall apply any moneys described in item THIRD above.

To the extent that a Credit Facility is drawn on to make a payment of principal, interest or premium on Bonds to any Holder, the Trustee shall use any moneys in the Bond Fund not then needed to make payments to Holders, regardless of whether such moneys constitute Eligible Funds, to reimburse the Credit Provider .

Each of the Bond Fund, Current Account and its sub accounts shall at all times constitute an Eligible Account. In the event that an account required to be an Eligible Account no longer complies with the requirement, the Trustee should promptly (and, in any case, within not more than 30 calendar days) move such account to another financial institution such that the Eligible Account requirement will again be satisfied.

Section 4.02. Establishment and Use of Project Fund and Cost of Issuance Fund.

(a) There is hereby created and established with the Trustee the Project Fund and the Costs of Issuance Fund. The Bond Proceeds shall be delivered to the Trustee for deposit into the Project Fund, as applicable. The amount provided by the Company for Costs of Issuance on the date of issuance of the Bonds pursuant to Section 4.05 shall be delivered to the Trustee for deposit in the Costs of Issuance Fund. The Trustee is hereby authorized and directed to (i) use moneys in the Project Fund for payment or reimbursement to the Company of the Costs of the Project in accordance with Section 2.05 herein, the provisions of the Agreement and the Continuing Covenant Agreement, pursuant to a Project Payment Request and (ii) use moneys deposited in the Costs of Issuance Fund for payment or reimbursement to the Company of the Costs of Issuance in accordance with Section 2.05 herein pursuant to a Costs of Issuance Request. Upon the Completion Date of the Project, any remaining Bond Proceeds left in the Project Account (together with any other amounts used for such purpose, up to a maximum amount of 2% of the total Bond Proceeds) may be, at the request of the Company, transferred to the Cost of Issuance Fund. The Trustee is hereby authorized and directed to use such moneys in the Costs of Issuance Fund for reimbursement to the Company of the Costs of Issuance in accordance with Section 2.05 herein (including Costs of Issuance which, pursuant to Section 4.05(a) herein, the Company previously paid from the amounts provided to the Trustee by the Company for Costs of Issuance on the date of issuance of the Bonds), the provisions of the Agreement and the Tax Agreement, pursuant to a Costs of Issuance Payment Request.

After payment in full of the Bonds, or provision for the payment of the Bonds having been made pursuant to Section 5.02, and the payment of all other amounts owing hereunder, any amounts remaining in the Project Fund and the Cost of Issuance Fund shall be paid (a) first (i) to the Credit Provider, if any, if there is then any amount owing by the Company to the Credit Provider pursuant to this Indenture or the Reimbursement Agreement or (ii) to the Bank to the extent of any indebtedness of the Company to the Bank pursuant to this Indenture or the Continuing Covenant Agreement, and (b) second to the Company. In making any payment to the Credit Provider or to the Bank under this Section, the Trustee may rely conclusively upon a written statement provided by the Credit Provider or the Bank, as the case may be, as to the amount payable to the Credit Provider pursuant to this Indenture or the Reimbursement Agreement or to the Bank pursuant to this Indenture or the Continuing Covenant Agreement.

(b) Within the Project Fund, the Trustee shall establish and maintain in trust two (2) separate accounts designated as the "Project Account of the Project Fund" (the "Project Account") and the "Pomona Contribution Account of the Project Fund" (the "Pomona Contribution Account"). The Company shall deposit, or cause to be deposited, from time to time, the Pomona Contribution Funds into the Pomona Contribution Account. All moneys in the Project Fund and the accounts therein shall be applied to the payment of the Costs of the Project or to reimburse the Company for such payments and the expenses incidental thereto pursuant to this Agreement and the Continuing Covenant Agreement.

Section 4.03. Establishment and Use of Surplus Fund. There is hereby established and created with the Trustee the Surplus Fund. The Trustee shall deposit all Surplus Bond Proceeds remaining in the Project Account of the Project Fund in the Surplus Fund on the Completion Date of the Project. The deposit of Surplus Bond Proceeds in the Surplus Fund shall be deemed to be a direction by the Company to the Trustee to redeem the greatest principal amount of the Bonds possible to be redeemed from such deposit pursuant to Section 2.18(a) on the earliest redemption date on which the Bonds may be redeemed, and on such redemption date an amount equal to the

principal amount of Bonds to be redeemed plus interest and premium, if any, accrued thereon to the redemption date shall be transferred from the Surplus Fund to the Bond Fund and used for such redemption. After such transfer, if and to the extent that there are moneys in the Surplus Fund on the date on which (i) the Bonds are scheduled to mature or (ii) such Bonds are subject to redemption such moneys in the Surplus Fund shall be transferred to the Bond Fund and shall be used for such payment or redemption. The foregoing provisions of this paragraph to the contrary notwithstanding, if while a Credit Facility is in effect there shall be any moneys on deposit in the Surplus Fund and there shall occur a drawing on the Credit Facility to pay principal of the Bonds (but not the Purchase Price of tendered Bonds) the Trustee shall use any moneys in the Surplus Fund to reimburse the Credit Provider for such drawing; provided, further, if any of the events described in clauses (i) or (ii) above shall occur while a Credit Facility is in effect, the Trustee shall draw on the Credit Facility to the extent otherwise provided in this Indenture and shall immediately apply any moneys in the Surplus Fund (whether or not such moneys are Eligible Funds) to reimburse the Credit Provider therefor in whole or in part.

Section 4.04. Establishment and Use of Bond Purchase Fund and Current Purchase Account. There is hereby established and created with the Trustee the Bond Purchase Fund and, while a Credit Facility is in effect, within such fund a special account designated the “Current Purchase Account.” There shall be deposited in the Bond Purchase Fund all moneys required to be paid by the Company to provide for the payment of the Purchase Price of Bonds pursuant to this Indenture, together with any other moneys received by the Trustee pursuant to this Indenture, the Agreement or otherwise (including draws under the Credit Facility pursuant to Section 3.08(a)(ii)) that are required or directed to be paid into the Bond Purchase Fund. The Trustee shall establish with the Paying Agent a separate subaccount of the Bond Purchase Fund into which the proceeds of the remarketing of Bonds to purchasers (other than the Issuer, the Company, any other Person obligated (as guarantor or otherwise) to make payments on the Bonds or under the Agreement or under the Reimbursement Agreement or the Continuing Covenant Agreement or any “affiliate” of the Company as defined in Bankruptcy Code §101(2)) will be deposited and a separate subaccount of the Bond Purchase Fund into which all amounts drawn under the Credit Facility pursuant to Section 3.08(a)(ii) will be deposited. Neither the Trustee nor the Paying Agent shall commingle amounts in either of such subaccounts with any other funds.

While a Credit Facility is in effect, each deposit into the Bond Purchase Fund not constituting Eligible Funds shall be placed in the Current Purchase Account within the Bond Purchase Fund and shall not be commingled with other moneys in the Bond Purchase Fund. Such moneys shall be held uninvested.

Moneys in the Bond Purchase Fund shall be held in trust for the Holders and, except as otherwise expressly provided herein, shall be used solely for the payment of the Purchase Price of the Bonds required to be purchased as set forth in Section 2.06(g).

The Trustee is hereby authorized and directed, and the Trustee hereby agrees, to withdraw and to transfer to the Paying Agent funds from the Bond Purchase Fund as contemplated by Section 2.06(g) by 1:30 p.m., Local Time, on each date that Bonds are to be purchased pursuant to Section 2.06 from the Bond Purchase Fund to pay the Purchase Price of Bonds tendered (or deemed tendered) for purchase pursuant thereto. The Trustee shall give the Remarketing Agent prompt telephonic notice of each such transfer.

To the extent that a Credit Facility is drawn on to make a payment of Purchase Price to any Holder, the Trustee shall use any monies in the Bond Purchase Fund not then needed to make payments to Holders, regardless of whether such monies constitute Eligible Funds, to reimburse the Credit Provider.

After payment in full of the Bonds, or provision having been made for payment of the Bonds pursuant to Section 5.02, and payment of all other amounts required to be paid under this Indenture, any amounts remaining in the Bond Purchase Fund shall be paid (a) first to the Credit Provider, if any, if there is then any amount owing by the Company to the Credit Provider pursuant to this Indenture or the Reimbursement Agreement and (b) second to the Company. In making any payment to the Credit Provider under this Section, the Trustee may rely conclusively upon a written statement provided by the Credit Provider as to the amount payable to the Credit Provider pursuant to this Indenture or the Reimbursement Agreement.

Section 4.05. Deposit of Bond Proceeds. Upon the receipt of payment for the Bonds on the Closing Date in the amount of \$24,255,000 (which represents the purchase price of the Bonds) and receipt of payment for Costs of Issuance from the Company in the amount of \$\_\_\_\_\_:

(a) The Trustee shall deposit (from the amount provided by the Company pursuant to the preceding sentence) the amount of \$\_\_\_\_\_ in the Costs of Issuance Fund.

(b) The Trustee shall (i) deposit Bond Proceeds in the amount of \$\_\_\_\_\_ in the Project Account of the Project Fund and (ii) pay to the order of the Company Bond Proceeds in the amount of \$\_\_\_\_\_, as reimbursement for Costs of the Project previously incurred by the Company. The Trustee acknowledges receipt of an executed Project Payment Request in such amount.

Section 4.06. Records. The Trustee shall cause to be kept and maintained records pertaining to the Project Fund, the Surplus Fund, the Bond Fund and the Bond Purchase Fund and all disbursements therefrom and shall periodically deliver to the Company statements of activity and statements indicating the investments, if applicable, made with moneys in all such funds during the applicable period. Upon written request, the Trustee shall provide the Company, within a reasonable period of time, with a report stating the principal amount of Bonds Outstanding and a list of the registered owners of the Bonds as of the date specified by the Company in its request.

The Trustee shall provide the Company with a written report, on a monthly basis through the calendar month in which the last obligation of the Bonds is retired, identifying the Permitted Investments in which the moneys held as part of the Project Fund, the Surplus Fund, the Bond Fund and the Bond Purchase Fund were invested during the preceding period and the dates of such investments, together with such other information as the Trustee ordinarily provides to Persons such as the Company in its regular monthly investment reports.

Section 4.07. Investment of Project Fund, Costs of Issuance Fund, Surplus Fund, Bond Fund Monies. Monies held by the Trustee as part of the Project Fund, the Costs of Issuance Fund, the Surplus Fund and the Bond Fund shall be invested and reinvested in Permitted Investments as instructed by a Company Representative; provided, however, that (i) any moneys from a drawing under a Credit Facility and any moneys held by the Trustee to pay the principal or Purchase Price of, premium, if any, or interest that has become payable with respect to the Bonds shall not be invested and (ii) the Paying Agent shall not invest any moneys it receives under this Indenture. All Permitted

Investments shall be held by or under the control of the Trustee and shall be deemed at all times to be a part of the fund and account which was used to purchase the same. All interest accruing thereon and any profit realized from Permitted Investments shall be credited to the respective fund or account and any loss resulting from Permitted Investments shall be similarly charged. The Trustee is authorized to cause to be sold and reduced to cash a sufficient amount of Permitted Investments whenever the cash balance in any fund or account hereunder is or will be insufficient to make a requested or required disbursement. The Trustee shall not be responsible for any depreciation in the value of any Permitted Investment or for any loss resulting from such sale, so long as the Trustee performs its obligations hereunder in accordance with the provisions of Section 7.01(e). Absent specific instructions from the Company to invest cash balances in Permitted Investments hereunder, the Trustee shall invest in Permitted Investments constituting obligations of the U.S. Treasury or its agencies having a term to maturity of not more than 30 days or any money market fund or similar investment fund that purchases and holds exclusively obligations of the United States of America or its agencies that have a term to maturity of not more than 30 days. Notwithstanding anything to the contrary herein provided, moneys constituting Eligible Funds shall only be invested in Government Obligations maturing on or before the date such Eligible Funds will be required for disbursement. Notwithstanding anything to the contrary herein provided, moneys deposited in the Surplus Fund pursuant to Section 3.04 of the Agreement shall not be invested at a yield exceeding the yield on the Bonds.

The Issuer and the Company (by its execution of the Agreement) acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Issuer or the Company the right to receive brokerage confirmations of security transactions as they occur, the Issuer and the Company specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Issuer (if requested by it) and the Company periodic cash transaction statements which shall include detail for all investment transactions made by the Trustee hereunder.

Section 4.08. Arbitrage; Rebate Fund. The Issuer recognizes that investment of the Bond proceeds will be at the written direction of the Company but agrees that it will commit no act, or omit any action, that would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the applicable regulations thereunder. There is hereby established with the Trustee an Arbitrage Rebate Fund (the “Rebate Fund”). Any provisions in this Indenture to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder.

The Trustee shall deposit in the Rebate Fund the amount paid to the Trustee by the Company pursuant to Section 8.09 of the Agreement. Within 60 days after each date on which rebate is required to be computed by the Code, the Trustee, acting on behalf of the Issuer, shall pay to the United States in accordance with Section 148(f) of the Code from the moneys then on deposit in the Rebate Fund an amount equal to 90% (or such greater percentage not in excess of 100% as the Company may direct the Trustee to pay) of the amount certified by the Company to be the required rebate to the United States as calculated under Section 148(f)(2) of the Code (hereinafter called the “Rebate Amount”). Within 60 days after the payment in full of all outstanding Bonds, the Trustee shall pay to the United States in accordance with Section 148(f) of the Code from the moneys then on deposit in the Rebate Fund an amount equal to 100% of the Rebate Amount and any moneys remaining in the Rebate Fund following such payment shall be paid to the Company.



The Trustee shall be entitled to rely on the calculations made pursuant to this Section and neither the Issuer nor the Trustee shall be responsible for any loss or damage resulting from any good faith action taken or omitted to be taken in reliance upon such calculations.

The Trustee shall keep those records of the computations made pursuant to this Section that are furnished by the Company or the Issuer to the Trustee as required under Section 148(f) of the Code, provided that nothing in this Indenture shall impose any obligation on the Trustee with respect to requesting, preparing, obtaining or verifying any such records or any computations therein.

Moneys in the Rebate Fund may be invested as provided in Section 4.07 for the investment of the Project Fund, the Surplus Fund and the Bond Fund.

Section 4.09. Non presentment of Bonds. In the event any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity or at the date fixed for redemption thereof or otherwise, if funds sufficient to pay the principal of, premium (if any) and interest on such Bond shall have been made available to the Trustee for the benefit of the Holder or Holders thereof, payment of such Bond or portion thereof as the case may be, shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee, subject to any applicable escheat laws, to hold such fund or funds uninvested in the Bond Fund, without liability to the Holder of such Bond for interest thereon, for the benefit of the Holder of such Bond, who shall thereafter be restricted exclusively to such fund or funds, for any claim of whatever nature on his/her part on, or with respect to, said Bond, or portion thereof, or premium, if any.

## **ARTICLE V**

### **DISCHARGE OF LIEN**

Section 5.01. Discharge of Lien and Security Interest. Upon payment in full of all of the Bonds and the payment by or on behalf of the Company of all amounts payable under the Continuing Covenant Agreement or the Reimbursement Agreement, as applicable, these presents and the Security Interests shall cease, determine and be discharged, and thereupon the Trustee, upon receipt by the Trustee of an Opinion of Counsel stating that all conditions precedent to the satisfaction and discharge of this Indenture have been complied with shall; (a) cancel and discharge this Indenture, the lien upon the Trust Estate and the Security Interests; (b) execute and deliver to the Issuer and the Company, at the Company's expense, such instruments in writing as shall be required to cancel and discharge this Indenture and the Security Interests and reconvey to the Issuer and the Company the Trust Estate, and assign and deliver to the Issuer and the Company so much of the Trust Estate as may be in its possession or subject to its control, except for moneys and Government Obligations held in the Bond Fund for the purpose of paying Bonds and except for moneys held in the Bond Purchase Fund for the purpose of paying the Purchase Price of the Bonds which have been purchased pursuant to Section 2.06(g); and (c) return any Credit Facility to the Credit Provider; provided, however, that the cancellation and discharge of this Indenture pursuant to this Section 5.01; (i) shall be subject to and qualified by the provisions of Section 5.03, (ii) shall not terminate the powers and rights granted to the Trustee, the Registrar and the Paying Agent with respect to the payment, registration of transfer and exchange of the Bonds and (iii) shall not impair or limit the rights of the Issuer, the Trustee, the Registrar and the Paying Agent to indemnify, non liability and payment of all reasonable fees and expenses, which rights shall survive the cancellation and discharge of this Indenture pursuant to this Section or Section 5.02. If the Bonds are rated by a Rating Agency, notice of payment in full of the Bonds shall be furnished by the Trustee to such Rating Agency.

Section 5.02. Provision for Payment of Bonds. Bonds shall be deemed to have been paid within the meaning of Section 5.01 if:

(a) There shall have been irrevocably deposited in the Bond Fund:

(i) if the Bonds do not bear interest at the Fixed Rate, sufficient Eligible Funds, or

(ii) if the Bonds bear interest at the Fixed Rate, either (1) sufficient Eligible Funds, or (2) Government Obligations purchased with Eligible Funds of such maturities and interest payment dates and bearing such interest as will, in the opinion of a nationally recognized firm of certified public accountants, without further investment or reinvestment of either the principal amount thereof or the interest earnings thereon (said earnings also to be held in trust), be sufficient together with any moneys referred to in paragraph (a)(i)(1) above; for the payment at their respective maturities or redemption or tender dates prior to maturity of the principal thereof and the redemption premium, if any, and interest to accrue thereon at such maturity or redemption or tender dates, as the case may be (assuming that the Bonds bear interest at the Ceiling Rate during any period during which the interest rate on the Bonds may change subsequent to the deposit of such funds and the redemption);

(b) there shall have been paid or provision duly made for the payment of all fees and expenses of the Issuer, the Trustee, the Registrar, the Paying Agent and the Remarketing Agent due or to become due; and

(c) if any Bonds are to be redeemed on any date prior to their maturity, the Trustee shall have received in form satisfactory to it irrevocable instructions from a Company Representative to redeem such Bonds on such date and either evidence satisfactory to the Trustee that all redemption notices required by this Indenture have been given or irrevocable power authorizing the Trustee to give such redemption notices has been granted to the Trustee. Unless there are sufficient funds deposited with the Trustee prior to giving such redemption notices, the notices shall be conditional upon receipt of sufficient funds by the Trustee to pay the redemption price.

Limitations set forth elsewhere herein regarding the investment of moneys held by the Trustee in the Bond Fund shall not be construed to prevent the depositing and holding in the Bond Fund of the obligations described in paragraph (a)(ii) of this Section for the purpose of defeasing the lien of this Indenture as to Bonds which have not yet become due and payable. Notwithstanding any other provision of this Indenture to the contrary, all Eligible Funds deposited with the Trustee as provided in this Section may be invested and reinvested, at the direction of the Company, in Government Obligations (or, in the case of a deposit under paragraph (a)(i) of this Section, in a money market fund that invests solely in Government Obligations and is rated in the highest category by one of Fitch, Moody's or S&P and, if more than one of such rating agencies then rates such money market fund, is rated no less than the highest rating category by each of such rating agencies then rating such money market fund) maturing in the amounts and times as hereinbefore set forth, and all income from all Government Obligations (or money market fund) in the hands of the Trustee pursuant to this Section which is not required for the payment of the Bonds and interest and redemption premium, if any, thereon with respect to which such moneys shall have been so deposited shall be deposited in the Bond Fund as and when realized and collected for use and application as are other moneys deposited in the Bond Fund. Notwithstanding the foregoing provisions of this

paragraph, if the Bonds are rated by S&P at the time a deposit is made under paragraph (a)(i) of this Section, such Eligible Funds may be invested solely in Government Obligations maturing or to be available to be withdrawn at par no later than the earlier of the Maturity Date, a Mandatory Purchase Date, redemption date or, if the Bonds are in a Weekly Rate Period, the next possible Optional Tender Date.

Notwithstanding any other provision of this Indenture to the contrary, if a Bond has been deemed to be paid under this Section and the Holder or Beneficial Owner of such Bond delivers a tender notice with respect to such Bond that would result in the occurrence of an Optional Tender Date for such Bond prior to its maturity or redemption date: (1) the Remarketing Agent shall not remarket such Bond; (2) the Remarketing Agent shall notify the Trustee and the Paying Agent by the third Business Day prior to such Optional Tender Date for such Bond that it has received a tender notice with respect to such Bond; (3) the Trustee shall transfer to the Paying Agent, not later than 9:30 a.m., Local Time, on such Optional Tender Date for such Bond, Eligible Funds from the deposit made into the Bond Fund under paragraph (a)(i) of this Section sufficient to pay the Purchase Price of such Bond; (4) the Paying Agent shall purchase such Bond on such Optional Tender Date applicable to such Bond; and (5) such Bond shall be delivered to the Trustee for cancellation and shall be cancelled.

During any Weekly Interest Period during which a Credit Facility is in effect, if all Bonds have been deemed to be paid because a deposit has been made under paragraph (a)(i) of this Section, and the Bonds are rated by S&P at the time such deposit is made, then (i) if such deposit is made with proceeds of one or more drawings under the Credit Facility, then any excess funds remaining in the Bond Fund after payment of all of the Bonds at their respective maturities or redemption or tender dates shall be returned to the Credit Provider, or (ii) if such deposit is made with Eligible Funds as described in clause (i) of that definition, then there shall be delivered a written Opinion of Counsel experienced in bankruptcy law matters, in form satisfactory to S&P, that the portion of such deposit needed to pay principal of, interest on and Purchase Price of the Bonds when due will not be subject to the automatic stay under Section 362 of the Bankruptcy Code in the event of an Act of Bankruptcy.

Notwithstanding any other provision of this Indenture to the contrary, if all Bonds have been deemed to be paid because a deposit has been made under paragraph (a)(i) of this Section, the Interest Rate Determination Method may not thereafter be changed by the Company.

If all Bonds have been deemed to be paid because a deposit has been made under paragraphs (a)(i) or (a)(ii) of this Section with proceeds of one or more drawings under the Credit Facility, then the surrender by the Trustee of the Credit Facility to the Credit Provider for cancellation prior to the maturity or redemption date of the Bonds shall not constitute a Credit Modification Date.

If the Bonds bear interest at the Fixed Rate and are to be rated by a Rating Agency at or prior to the time provision for payment shall be made there shall be delivered to the Rating Agency the opinion of nationally recognized certified public accountants referred to in paragraph (a)(ii) above and a written Opinion of Counsel experienced in bankruptcy law matters and in form satisfactory to the Rating Agency that the deposit and use of such moneys will not constitute an avoidable preferential payment pursuant to Section 547 of the Bankruptcy Code, or an avoidable post petition transfer pursuant to Section 549 of the Bankruptcy Code, recoverable from Holders of the Bonds pursuant to Section 550 of the Bankruptcy Code in the event of an Act of Bankruptcy.

Section 5.03. Discharge of this Indenture. This Indenture, the lien upon the Trust Estate, the Security Interests and the rights granted and duties imposed hereby, shall continue and subsist after payment in full of the Bonds under Section 5.01 or the deemed payment in full of the Bonds in accordance with Section 5.02 until the Trustee shall have paid to the Bank or the Credit Provider, as the case may be, or returned to the Company, all funds held by the Trustee which the Bank or the Credit Provider, as the case may be, or the Company, is entitled to receive pursuant to this Indenture or the other Bond Documents after all Bonds have been paid at maturity or redeemed.

## ARTICLE VI

### DEFAULT PROVISIONS AND REMEDIES

Section 6.01. Events of Default. Any one of the following shall constitute an Event of Default hereunder:

- (a) Failure to pay interest on any Bond when and as the same shall have become due;
- (b) Failure to pay the principal of or any premium on any Bond when and as the same shall become due, whether at the stated maturity or redemption date thereof or by acceleration;
- (c) Failure to pay the Purchase Price of any Bond required to be purchased hereunder on a Mandatory Purchase Date when and as the same shall become due;
- (d) Failure to observe or perform any other of the covenants, agreements or conditions on the part of the Issuer included in this Indenture or in the Bonds and the continuance thereof for a period of thirty (30) days after written notice to the Issuer, the Credit Provider, if a Credit Facility is then in effect, and the Company has been given by the Trustee, provided that the Credit Provider, if any, shall have consented to the same constituting an Event of Default;
- (e) The occurrence of an Event of Default under the Agreement or any continuing Covenant Agreement;
- (f) If a Credit Facility is in effect, the Trustee shall have received a written notice from the Credit Provider that an event of default under the Reimbursement Agreement has occurred and is continuing and a written request from the Credit Provider that the Bonds be accelerated; or
- (g) If, during an Index Interest Rate period, the Trustee shall receive written notice from the Bank that an event of default has occurred under the Continuing Covenant Agreement;

Section 6.02. Acceleration. Upon the occurrence of an Event of Default, the Trustee may, with the prior written consent of the Credit Provider, if any, and the Bank, if any, (except that such consent shall not be required as to an Event of Default described in Section 6.01(f)), or upon the written direction of the Credit Provider or the Bank, as applicable (except that such direction shall not be required as to an Event of Default described in Section 6.01(f)), the Trustee immediately shall, by notice in writing sent to the Issuer, the Company, any Guarantor, the Paying Agent, the Remarketing Agent, the Credit Provider, if any, and during an Index Interest Rate Period, the Bank, declare the principal of all Bonds then Outstanding (if not then due and payable) and the interest

accrued thereon to be due and payable immediately, and, upon said declaration, such principal and interest shall become and be immediately due and payable. Upon any declaration of acceleration hereunder, the Trustee shall immediately exercise such rights as it may have under the Agreement to declare all payments thereunder to be immediately due and payable and, if a Credit Facility is in effect, the Trustee shall immediately draw upon the Credit Facility as provided in Section 3.08(a)(iii). If the Credit Provider honors the drawing under the Credit Facility upon a declaration of acceleration of the Bonds, interest on the Bonds shall accrue only to the date of such declaration and the Trustee shall pay the principal of and interest on the Bonds to the Holders immediately following the receipt of funds from such drawing. If no Credit Facility is in effect or the Credit Provider fails to honor the drawing under the Credit Facility upon acceleration of the Bonds, interest on the Bonds shall cease to accrue as provided in Section 6.07.

Immediately following any such declaration of acceleration, the Trustee shall cause to be mailed notice of such declaration by first class mail, postage prepaid, to each Holder of a Bond at his/her last address appearing on the Register. Any defect in or failure to give such notice of such declaration shall not affect the validity of such declaration.

Section 6.03. Other Remedies; Rights of Holders. Upon the happening and continuance of an Event of Default hereunder the Trustee may, only with the prior written consent of the Credit Provider, if any, or the Bank, if any, with or without taking action under Section 6.02, pursue any available remedy to enforce the performance of or compliance with any other obligation or requirement of this Indenture, the Agreement, or any of the Security Documents.

Subject (i) to the requirement that the consent of the Credit Provider, if any, and the Bank, if any, to the exercise by the Trustee of any such available remedy must be obtained, and (ii) further subject to the provisions of Section 6.04, upon the happening and continuance of an Event of Default, and if requested to do so by the Holders of at least twenty five percent (25%) in aggregate principal amount of Bonds then Outstanding and if the Trustee is indemnified as provided in Section 7.01(h), the Trustee shall exercise such of the rights and powers conferred by this Section and by Section 6.02 as the Trustee, being advised by Counsel, shall deem most effective to enforce and protect the interests of the Holder(s) and, except to the extent inconsistent with the interests of the Holder(s) and the Credit Provider, if any.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Holders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Holders hereunder or now or hereafter existing.

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

No waiver of any Event of Default hereunder, whether by the Trustee or by the Holders, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

The Trustee, as the assignee of substantially all right, title and interest of the Issuer in and to the Agreement, shall be empowered to enforce each and every right granted to the Issuer under the Agreement other than Reserved Rights.

Section 6.04. Right of Holders and Credit Provider to Direct Proceedings. If a Credit Facility is then in effect, subject to the rights of the Credit Provider as provided in Sections 6.02 and 6.03, and, during an Index Interest Rate Period, the rights of the Bank, the Holder(s) of a majority in aggregate principal amount of Bonds then Outstanding shall have the right at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture and the Security Documents, or any other proceedings hereunder or thereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law, this Indenture and the Security Documents, and provided that the Trustee shall be indemnified to its satisfaction and the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Notwithstanding the foregoing or any other provision of this Indenture, during any Index Interest Rate Period, the Bank shall be entitled to exercise all of the powers, consents, rights and remedies to which the Holders of a majority in aggregate principal amount of Bonds then Outstanding is entitled hereunder, including the right, at any time, by an instrument in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all remedial proceedings on behalf of the Holders available to the Trustee under this Indenture to be taken in connection with the enforcement of the terms of this Indenture or exercising any trust or power conferred on the Trustee by this Indenture.

No Holder shall have the right to institute any proceeding for the enforcement of this Indenture unless such Holder (or the Bank during any Index Interest Rate Period) has given the Trustee and the Company written notice of an Event of Default, the Holders of a majority in aggregate principal amount of the Bonds then Outstanding (or the Bank during any Index Interest Rate Period) shall have requested the Trustee in writing to institute such proceeding, the Trustee shall have been afforded a reasonable opportunity to exercise its powers or to institute such proceeding, there shall have been offered to the Trustee indemnity satisfactory to it against the cost, expense and liability to be incurred in connection with such request and the Trustee shall have thereafter failed or refused to exercise such powers or to institute such proceeding within sixty (60) days after receipt of notice with no inconsistent direction given during such sixty (60) days by the Holders of a majority in aggregate principal amount of the Bonds then Outstanding (or by the Bank during any Index Interest Rate Period). Nothing in this Indenture shall affect or impair any right of enforcement conferred on any Holder by the Act to enforce (i) the payment of the principal of and premium, if any, and interest on Bonds at and after the maturity thereof, or (ii) the obligation of the Issuer to pay the principal of, premium, if any, and interest on Bonds to such Holder at the time, place, from the sources and in the manner as provided in this Indenture. No Holder shall individually have the right to present a draft to, or otherwise make a demand on, the Credit Provider to collect amounts available under the Credit Facility.

Section 6.05. Discontinuance of Default Proceedings. Prior to the drawing on a Credit Facility, if any, pursuant to Section 3.08(a)(iii), in case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer, the Credit Provider, if any, and the Trustee shall be restored to their former positions and rights hereunder and all rights, remedies and powers of the Issuer, the

Trustee and the Credit Provider shall continue as if no such proceedings had been taken subject to the limits of any adverse determination.

Section 6.06. Waiver. The Trustee, with the consent of the Credit Provider, if any, may waive any Event of Default hereunder and its consequences and rescind any declaration of acceleration of maturity of principal, and shall do so upon the written request of the Credit Provider, if any, or during an Index Interest Rate Period, the Bank; provided, however, that the Trustee shall not cause such a waiver or rescission (a) during an Index Interest Rate Period, unless and until the Bank has provided to the Trustee its prior written consent and (b) unless and until the Purchase Price and all principal, premium, if any, and interest on the Bonds in arrears, together with interest thereon (to the extent permitted by law) at the applicable rate of interest borne by the Bonds and all fees and expenses of the Trustee and the Issuer shall have been paid or provided for. The Trustee may not waive any Event of Default until the Trustee has received notice in writing from the Credit Provider that the amount available to be drawn under any Credit Facility then in effect in respect of the principal and Purchase Price of and interest on the Bonds has been reinstated in full and the notice of the Event of Default has been rescinded by the Credit Provider.

Section 6.07. Application of Monies. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Indenture, under any of the other Bond Documents including any proceeding at law or in equity to enforce the provisions of and foreclose, realize, levy or execute upon all items of collateral thereunder, shall be deposited in the Bond Fund and, after payment (out of moneys derived from a source other than the Credit Facility, moneys held for the purchase of Untendered Bonds, moneys held for the redemption of Bonds and proceeds from the remarketing of Bonds) of (i) the cost and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee, including reasonable attorneys' fees, and all other reasonable outstanding fees and expenses of the Trustee, and thereafter any fees, expenses, liabilities and advances due to, or incurred or made by, the Paying Agent and the Registrar and (ii) any sums due to the Issuer under the Agreement (other than [Repayments]), such moneys shall be applied in the order set forth below:

(a) Unless the principal of all Bonds shall have become or been declared due and payable, all such moneys shall be applied:

First: To the ratable payment of all installments of interest then due on the Bonds, and , if the amount available shall not be sufficient to pay in full all such amounts, then to the ratable payment of all such amounts so due and the portion thereof allocable to the installments of interest shall be applied in order of priority first to installments past due for the greatest period; and

Second: To the ratable payment of (i) the unpaid principal of and premium, if any, and the Purchase Price of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), with interest on such Bonds from the respective dates upon which they became due (at the rate borne by the Bonds, to the extent permitted by law), and (ii) to the payment of Obligations owing to the Bank under the Continuing Covenant Agreement during any Index Interest Rate Period (to the extent not required to be paid at a higher level of priority) or to the payment of any fees and expenses of a Credit Provider due and owing under any Reimbursement Agreement, and, if the amount available shall not be sufficient to pay in full all such

amounts due on any particular date, then to the ratable payment of all such amounts due on such date.

(b) If the principal of all the Bonds shall have become or been declared due and payable, all such moneys shall be applied:

First: To the payment of the principal, premium, if any, and interest then due and unpaid upon the Bonds, without preference or priority as between principal, premium, interest, installments of interest or Bonds, ratably according to the amounts due to the persons entitled thereto, and

Second: To the payment of any obligations of the Company payable to the Bank under the applicable Continuing Covenant Agreement (to the extent not required to be paid at a higher level of priority) or to the payment of any fees and expenses of a Credit Provider due and owing under any Reimbursement Agreement.

(c) If the principal on all Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded under this Article then, subject to subsection (b) of this Section in the event that the principal of all the Bonds shall again become or be declared due and payable, the moneys shall be applied in accordance with subsection (a) of this Section.

Notwithstanding the foregoing, unless the Credit Facility permits drawings to pay premium with respect to Bonds, the Trustee shall be obligated to apply moneys received under a Credit Facility then in effect only to principal and Purchase Price of, and interest on the Bonds (except Bonds that are not entitled to any benefit of the Credit Facility as provided in Section 3.08). Whenever moneys (other than moneys received under a Credit Facility) are to be applied pursuant to this Section, the Trustee shall fix the date which shall be not more than seven calendar days after such acceleration upon which such application is to be made and upon such date interest on the principal amount of Bonds to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date. As provided in Section 6.02, moneys received under a Credit Facility upon declaration of acceleration are to be applied as soon as is practicable following receipt to pay the principal of and interest on the Bonds to the Holders.

Section 6.08. Rights of a Credit Provider. All rights of any Credit Provider under this Indenture to consent to certain extensions, remedies, waivers, actions and amendments hereunder shall be suspended (i) for so long as the Credit Provider wrongfully dishonors any draft (or other appropriate form of demand) presented in strict conformity with the requirements of the Credit Facility and has not honored a subsequent draft (or other appropriate form of demand), if any, thereunder or (ii) if no Credit Facility is in effect or any Credit Facility terminates in accordance with its terms.

Section 6.09. Right of Sole Holder or Beneficial Owner to Require Assignment by Trustee. Subject to the Security, Intercreditor and Collateral Agency Agreement, at any time during an Index Interest Rate Period, upon the occurrence and during the continuance of an Event of Default, the Bank, if it is then the sole Holder or Beneficial Owner of all of the Bonds then Outstanding, shall have the right, at its option, exercised by delivery of a written instrument to the Trustee with a copy to the Company, to require the Trustee to assign to such Holder or Beneficial Owner all of the rights (other than the rights of the Trustee to payment or reimbursement for fees, expenses or



indemnification) powers, and prerogatives of the Trustee under the Indenture to enforce the provisions of this Indenture, exercise any remedies and otherwise take actions and institute proceedings for the benefit of and on behalf of the Holders and the Beneficial Owners, and the Trustee covenants and agrees that upon its release and indemnification with respect to any action or failure to act of such Holder or Beneficial Owner subsequent to the aforesaid assignment, it shall execute and deliver all such documents as are necessary to accomplish the foregoing and vest such rights, remedies and title in such Holder or Beneficial Owner.

## ARTICLE VII

### **THE TRUSTEE; THE PAYING AGENT; THE REGISTRAR; THE REMARKETING AGENT**

Section 7.01. Appointment of Trustee. The Trustee is hereby appointed and does hereby agree to act in such capacity, and to perform the duties of the Trustee under this Indenture, but only upon and subject to the following express terms and conditions (and no implied covenants or other obligations shall be read into this Indenture against the Trustee):

(a) The Trustee may execute any of its trusts or powers hereunder and perform any of its duties by or through attorneys, agents, receivers or employees and shall not be held liable for their actions if such agents are selected with reasonable care. The Trustee shall be entitled to advice of Counsel concerning all matters hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees. The Trustee may act upon the opinion or advice of Counsel, accountants, engineers or surveyors selected by it in the exercise of reasonable care or, if the same are selected by the Issuer, approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action or non action in good faith in reliance upon such opinion or advice.

(b) The Trustee shall not be responsible for any recital herein or in the Bonds, or for the recording, re recording, filing or re filing of this Indenture [or the Security Documents] or for insuring the Trust Estate or the Project or collecting any insurance moneys, or for the validity of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value of or title to the Project or otherwise as to the maintenance of the Trust Estate. The Trustee shall have no obligation to perform any of the duties of the Issuer under the Agreement. The Trustee shall not be liable to the Company, any Holder, any Beneficial Owner or any other Person for any loss suffered in connection with any investment of funds made by it in accordance with Section 4.07. The Trustee shall not be liable to the Company for any loss suffered as a result of or in connection with any investment of funds made by the Trustee in good faith as instructed by or approved by a Company Representative. The Trustee shall have no duty or responsibility to examine or review and shall have no liability for the contents of any documents submitted to or delivered to any Holder in the nature of a preliminary or final placement memorandum, official statement, offering circular or similar disclosure document.

(c) The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder after such Bonds shall have been delivered in accordance with instructions of the Issuer or for the use by the Company of the proceeds of the Bonds. or for the use or application of any moneys received by the Paying Agent. The Trustee may become the owner of Bonds secured hereby with the same rights as any other Holder.

(d) The Trustee shall be protected in acting upon Opinions of Counsel and upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any Person who at the time of making such request or giving such authority or consent is the Holder of any Bond shall be conclusive and binding upon all future Holders of the same Bond and upon Bonds issued in exchange therefor or in place thereof. The Trustee may conclusively rely upon a certificate furnished by a Credit Provider as to amounts owing under the Reimbursement Agreement.

(e) The permissive right of the Trustee to do things enumerated in this Indenture or the Agreement shall not be construed as duties. The Trustee shall only be responsible for the performance of the duties expressly set forth herein and shall not be answerable for other than its gross negligence or bad faith in the performance of those express duties.

(f) The Trustee shall not be personally liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or non fulfillment of contracts, relating to the Project.

(g) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trust and powers or otherwise in respect of this Indenture.

(h) Before taking any action requested hereunder by the Holders (except for acceleration of the Bonds as required by Section 6.02, drawing on the Credit Facility as required by Section 3.08(a) and the payment of principal, interest, premium and Purchase Price to Holders), the Trustee may require satisfactory security or indemnity bond for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its own gross negligence or bad faith by reason of any action so taken.

(i) All moneys received by the Trustee or the Paying Agent, until used or applied or invested as herein provided, shall be held as special trust funds for the purposes specified in this Indenture and for the benefit and security of the Holders of the Bonds and the Credit Provider as herein provided. Such moneys need not be segregated from other funds except to the extent required by law or herein provided, and neither the Trustee nor the Paying Agent shall otherwise be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

(j) The Trustee shall not be bound to ascertain or inquire as to the performance of the obligations of the Company or the Issuer under the Agreement or this Indenture, and shall not be deemed to have, or be required to take, notice of default under this Indenture (other than under Section 6.01(a), (b) or (c) if notice thereof has been received from the Paying Agent or under Section 6.01(f) or from the Bank pursuant to Section 6.01(g) except (i) if no Credit Facility is in effect, in the event the Company fails to pay any Repayment when due, (ii) in the event of an insufficient amount in the Bond Fund (or any account therein) to make a principal or interest or premium, if any, payment on the Bonds, (iii) written notification of such default by any Holder, or (iv) written notification from the Credit Provider pursuant to Section 6.01(f). The Trustee may nevertheless require the Issuer and the Company to furnish information regarding performance of their obligations under the Agreement and this Indenture, but is not obligated to do so.

(k) The Trustee shall, prior to any Event of Default and after the curing of all Events of Default which may have occurred, perform such duties and only such duties of the Trustee

as are specifically set forth in this Indenture. The Trustee shall, during the existence of any Event of Default which has not been cured, exercise such of the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of his/her own affairs. The foregoing shall not limit the Trustee's obligations under Section 3.08(a) or Section 6.02.

(l) The Paying Agent and the Registrar shall each be entitled to the same rights and immunities with respect to their respective duties under this Indenture as the Trustee is under this Section 7.01 with respect to its duties hereunder.

(m) In addition to the Trustee's other duties hereunder, the Trustee shall authenticate and cancel Bonds as provided herein, keep such books and records relating to such duties as shall be consistent with prudent industry practice and make such books and records available for inspection by the Issuer and the Company at all reasonable times. All Bonds shall be made available for authentication, exchange and registration of transfer at the principal office of the Trustee.

(n) The Trustee shall have no duty to inspect or oversee the construction or completion of the Project or to verify the truthfulness or accuracy of the certifications made by the Company with respect to the Trustee's disbursements for Costs of the Project in accordance with the Bond Documents.

(o) Without limiting the duties of the Trustee expressly set forth herein, the Trustee shall have no obligation or responsibility whatsoever in connection with (i) any federal or state tax exempt status of the Bonds or the interest thereon; (ii) the consequences of the investment or non investment of any funds or accounts relating to the Bonds or the Credit Facility under Section 148 of the Code; or (iii) the calculation of any amount required to be rebated to the United States under Section 148 of the Code.

(p) No provision of this Indenture, the Agreement or the Bonds shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(q) Whenever in the administration of this Indenture the Trustee deems it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee may, in the absence of bad faith on its part, rely upon a written certificate of a Company Representative or an Issuer Representative.

(r) Except as provided in Section 7.09, in the event that the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of Holders of the Bonds, each representing less than a majority in aggregate principal amount of the Bonds Outstanding, pursuant to the provisions of this Indenture, then the Trustee, in its sole discretion, may determine what action or actions, if any, shall be taken or not taken.

(s) The Trustee's immunities and protections from liability and its rights to indemnification in connection with the performance of its duties under this Indenture shall likewise extend to the Trustee's officers, directors, agents, attorneys and employees. Such immunities and protections and rights to indemnification, together with the Trustee's rights to compensation, shall

survive the Trustee's resignation or removal, the discharge of this Indenture and the final payment of the Bonds.

(t) The Trustee, in its commercial banking or in any other capacity, may in good faith buy, sell, own, hold or deal in any of the Bonds and may join in any action that any Holder may be entitled to take with like effect as if it were not the Trustee. The Trustee, in its commercial banking or in any other capacity, may also engage in or be interested in any financial or other transaction with the Company and may act as depository, trustee or agent for any committee of Holders secured hereby or other obligations of the Company, as freely as if it were not the Trustee hereunder. The provisions of this paragraph shall extend to the affiliates of the Trustee.

(u) Neither Section 2.04(g) nor any other provision of this Indenture shall require the Trustee to enter into any continuing disclosure agreement or other undertaking or to take any other action as may be required to cause compliance with Rule 15c2 12 under the Securities Exchange Act of 1934, as amended.

(v) The Trustee shall have no responsibility or obligation to Participants, to Indirect Participants, or to the Persons for whom they act as nominees with respect to the Bonds, or to any Beneficial Owner of Bonds in respect of the accuracy of any records maintained by the Securities Depository, the Securities Depository Nominee or any Participant or Indirect Participant, the payment by the Securities Depository, the Securities Depository Nominee or any Participant or Indirect Participant of any amount in respect of the principal or Purchase Price of or interest on the Bonds, any notice which is permitted or required to be given under this Indenture, the selection by the Securities Depository, the Securities Depository Nominee or any Participant or Indirect Participant of any Person to receive payment in the event of a partial redemption of the Bonds, or any consent given or other action taken by the Securities Depository or the Securities Depository Nominee as Holder.

(w) Whether or not expressly so provided, each and every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of this Section 7.01.

Section 7.02. Compensation and Indemnification of Trustee, Paying Agent and Registrar; Trustee's Prior Claim. The Agreement provides that the Company will pay the reasonable fees and expenses of the Issuer, the Trustee, the Paying Agent, the Remarketing Agent and the Registrar under this Indenture and all other amounts which may be payable to the Trustee, Paying Agent or Registrar under this Section, and the reasonable fees and expenses of the Remarketing Agent and all other amounts which may be payable to the Remarketing Agent under the Remarketing Agreement, such fees and expenses to be paid when due and payable by the Company directly to the Trustee, Paying Agent, Registrar and Remarketing Agent, respectively, for their own account.

The Company shall (a) pay the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust), (b) pay the Paying Agent and the Registrar and any other agent of the Issuer or the Company acting hereunder or under the Agreement (the Paying Agent and the Registrar and any other agent of the Issuer being herein referred to as a "Company Agent") reasonable compensation, (c) pay or reimburse each of the Trustee and any Company Agent upon request for all reasonable expenses, disbursements and advances incurred or made, in accordance with any of the provisions of this Indenture and the Agreement (including the reasonable

compensation and the reasonable expenses and disbursements of its Counsel and of all agents and other persons not regularly in its employ), except to the extent that any such expense, disbursement or advance is due to its own gross negligence or bad faith, and (d) indemnify each of the Trustee and any Company Agent for, and to hold it harmless against, any loss, liability or expense incurred by it, arising out of or in connection with the acceptance or administration of this Indenture or the trusts hereunder or the performance of its duties hereunder or under the Agreement, including the reasonable costs and expenses of defending itself against or investigating any claim of liability in the premises, except to the extent that any such loss, liability or expense was due to its own gross negligence or bad faith. The obligations of the Company under the Agreement referred to in this Section shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture. Such additional indebtedness shall be a senior claim to that of the Bonds upon all property and funds held or collected by the Trustee as such, except funds held with respect to Untendered Bonds and unredeemed Bonds for which notice of redemption has been given, and except for any arbitrage rebate fund or account established pursuant hereto or pursuant to any arbitrage regulatory agreement. Notwithstanding the foregoing, neither the Trustee nor any Company Agent shall have any claim upon or shall be paid, prior to any Holder, from any Credit Facility or proceeds from the remarketing of Bonds, or the proceeds thereof, with respect to any such compensation, payment, reimbursement or indemnity. "Trustee," "Company Agent," "Paying Agent" and "Registrar" for purposes of this Section shall include any predecessor Trustee, Company Agent, Paying Agent and Registrar but the gross negligence or bad faith of any Trustee, Company Agent, Paying Agent or Registrar shall not affect the indemnification of any other Person. The obligations of the Company under this Section shall survive the termination of this Indenture and the resignation or removal of the Trustee.

Section 7.03. Intervention in Litigation. In any judicial proceedings to which the Issuer is a party, the Trustee may intervene on behalf of Holders, and shall intervene if requested in writing by the Credit Provider or the Holders of at least twenty five percent (25%) [TOO LOW?]in aggregate principal amount of Bonds then Outstanding and indemnified as provided in Section 7.01(h).

Section 7.04. Resignation; Successor Trustees. The Trustee and any successor Trustee may resign only upon giving sixty (60) days prior written notice to the Issuer, the Credit Provider, if any, the Bank during an Index Rate Period, or if the Bonds are Unremarketed Bonds the Company and each Holder of Bonds then Outstanding as shown on the Register. Such resignation shall take effect only upon the appointment of a successor Trustee by the Issuer with the written consent of the Company and the Credit Provider, if any, or the Bank, if any, and the acceptance of such appointment by the successor Trustee. If no successor is appointed within sixty (60) days after the notice of resignation, the resigning party may appoint a successor or petition any court of competent jurisdiction to appoint a successor. Upon appointment of a successor Trustee, the resigning Trustee shall assign all of its right, title and interest in this Indenture and the Trust Estate (including any Credit Facility then in effect) to the successor Trustee. The successor Trustee shall be a bank or trust company with trust powers organized under the laws of the United States of America or any state of the United States, or the District of Columbia, having a combined capital stock, surplus and undivided profits aggregating at least \$50,000,000. Any successor Trustee shall accept in writing its duties and responsibilities hereunder and such writing shall be filed with the Issuer, the Credit Provider, if any, the Company and during an Index Interest Rate Period, the Bank.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or any material part of the corporate

trust business of the Trustee that includes this Indenture, shall be the successor of the Trustee hereunder, without the execution or filing of any instrument or any further act on the part of any Person, anything herein to the contrary notwithstanding, provided that such successor Trustee shall be eligible to serve as Trustee under the provisions of this Indenture. If the Trustee is not the successor corporation in any such merger or consolidation, the Trustee shall give notice of such event to the Company and shall take such action as may be required to effect a transfer of the trust included in this Indenture to such successor corporation.

Section 7.05. Removal of Trustee. The Trustee may be removed at any time, by an instrument or concurrent instruments in writing delivered to the Trustee, the Credit Provider, if any, the Issuer and the Company and signed by the Holders of a majority in aggregate principal amount of Bonds then Outstanding, but only with the prior consent of the Credit Provider, if any. During such time that no Event of Default has occurred and is continuing under this Indenture, the Trustee may also be removed by an instrument in writing delivered to the Trustee, the Credit Provider, if any, the Issuer and during an Index Interest Rate Period, the Bank, and signed by a Company Representative. Such removal shall take effect only upon the appointment of a successor Trustee by the Issuer with the written consent of the Company and the Credit Provider, if any, and the acceptance of such appointment by the successor Trustee. Upon such removal, the Trustee shall assign to the successor Trustee all of its right, title and interest in this Indenture and the Trust Estate (including any Credit Facility then in effect) in the same manner as provided in Section 7.04. If the Bonds are rated by a Rating Agency, notice concerning any change in the Trustee shall be furnished by the successor Trustee to such Rating Agency.

Section 7.06. Paying Agent. The Trustee is hereby appointed by the Issuer as the initial Paying Agent. The Issuer, at the direction of the Company and with the approval of the Remarketing Agent and the Credit Provider, if any, shall appoint any successor Paying Agent for the Bonds, subject to the conditions set forth in Section 7.07. The Paying Agent shall designate to the Issuer and the Trustee its principal office for all purposes hereof and signify its acceptance of the duties imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer and the Trustee under which the Paying Agent shall agree, particularly:

- (i) to hold all sums held by it for the payment of the principal and Purchase Price of, premium, if any, or interest on the Bonds in trust for the benefit of the Holders of the Bonds until such sums shall be paid to such Holders of the Bonds or otherwise disposed of as herein provided;
- (ii) to perform its obligations under this Indenture; and
- (iii) to keep such books and records relating to its duties as Paying Agent as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, the Trustee and the Company at all reasonable times.

The Issuer shall cooperate with the Trustee, the Paying Agent and the Company to cause the necessary arrangements to be made and to be thereafter continued whereby:

- (b) funds derived from the sources specified in this Indenture will be made available at the principal office of the Paying Agent for the timely payment of principal and Purchase Price of, premium, if any, and interest on the Bonds; and

(c) the Paying Agent shall be furnished such records and other information, at such times, as shall be required to enable the Paying Agent to perform the duties and obligations imposed upon it hereunder.

In carrying out its responsibilities hereunder the Paying Agent will act for the benefit of the Holders. Notwithstanding anything to the contrary in this Indenture, the Paying Agent shall not invest any moneys it receives from a draw on the Credit Facility, if any.

No purchase of Bonds by the Paying Agent shall constitute a redemption of Bonds or any extinguishment of the debt represented thereby or constitute the Paying Agent the owner of such Bonds for any purpose whatsoever. No delivery of Bonds to the Trustee shall constitute a redemption of Bonds or any extinguishment of the debt represented thereby or constitute the Trustee the owner of such Bonds for any purpose whatsoever unless the Trustee has purchased such Bonds for its own account.

Section 7.07. Qualifications of Paying Agent. The Paying Agent shall be a bank or trust company with trust powers duly organized under the laws of the United States of America or any state or territory thereof, having a combined capital stock, surplus and undivided profits of at least \$15,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture. The principal office of the Paying Agent for all purposes hereof shall be the office of the Paying Agent at which all deliveries to it hereunder shall be made and any and all notices and other communications in connection herewith shall be delivered. The Paying Agent may at any time resign and be discharged of its duties and obligations created by this Indenture by giving at least sixty (60) days' notice to the Issuer, the Company and the Trustee. The Paying Agent may be removed at any time, at the direction of the Company, by an instrument, signed by the Issuer, filed with such Paying Agent and with the Trustee.

Section 7.08. Resignation of Paying Agent; Removal; Successors.

(a) In the event of the resignation or removal of the Paying Agent, the Paying Agent shall deliver any moneys and any related books and records held by it in such capacity to its successor or, if there be no successor, to the Trustee.

(b) In the event that the Paying Agent shall resign or be removed, or be dissolved, or if the property or affairs of the Paying Agent shall be taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and the Issuer shall not have appointed a successor Paying Agent (any appointment by the Issuer shall be with the prior written consent of the Company), the Trustee shall ipso facto be deemed to be the Paying Agent for all purposes of this Indenture until the appointment by the Issuer and acceptance of a successor Paying Agent.

Section 7.09. Instruments of Holders. Any instrument required by this Indenture to be executed by Holders may be in any number of writings of similar tenor and may be executed by Holders in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds given in any of the following forms shall be sufficient for any of the purposes of this Indenture:

(i) A certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him/her the execution thereof;

(ii) A certificate executed by any trust company or bank stating that at the date thereof the party named therein did exhibit to an officer of such trust company or bank, as the property of such party, the Bonds therein mentioned.

The Trustee may rely on such an instrument of Holders unless and until the Trustee receives notice in the form specified in (i) or (ii) above that the original such instrument is no longer reliable. In the event that the Trustee shall receive conflicting directions from two or more groups of Holders, each with combined holdings of not less than twenty five percent (25%) of the principal amount of Outstanding Bonds, the directions given by the group of Holders which holds the largest percentage of Bonds shall be controlling and the Trustee shall follow such directions to the extent required herein.

Section 7.10. Power to Appoint Co Trustees. At any time or times, for the purpose of meeting any legal requirements of any jurisdiction in which any part of the Project may at the time be located, the Issuer and the Trustee shall have power to appoint and, upon the request of the Trustee or of the Holders of a majority of the aggregate principal amount of the Bonds then Outstanding, the Issuer shall for such purpose join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more persons approved by the Trustee and the Company either to act as co trustee or co trustees, jointly with the Trustee of all or any part of the Project, or to act as separate trustee or separate co trustees of all or any part of the Project, and to vest in such person or persons, in such capacity, such title to the Project or any part thereof, and such rights, powers, duties, trusts or obligations as the Issuer and the Trustee may consider necessary or desirable, subject to the remaining provisions of this Section.

Any co trustee or separate trustee shall be a bank or trust company with trust powers organized under the laws of the United States of America or any state of the United States or the District of Columbia, having a combined capital stock, surplus and undivided profits aggregating at least \$50,000,000.

The Trustee and co trustee, if any, may by written instrument between them designate and assign either the Trustee or the co trustee or both of them to perform all or any part of the responsibilities and duties of the Trustee under this Indenture.

If the Issuer shall not have joined in such appointment within thirty (30) days after the receipt by it of a written request to do so, or in case an Event of Default shall have occurred and be continuing, the Trustee and the Company shall have the power to make such appointment.

The Issuer shall execute, acknowledge and deliver all such instruments as may be required by any such co trustee or separate trustee for more fully confirming such title, rights, powers, trusts, duties and obligations to such co trustee or separate trustee.

Every co trustee or separate trustee appointed pursuant to this Section, to the extent permitted by law or any applicable contract, shall be subject to the following terms, namely:



(a) This Indenture shall become effective at the time the Bonds shall be authenticated and delivered, and thereupon such co trustee or separate trustee shall have all rights, powers, trusts, duties and obligations by this Indenture conferred upon the Trustee in respect of the custody, control or management of moneys, papers, securities and other personal property.

(b) All rights, powers, trusts, duties and obligations conferred or imposed upon the trustees shall be conferred or imposed upon and exercised or performed by the Trustee, or by the Trustee and such co trustee or co trustees, or separate trustee or separate trustees, as shall be provided in the instrument appointing such co trustee or co trustees or separate trustee or separate trustees, except to the extent that, under the law of any jurisdiction in which any particular act or acts are to be performed, the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such act or acts shall be performed by such co trustee or co trustees or separate trustee or separate trustees.

(c) Any request in writing by the Trustee to any co trustee or separate trustee to take or to refrain from taking any action hereunder shall be sufficient warrant for the taking, or the refraining from taking, of such action by such co trustee or separate trustee.

(d) Any co trustee or separate trustee, to the extent permitted by law, may delegate to the Trustee the exercise of any right, power, trust, duty or obligation, discretionary or otherwise.

(e) The Trustee at any time, by an instrument in writing, with the concurrence of the Company and the Issuer evidenced by a resolution, may accept the resignation of any co trustee or separate trustee appointed under this Section, and, in case an Event of Default shall have occurred and be continuing, the Trustee shall have power to accept the resignation of, or remove, any such co trustee or separate trustee without the concurrence of the Issuer and the Company. Upon the request of the Trustee, the Issuer and the Company shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co trustee or separate trustee so resigned or removed may be appointed in the manner provided in this Section.

(f) No co trustee or separate trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder.

(g) Any moneys, paper, securities or other items of personal property received by any such co trustee or separate trustee hereunder shall forthwith, so far as may be permitted by law, be turned over to the Trustee.

Upon the acceptance in writing of such appointment by any such co trustee or separate trustee, it, she or he shall be vested with the security interest in the Trust Estate and with such rights, powers, duties, trusts or obligations, as shall be specified in the instrument of appointment jointly with the Trustee (except insofar as applicable law makes it necessary for any such co trustee or separate trustee to act alone) subject to all the terms of this Indenture. Every such acceptance shall be filed with the Trustee.

In case any co trustee or separate trustee shall die, become incapable of acting, resign or be removed, the security interest in the Trust Estate and all rights, powers, trusts, duties and obligations of said co trustee or separate trustee shall, so far as permitted by law, vest in and be exercised by the

Trustee unless and until a successor co trustee or separate trustee shall be appointed in the same manner as provided for with respect to the appointment of a successor Trustee pursuant to Section 7.04 hereof.

Section 7.11. Filing of Financing Statements. The Company shall file or record or cause to be filed or recorded all Financing Statements that are required in order fully to protect and preserve the Security Interests and the priority thereof and the rights and powers of the Trustee in connection therewith. The Trustee shall file or record or cause to be filed or recorded all continuation statements for which Trustee is the secured party for the purpose of continuing without lapse the effectiveness of (i) those Financing Statements which shall have been filed at or prior to the issuance of the Bonds in connection with the security for the Bonds pursuant to the authority of the U.C.C., and (ii) any previously filed continuation statements that shall have been filed as required herein. The Issuer and the Trustee shall sign, if necessary, and the Trustee shall deliver to the Company or its designee, all such Financing Statements as may be required for the purposes specified in the preceding sentence. Upon the filing of any such Financing Statement the Company shall immediately notify the Issuer and the Trustee that the same has been accomplished.

Section 7.12. Remarketing Agent. At the request of the Company, a Remarketing Agent may, and prior to any Conversion Date to a Short-Term Rate or Medium-Term Rate during an Index Interest Rate Period, shall, be appointed with the prior written approval of the Issuer and the Credit Provider, if any. The Company shall give written notice to the Trustee of such an appointment, and the Trustee, in turn, shall cause written notice of such appointment to be given to the Holders of the Bonds. The Issuer, at the direction of the Company, and with the consent of the Credit Provider, which consent shall not be unreasonably withheld, shall appoint any successor Remarketing Agent for the Bonds (except for assignees permitted under the following sentence), subject to the conditions set forth in Section 7.13. To the extent permitted by any Remarketing Agreement then in effect, the Remarketing Agent may at any time transfer all of its duties and obligations as Remarketing Agent hereunder to an affiliate of such Remarketing Agent that satisfies the conditions set forth in Section 7.13 and, upon such transfer, such affiliate shall automatically become the Remarketing Agent hereunder without any further action.

Any Remarketing Agent shall designate to the Issuer and the Trustee its principal office for purposes hereof, which shall be the office of such Remarketing Agent at which all notices and other communications in connection herewith may be delivered to it, and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Company, the Trustee and the Credit Provider under which such Remarketing Agent shall agree particularly; (i) to hold all Bonds delivered to it hereunder in trust for the benefit of the respective Holders of Bonds that delivered such Bonds until moneys representing the Purchase Price of such Bonds are delivered to or for the account of or to the order of such Holders of Bonds; (ii) to hold all moneys delivered to it hereunder for the purchase of Bonds in trust for the benefit of the person or entity that has delivered such moneys until the Bonds purchased with such moneys are delivered to or for the account of such person or entity; and (iii) to keep books and records with respect to its activities hereunder available for inspection by the Issuer, the Trustee, the Company and the Credit Provider, if any, at all reasonable times.

Section 7.13. Qualifications of Remarketing Agent; Resignation; Removal. The Remarketing Agent shall be a financial institution or registered broker/dealer authorized by law to perform all the duties imposed upon it by this Indenture. The Remarketing Agent may at any time resign and be discharged of its duties and obligations created by this Indenture by giving at least

thirty (30) days' notice to the Issuer, the Company, the Paying Agent, the Trustee and the Credit Provider, if any; provided, however, that if no successor Remarketing Agent has been appointed in accordance with Section 7.12 and this Section on or prior to the effective date of such resignation, (i) the resigning Remarketing Agent shall give written notice to Holders on the effective date of such resignation that all optional tender notices under Section 2.06(a) should be delivered to the Trustee until a successor Remarketing Agent has been appointed and (ii) until a successor Remarketing Agent has been appointed, the Trustee shall have no duty to remarket the Bonds, but shall provide the funds described in clauses (ii), (iii) and (iv) of Section 2.06(g) to the Paying Agent in that order on each Optional Tender Date specified in such notices to pay the Purchase Price of all Bonds tendered. The Remarketing Agent may be removed at any time, upon not less than thirty (30) days' notice, at the direction of the Company, by an instrument signed by the Issuer and the Company and filed with the Remarketing Agent, the Trustee, the Paying Agent and the Credit Provider, if any; provided that no such removal shall be effective until a successor Remarketing Agent has been appointed in accordance with Section 7.12 and this Section and such successor Remarketing Agent has accepted such appointment.

Section 7.14. Several Capacities. Anything in this Indenture to the contrary notwithstanding, the same entity may serve hereunder as the Trustee, the Credit Provider, the Paying Agent, the Registrar, the Bank and the Remarketing Agent and in any other combination of such capacities, to the extent permitted by law.

Section 7.15. Trustee Not Responsible for Duties of Remarketing Agent, Registrar and Paying Agent. Notwithstanding anything to the contrary in this Indenture, the Trustee shall not be liable or responsible for any of the duties or obligations of the Remarketing Agent, the Registrar or the Paying Agent under this Indenture (or be liable or responsible for the acts or omissions of the Paying Agent, the Registrar or the Remarketing Agent or any action taken by the Trustee or failure to act in reasonable reliance upon any action or failure to act by the Paying Agent, the Registrar or the Remarketing Agent) except for the duties imposed upon, or the acts and omissions of, (i) the Trustee while deemed to be the Paying Agent pursuant to Section 7.08(b) because a successor Paying Agent has not been appointed by the Issuer and (ii) the Trustee as recipient of optional tender notices after the written notice provided for in Section 7.13 has been given by the resigning Remarketing Agent to Holders to the effect that no successor Remarketing Agent has been appointed. The Trustee shall not be bound to ascertain or inquire as to the truth or accuracy of any information provided to it by the Paying Agent, the Registrar or the Remarketing Agent but may for any purpose conclusively rely upon any information given to the Trustee by the Paying Agent, the Registrar or the Remarketing Agent.

Section 7.16. Cooperation of the Issuer. The Issuer shall cooperate with the Trustee, the Paying Agent, the Registrar, the Remarketing Agent and the Company, if requested to do so by the Trustee or the Company and to the extent it may lawfully do so, to cause the necessary arrangements to be made and to be thereafter continued whereby funds from the sources specified in Section 4.04 will be made available to pay the Purchase Price of Bonds presented to the Trustee.

Section 7.17. Cooperation of the Trustee, the Remarketing Agent, the Registrar and the Paying Agent. The Trustee, the Remarketing Agent, the Registrar and the Paying Agent shall cooperate in all respects and shall provide to the other in a timely fashion the information and knowledge each possesses so that the Trustee and each of such parties may faithfully exercise their respective obligations hereunder.

## ARTICLE VIII

### AMENDMENTS, SUPPLEMENTAL INDENTURES

Section 8.01. Supplemental Indentures. Subject to the Security, Intercreditor and Collateral Agency Agreement, the Issuer and the Trustee, with the written consent of the Credit Provider, if any, and the Bank during an Index Interest Rate Period, but without the consent of or notice to any Holders during any Short Term Rate Period or Long Term Rate Period, may enter into an indenture or indentures supplemental to this Indenture that do not materially adversely affect the interest of the Holders for one or more of the following purposes:

(a) to grant to or confer upon the Trustee for the benefit of the Holders and such Credit Provider, if any, any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Holders or the Trustee;

(b) to grant or pledge to the Trustee for the benefit of Holders and such Credit Provider, if any, any additional security other than that granted or pledged under this Indenture; provided that no additional security shall be granted or pledged to the Trustee for the benefit of such Credit Provider unless such Credit Provider agrees that the Trustee shall hold such security in trust for the equal or ratable benefit of all the Secured Parties under the Security, Intercreditor and Collateral Agency Agreement;

(c) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification thereof under the Trust Indenture Act of 1939 or any similar federal statute then in effect or to permit the qualification of the Bonds for sale under the securities laws of any of the states of the United States;

(d) to appoint a successor Trustee, separate trustees or co trustees in the manner provided in Article VII hereof;

(e) to modify, amend or supplement this Indenture for the purpose of obtaining or retaining a rating on the Bonds from a Rating Agency;

(f) to modify, amend or supplement this Indenture to permit a transfer of Bonds from one Securities Depository to another or the discontinuance of the Book-Entry System and issuance of replacement Bonds to the Beneficial Owners;

(g) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture that may be defective or inconsistent with any provision contained herein or in any supplemental indenture, or to make such other provisions in regard to matters or questions arising under this Indenture which shall not materially adversely affect the interest of the Holders or such Credit Provider, if any;

(h) to modify, amend or supplement this Indenture to permit the Paying Agent or the Registrar to assume any administrative duties of the Trustee hereunder (except any duties of the Trustee with respect to the acceptance, modification, reduction or release of or drawing on, any Credit Facility) or for the Trustee to assume any administrative duties of the Paying Agent or the Registrar hereunder;

(i) to make any change herein necessary, in the opinion of Bond Counsel, to maintain the exclusion of the interest on any Outstanding Bonds from gross income of the Holders thereof for federal income tax purposes; and

(j) to make any change to the administrative provisions hereof, to accommodate the provisions of an Initial Credit Facility, Alternate Credit Facility, bond insurance or a liquidity facility.

When requested by the Issuer, and if all conditions precedent under this Indenture have been met, the Trustee shall join the Issuer in the execution of any such supplemental indenture unless it imposes additional obligations on the Trustee or adversely affects the Trustee's rights and immunities under this Indenture or otherwise. A copy of all such supplemental indentures shall be promptly furnished to the Credit Provider and the Paying Agent, and the Registrar shall be promptly advised of any modifications of its rights, duties and obligations hereunder.

The Trustee shall file copies of all such supplemental indentures with the Company, the Bank and the Credit Issuer, if any, and, if the Bonds are rated by a Rating Agency, shall forward copies of all such supplemental indentures to such Rating Agency.

Section 8.02. Amendments to Indenture; Consent of Holders, the Credit Provider and the Company. Exclusive of supplemental indentures covered by Section 8.01 and subject to the terms and provisions contained in the Security, Intercreditor and Collateral Agency Agreement and this Section, and not otherwise, the Holders of a majority in aggregate principal amount of the Bonds then Outstanding and affected by such indenture or indentures supplemental hereto, with the written consent of the Credit Provider, if any, and the Bank during an Index Interest Rate Period, shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and direct the execution by the Trustee of such other indenture or indentures supplemental hereto as shall be consented to by the Issuer in its sole discretion for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that nothing contained in this Section shall permit, or be construed as permitting, without the consent of the Holders of all Outstanding Bonds, (a) an extension of the maturity of the principal of, or the mandatory redemption date of, or interest on, any Bond, or (b) a reduction in the principal amount of, or the premium or the rate of interest on, any Bond, (c) a preference or priority of any Bond or Bonds over any other Bond or Bonds, (d) the creation of a lien on the Trust Estate prior to or on parity with the lien of this Indenture, or (e) a reduction in the aggregate principal amount of the Bonds required for any consent to any supplemental indenture; provided further, however, that without the written consent of the Trustee, the Trustee shall not be required to join in the execution of any supplemental indenture that affects the rights, duties, obligations or immunities of the Trustee or that imposes additional obligations on the Trustee. The giving of notice to and consent of the Holders to any such proposed supplemental indenture shall be obtained pursuant to Section 8.06.

Anything herein to the contrary notwithstanding, a supplemental indenture, amendment or other document described under this Article that affects any rights or obligations of the Company shall not become effective unless and until the Company shall have consented to the execution of such supplemental indenture, amendment or other document.

The Trustee shall file copies of all such supplemental indentures with the Company and, if the Bonds are rated by a Rating Agency, shall furnish copies of all such supplemental indentures to such Rating Agency.

Section 8.03. Amendments to the Security Documents and the Agreement Not Requiring Consent of Holders. Subject to the Security, Intercreditor and Collateral Agency Agreement, neither the Issuer nor the Trustee shall enter into any amendment, modification, supplement, waiver or consent with respect to any of the Security Documents or the Agreement without the prior written consent of the Credit Provider, if any, and during any Index Interest Rate Period, the prior written consent of the Bank, but the following amendments may be entered into without any other requirement of the consent of or notice to any of the Holders. With the consent of the Credit Provider or the Bank as aforesaid, the Issuer and the Trustee, as the case may be, may enter into or permit (and the Trustee shall consent to) any amendment of the Agreement or any of the Security Documents acceptable to the Company as may be required (i) for the purpose of curing any ambiguity or formal defect or omission that shall not adversely affect the interest of the Holders, (ii) to grant or pledge to the Issuer or Trustee, for the benefit of the Holders or the Credit Provider, if any, any additional security, (iii) to modify, amend or supplement the Agreement [or any of the Security Documents] for the purpose of obtaining or retaining a rating on the Bonds from a Rating Agency, (iv) to make any change therein necessary, in the opinion of Bond Counsel, to maintain the exclusion of interest on any Outstanding Bonds from gross income of the Holders thereof for federal income tax purposes or (v) in connection with any other change therein which, in the Opinion of Counsel, is not materially prejudicial to the interests of the Trustee and the Holders of the Bonds; provided, however, that without the written consent of the Trustee, the Trustee shall not be required to join in the execution of any such amendment that affects the rights, duties, obligations or immunities of the Trustee or that imposes additional obligations on the Trustee.

The Trustee and the Company shall file copies of any such amendments to the Agreement [and the Security Documents] with the Issuer, the Credit Provider, if any, the Bank, if any, and, if the Bonds are rated by a Rating Agency, the Trustee shall furnish copies of such amendments to such Rating Agency.

Section 8.04. Other Amendment Provisions. Subject to the Security, Intercreditor and Collateral Agency Agreement, the Issuer shall not enter into, and the Trustee shall not consent to, any modification or amendment of the Agreement, or any of the Security Documents, nor shall any such modification or amendment become effective, without the consent of the Credit Provider, if any, and during any Index Interest Rate Period, the consent of the Bank, and (except as permitted by Section 8.03) the written consent of the Holders of a majority in aggregate principal amount of the Bonds at the time Outstanding, such written consent to be obtained in accordance with Section 8.06. No such amendment may, without the consent of the Holders of all the Outstanding Bonds, reduce the amounts or delay the times of payment of Repayments under the Agreement.

The Trustee and the Company shall file copies of all such amendments to the Agreement, and the Security Documents with the Issuer, the Credit Provider, if any, the Bank, if any, and, if the Bonds are rated by a Rating Agency, the Trustee shall furnish copies of such amendments to such Rating Agency.

Section 8.05. Amendments, Changes and Modifications to the Credit Facility. Except as otherwise provided in the Agreement or in this Indenture, subsequent to the initial issuance of the Bonds and prior to payment of the Bonds in full (or provision for the payment thereof having been

made in accordance with the provisions of this Indenture), no Credit Facility may be effectively amended, changed or modified without the prior written consent of the Trustee and the Paying Agent. The Trustee may, without the consent of the Holders of the Bonds, consent to any amendment of the Credit Facility as may be required to extend the term thereof or for purposes of curing any ambiguity, formal defect or omission or obtaining or retaining a rating on the Bonds from a Rating Agency that does not prejudice in any material respect the interests of the Holders. Except for such amendments, and as otherwise provided herein, the Credit Facility may be amended only with the consent of the Issuer, the Trustee and the Holders of a majority in aggregate principal amount of Outstanding Bonds, except that no such amendment may be made that would reduce the amounts required to be paid thereunder, change the time for payment of such amounts or accelerate the expiration date of the Credit Facility without the written consent of the Holders of all Outstanding Bonds. The foregoing shall not limit the Trustee's obligation to send notice to the Credit Provider to reduce amounts available to be drawn under a currently effective Credit Facility under the circumstances set forth therein.

The Trustee shall file copies of all such amendments, changes or modifications with the Rating Agency, if any, rating the Bonds.

Section 8.06. Notice to and Consent of Holders. If consent of the Holders is required under the terms of this Indenture for the amendment of this Indenture or any of the Bond Documents or the Credit Facility or for any other similar purpose, the Trustee shall cause notice of the proposed execution of the amendment or supplemental indenture to be given by first class mail, postage prepaid, to the Holders of the Outstanding Bonds then shown on the Register. Such notice shall briefly set forth the nature of the proposed amendment, supplemental indenture or other action and shall state that copies of any such amendment, supplemental indenture or other document are on file at the principal office of the Trustee for inspection by all Holders. If, within sixty (60) days or such longer period as shall be prescribed by the Trustee following the mailing of such notice, the Holders of a majority or all, as the case may be, of the principal amount of the Bonds Outstanding (or, during any Index Interest Rate Period, the Bank) by instruments filed with the Trustee shall have consented to the amendment, supplemental indenture or other proposed action, then the Trustee may execute such amendment, supplemental indenture or other document or take such proposed action and the consent of the Holders shall thereby be conclusively presumed. Notwithstanding the foregoing provisions of this Section, the Remarketing Agent shall be deemed to be the Holder of the Outstanding Bonds on any Mandatory Purchase Date for the purpose of giving any consent required under the terms of this Indenture for the amendment of this Indenture, the Agreement[, the Security Documents] or the Credit Facility, if notice of such amendment has been given to the Persons to whom the Bonds are proposed to be remarketed.

Section 8.07. Approving Opinion Required. No indenture supplemental or amendment to this Indenture shall become effective without the delivery of an Approving Opinion.

## ARTICLE IX

### MISCELLANEOUS

Section 9.01. Right of Trustee to Pay Taxes and Other Charges. If any tax, assessment or governmental or other charge upon any part of the Project is not paid as required, the Trustee may, subject to any indemnity required pursuant to Section 7.01(h) of this Indenture, pay such tax, assessment or governmental or other charge, without prejudice, however, to any rights of the Trustee

hereunder arising in consequence of such failure; and any amount at any time so paid under this Section, with interest thereon from the date of payment until paid at the greater of the rate of interest borne by the Bonds or the per annum rate of interest announced from time to time by the bank serving as Trustee as its “prime rate” shall become so much additional indebtedness secured by this Indenture, shall be given a preference in payment over the Bonds, and shall be paid out of the Trust Estate (other than from funds obtained from the Credit Facility).

Section 9.02. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any Person other than the parties hereto, the Holders, the Credit Provider, the Bank, the Paying Agent, the Remarketing Agent and the Company any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions herein being intended to be and being for the sole and exclusive benefit of the parties hereto, the Holders, the Credit Provider, the Bank, the Paying Agent, the Remarketing Agent and the Company as herein provided.

Section 9.03. Severability. If any provision of this Indenture is held to be in conflict with any applicable statute or rule of law or is otherwise held to be unenforceable for any reason whatsoever, such circumstances shall not have the effect of rendering the other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever.

The invalidity of any one or more phrases, sentences, clauses or Sections of this Indenture, shall not affect the remaining portions of this Indenture or any part thereof.

Section 9.04. Notices. Except as otherwise provided herein, all notices, approvals, consents, requests, and other communications hereunder shall be in writing and shall be deemed to have been given when the writing is delivered if given or delivered by hand, overnight delivery service or facsimile transmitter (with confirmed receipt) to the address or facsimile number set forth below and shall be deemed to have been given on the date deposited in the mail, if mailed, by first class, registered or certified mail, postage prepaid, addressed as set forth below. Where required herein, notice shall be given by telephone, and promptly confirmed in writing, and shall be deemed given when given by telephone to the telephone numbers set forth below. The Issuer, the Company, any Guarantor the Bank, any Credit Provider, the Trustee, the Remarketing Agent and the Paying Agent may, by written notice given hereunder, designate any different addresses, phone numbers, email addresses and facsimile numbers to which subsequent notices, certificates, approvals, consents, requests or other communications shall be sent.

To the Issuer:

Los Angeles County Regional Financing Authority  
c/o county of Los Angeles  
500 West Temple Street, Room 437  
Los Angeles, California 90012  
Attention: Treasurer and Tax Collector

To the Trustee:

U.S. Bank National Association  
633 West Fifth Street, 24th Floor  
Los Angeles, CA 90071  
Attention: Corporate Trust Services  
Telephone: [\_\_\_\_\_]



Facsimile: [ \_\_\_\_\_ ]

To the Company [or Guarantor]:

FAIRPLEX  
[ADDRESS]  
[CITY, STATE ZIP]  
Attention: [ \_\_\_\_\_ ]  
Telephone: [ \_\_\_\_\_ ]  
Facsimile: [ \_\_\_\_\_ ]

To the Bank:

Wells Fargo Bank, National Association  
Education and Non-Profit Banking Division  
707 Wilshire Blvd., 17th Floor  
Los Angeles, CA 90017  
Attention: Terri Wesolik  
Telephone: (213) 614-3327  
Facsimile: (877) 302-0908

Section 9.05. Payments Due on Non Business Days. In any case where the date of maturity of interest on or premium, if any, or principal of the Bonds or the date fixed for redemption of any Bonds shall not be a Business Day, then payment of such interest, premium or principal need not be made on such date but shall be made on the next succeeding Business Day, with the same force and effect as if made on the date of maturity or the date fixed for redemption, and, in the case of such payment, no interest shall accrue for the period from and after such date.

Section 9.06. Binding Effect. This instrument shall inure to the benefit of and shall be binding upon the Issuer and the Trustee and their respective successors and assigns, subject, however, to the limitations contained in this Indenture.

Section 9.07. Captions. The captions or headings in this Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Indenture.

Section 9.08. Governing Law. This Indenture shall be governed by and interpreted in accordance with the laws of the State.

Section 9.09. Limited Liability of Issuer. Notwithstanding anything to the contrary, any liability for payment of money and any other liability or obligation which the Issuer may incur under the Bonds, this Indenture, the Security Documents or the Agreement shall not constitute a general obligation of the Issuer but shall constitute limited obligations of the Issuer payable solely from and enforced only against the Trust Estate.

Section 9.10. Notices to Rating Agency. If the Bonds are rated by a Rating Agency, the Trustee shall provide written notice to such Rating Agency with respect to (i) the appointment of any successor Trustee, Remarketing Agent or Paying Agent, (ii) the appointment of any agent by the Trustee to perform any material duties of the Trustee under this Indenture, (iii) the expiration, termination, extension or substitution of any Credit Facility, (iv) any Fixed Rate Conversion Date or any conversion to a Flexible Term Rate or a Long Term Rate, (v) any Mandatory Purchase Date (except Conversion Dates), (vi) any amendment or supplement to this Indenture, the Credit Facility, the Reimbursement Agreement or the Remarketing Agreement, and (vii) the payment in full of all of

the Bonds (whether at stated maturity or upon redemption, acceleration or defeasance). Failure of the Trustee to provide any such notice shall not have any effect on the occurrence of such event.

Section 9.11. Execution in Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.12. Attorney's Fees. Except as may be otherwise set forth herein, attorney's fees shall not necessarily be recoverable by the prevailing party in the event this Indenture is subject to litigation.

Section 9.13. Patriot Act Compliance. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non individual person such as a business entity, a charity, a Trust or other legal entity the Trustee will ask for documentation to verify its formation and existence as a legal entity. The Trustee may also ask to see financial statements, licenses, identification, and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

Section 9.14. Certain References Ineffective Except During a Period in Which a Credit Facility Is in Effect. Except during any period in which a Credit Facility is in effect and during the period immediately succeeding such a period until receipt by the Trustee of a certificate from the Credit Provider stating that all amounts payable to the Credit Provider under the Reimbursement Agreement have been paid in full, all references to the Credit Provider, the Reimbursement Agreement (as defined herein) and the Bonds shall be ineffective. For purposes of the approval and consent rights of the Credit Provider under the Agreement, the Bank shall be deemed to be, and shall be vested with and exercise all of the rights, remedies and prerogatives of, the Credit Provider during any Index Interest Rate Period.

Section 9.15. Third Party Beneficiaries. To the extent either the Bank or the Credit Provider is determined not to be a direct beneficiary under this Indenture, such entity shall be a direct third party beneficiary in interest under this Indenture.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be executed and delivered in their names and on their behalf by their respective duly authorized representatives, all as of the day and year first above written.

LOS ANGELES COUNTY REGIONAL  
FINANCING AUTHORITY

By: \_\_\_\_\_  
[NAME]  
Chair

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Representative

[SIGNATURE PAGE TO INDENTURE]

**EXHIBIT A**

**FORM OF BOND**

(FOR ANY SHORT TERM RATE PERIOD OR LONG TERM RATE PERIOD)

*[FOR BOOK ENTRY BONDS: Unless this Bond is presented by an authorized representative of DTC to the Trustee for registration of transfer, exchange, or payment, with respect to any Bond issued that is registered in the name of CEDE & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to CEDE & Co. or to such other entity as is requested by an authorized representative of DTC), any transfer, pledge, or other use hereof for value or otherwise by or to any person is wrongful inasmuch as the registered Holder hereof, CEDE & Co., has an interest herein.]*

**FORM OF BOND**

(OTHER THAN INDEX INTEREST RATE BOND)

UNITED STATES OF AMERICA  
STATE OF CALIFORNIA  
LOS ANGELES COUNTY REGIONAL FINANCING AUTHORITY  
RECOVERY ZONE FACILITY BOND  
(Fairplex Project), SERIES 2010

CUSIP: \_\_\_\_\_

No. R 1

Issuance Date: \_\_\_\_\_, 2010

FOR VALUE RECEIVED, the Los Angeles County Regional Financing Authority (the "Issuer"), a public body corporate and politic, duly created under the provisions of Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code of the State of California (the "Act"), hereby promises to pay to \_\_\_\_\_, the registered Holder hereof, \_\_\_\_\_ (\$\_\_\_\_\_) on [DATE], solely from the special fund hereinafter described and from no other source, and to pay solely from said special fund, interest thereon as provided in this Bond, from the interest payment date next preceding the date of authentication hereof, or if this Bond is authenticated on an interest payment date, from the date of authentication hereof, but if this Bond is authenticated prior to [DATE], from the Issuance Date described above (provided, however, that if on the date of authentication hereof, interest on the hereinafter defined Bonds is in default, any Bond issued in exchange for this Bond surrendered for registration of transfer or exchange shall bear interest from the last day to which interest has been paid or duly provided for on this Bond, or if no interest has been paid or duly provided for on this Bond, from the Issuance Date set forth above.

This Bond is one of an authorized issue of Bonds issued in an aggregate principal amount of [AMOUNT]. The Bonds are being issued under and secured by an Indenture of Trust, dated as of [DATE], between the Issuer and U.S. Bank National Association, a national banking association as Trustee, Paying Agent and Registrar (the "Trustee") (as amended and supplemented from time to time in accordance with the terms thereof, collectively, the "Indenture"). [The Bonds are further secured by [(a) that certain Guaranty Agreement dated as of [DATE] from FAIRPLEX, (the "Company") in favor of the Trustee. [DISCUSS: SHOULD THIS REFERENCE BE TO

GUARANTORS?] The Bonds shall mature on [DATE], and are of like tenor except as to number, interest rate and amounts. The Bonds are issued by the Issuer for the purpose of [\_\_\_\_\_] all for use by and for the benefit of the Company and its successors and assigns, which facilities, as more particularly defined in the hereinafter defined Agreement, shall be referred to hereinafter collectively as the "Project."

This Bond is issued under the Indenture and pursuant to the Constitution and laws of the State of California, including particularly the Act. Prior to the issuance hereof, the Issuer entered into a Loan Agreement, dated as of [DATE] (as amended and supplemented from time to time in accordance with the terms thereof, the "Agreement"), between the Issuer and the Company, pursuant to the terms of which the Company must pay to the Issuer certain loan payments which are committed and will be fully sufficient to pay the principal of and the interest on the Bonds as the same become due. As security for the payment of the Bonds, all right, title and interest of the Issuer in the payments, revenues and earnings to be received under the terms of the Agreement (excepting only certain Reserved Rights (as defined in the Agreement) generally relating to indemnification payments and payments to the Issuer for its fees and certain expenses incurred in connection therewith) and all payments to be received under the terms of the Bond Purchase Agreement have been assigned and pledged for the benefit of the Holders of the Bonds.

This Bond shall not be payable from or charged upon any funds other than the revenue pledged to the payment hereof, nor shall the Issuer be subject to any pecuniary liability hereon. No holder of this Bond shall ever have the right to compel any exercise of the taxing power of the Issuer to pay this Bond or the interest hereon, nor to enforce payment thereof against any property of the Issuer; nor shall the Bond constitute a charge, lien or encumbrance, legal or equitable, upon any property of the Issuer. No recourse shall be had for the payment of the principal of or interest on this Bond against any officer, employee, director or member of the Issuer. This Bond and the redemption premium, if any, and interest hereon shall not be deemed to constitute a debt of the County of Los Angeles, the State of California, or any other political subdivision thereof, or a pledge of the faith and credit of the County of Los Angeles, California, of the State of California, or of any other political subdivision thereof, but shall be payable solely from the Bond Fund provided for under the terms of the Indenture. The issuance of this Bond shall not directly, indirectly or contingently obligate the County of Los Angeles, California, the State of California, or any other political subdivision, to levy or pledge any form of taxation whatever therefor or to make any appropriation for the payment hereof. The Issuer has no taxing power. This Bond is a limited obligation of the Issuer and is payable solely from the loan payments to be received under the terms of the Agreement and any other amounts pledged under the Indenture.

Reference to the Indenture is hereby made for a description of the aforesaid Bond Fund, the nature and extent of the security, rights, duties and obligations of the Issuer, the Company, the Paying Agent, the Registrar and the Trustee, the rights of the Holders of the Bonds, the terms and conditions under and upon the occurrence of which the Indenture, the Agreement [and the Security Documents] may be modified, and the terms and conditions under and upon the occurrence of which the lien of the Indenture may be defeased as to this Bond prior to the maturity or redemption date hereof, to all of the provisions of which the Holder hereof, by the acceptance of this Bond, assents. All capitalized terms not defined herein shall have the meanings set forth in the Indenture.

Interest will accrue on the unpaid portion of the principal of this Bond from the last date to which interest was paid or duly provided for or, if no interest has been paid or duly provided for, from the date of initial authentication and delivery of the Bonds, until the entire principal amount of

this Bond is paid or duly provided for. When interest is payable at the rate in the first column below, interest accrued during the period (an “Accrual Period”) shown in the second column will be paid on the date (an “Interest Payment Date”) in the third column and on each Conversion Date to Holders of record on the date (a “Record Date”) in the fourth column:

<b><u>TYPE OF INTEREST PERIOD</u></b>	<b><u>ACCRUAL PERIOD<sup>1</sup></u></b>	<b><u>INTEREST PAYMENT DATE</u></b>	<b><u>RECORD DATE</u></b>
Weekly Rate	Monthly period or portion thereof beginning on the Conversion Date	First Business Day of each month	Last Business Day before Interest Payment Date
Flexible Term Rate	From 1 to 270 days as determined for each Bond pursuant to the Indenture	First Business Day immediately succeeding the last day of each Flexible Term Rate Period applicable to such Bonds	Last Business Day before Interest Payment Date
Medium Term Rate	Six-month period or portion thereof beginning on the Conversion Date	Each [____] 1 and [____] 1	Fifteen day of the month before the Interest Payment Date
Long Term	Six-month period or portion thereof beginning on the Conversion Date	[____] 1 and [____] 1	Fifteenth day of the month before the Interest Payment Date

The Company shall have the option (the “Conversion Option”) to direct a change in the Interest Rate Determination Method by delivering to the Trustee and the Remarketing Agent written instructions setting forth (i) the Conversion Date, (ii) the new Interest Rate Determination Method, (iii) whether a Credit Facility is to be in effect from and after the Conversion Date and, if so, the terms of such Credit Facility, and (iv) if a Long Term Rate is to be in effect, if there will be a change in the applicable optional redemption premiums. If the new Interest Rate Determination Method is an Index Interest Rate, such notice shall state (x) whether the Index Interest Rate will be a SIFMA Index Rate or a LIBOR Interest Rate, (y) the applicable Mandatory Conversion Date, and (z) the Applicable Factor. If the new Interest Rate Determination Method is an Index Interest Rate, the Holders hereof will be required to surrender this Bond in exchange for a new form of Bond provided under the Indenture. Any change in the Interest Rate Determination Method is conditioned upon

---

<sup>1</sup> If the Conversion Date does not coincide with the first day of the Accrual Period for the new Interest Period, then the first day of such Accrual Period shall be the Conversion Date, but all other terms and condition shall be as set forth in the above Table.

delivery by the Company of an Approving Opinion of Bond Counsel by 10:00 a.m. Local Time on the proposed Conversion Date.

The Trustee will be the Registrar and Paying Agent for the Bonds. Holders must surrender Bonds to the Trustee to collect principal and premium, if any, at maturity or upon redemption and to collect the Purchase Price for Bonds tendered for purchase as described below. Interest on the Bonds will be paid to the registered Holder hereof as of the Record Date by check mailed by first class mail on the Interest Payment Date to such Holder's registered address; provided, however, the Holder of a Bond or Bonds (other than Bonds bearing interest at a Fixed Rate) in an aggregate principal amount of not less than \$250,000 may receive such payment by wire transfer to an account in the continental United States, if the Holder provides the Registrar with a written request therefor and the account address. Notices requesting wire transfers will remain in effect for later interest payments until changed or revoked by another written notice. The principal of, redemption premium, if any, and interest on the Bonds will be payable in lawful currency of the United States. If any payment on the Bonds is due on a non Business Day, such payment will be made on the next Business Day, and no additional interest will accrue as a result.

The Bonds are subject to optional, extraordinary and mandatory sinking fund redemption and mandatory tender for purchase prior to their stated maturity in accordance with and subject to the terms and conditions set forth in the Indenture. In addition, the Holders of Bonds bearing interest at the Weekly Rate have the right to tender their Bonds (or portions thereof) for purchase by the Issuer on any Business Day by delivery to the Remarketing Agent of notice not less than the seventh (7th) day (or if such is not a Business Day on or before the immediately preceding Business Day) indicating the amount of Bonds to be tendered in the manner required under the Indenture.

When Bonds are called for redemption as aforesaid, notice thereof identifying the Bonds to be redeemed shall be given by mailing a copy of the redemption notice by first class mail, postage prepaid, to the registered Holder of each such Bond to be redeemed at the address shown on the registration books at least thirty (30) days prior to the redemption date; but no defect or failure to give any such notice of redemption to any such registered Holder shall affect the redemption or the validity of the proceedings for the redemption of Bonds. Any notice of optional redemption shall describe whether, and the conditions under which, the call for redemption shall be revoked. All Bonds called for redemption shall cease to bear interest on the specified redemption date provided sufficient monies for their redemption are on deposit at the designated place of payment at that time, and such Bonds shall no longer be secured by the lien of the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

When Bonds are subject to mandatory tender for purchase, notice thereof shall be given by first class mail, postage prepaid, to the registered Holder of each Bond not less than fifteen (15) days (three (3) days if such mandatory purchase is occurring at the request of the Credit Provider) prior to the Mandatory Purchase Date. Failure to mail such notice or any defect therein shall not affect the rights or obligations of the registered Holders of the Bonds.

The transfer of this Bond is registerable by the registered Holder hereof in person or by his attorney duly authorized in writing at the corporate trust office of the Registrar, but only in the manner, subject to the limitations, and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such registration of transfer a new Bond or Bonds of the same series and the same maturity for the same aggregate principal amount will be issued to the transferee in exchange therefor. The Issuer, the Trustee, the Registrar and any Paying

Agent may deem and treat the registered Holder hereof as the absolute Holder hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and neither the Issuer nor the Registrar shall be affected by any notice to the contrary.

This Bond is issued with the intent that the laws of the State of California shall govern its construction.

In certain events, on the conditions, in the manner, and with the effect set forth in the Indenture, the principal of all of the Bonds may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of the Indenture, the Agreement or the other Bond Documents, or of any supplements thereto, may be made to the extent and in the circumstances permitted by the Indenture. All capitalized terms used herein and not otherwise defined shall have the respective meanings given such terms in the Indenture.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State of California to happen, exist, and be performed precedent to and in the issuance of this Bond and the execution of the Indenture by the Issuer, have happened, exist and have been performed.

This Bond shall not become valid or obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been manually signed by the Trustee.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]



IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name by the manual or facsimile signature of its [Chairman], and attested by the manual or facsimile signature of its [ASSISTANT SECRETARY].

LOS ANGELES COUNTY REGIONAL  
FINANCING AUTHORITY

By: \_\_\_\_\_  
[NAME]  
[TITLE]

ATTEST:

By: \_\_\_\_\_  
[NAME]  
[TITLE]

\* \* \* \* \*

AUTHENTICATION CERTIFICATE

This Bond is one of the Bonds described in the within mentioned Indenture and is hereby authenticated.

U.S. BANK NATIONAL ASSOCIATION  
as Trustee

By: \_\_\_\_\_  
Authorized Representative

Date of Authentication: \_\_\_\_\_, 2010

\* \* \* \* \*

**FORM FOR TRANSFER**

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto \_\_\_\_\_ (Tax Identification or Social Security No. \_\_\_\_\_) the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

\_\_\_\_\_

[End of Form of Series 2010 Bond]

**EXHIBIT B**

**FORM OF BOND (FOR INDEX INTEREST RATE PERIOD ONLY)**

UNITED STATES OF AMERICA  
STATE OF CALIFORNIA  
Los Angeles County Regional Financing Authority  
RECOVERY ZONE FACILITY BOND  
(FAIRPLEX PROJECT), SERIES 2010

**TRANSFER RESTRICTED**

THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY STATE OR JURISDICTION, THIS BOND IS SUBJECT TO CERTAIN TRANSFER RESTRICTIONS AS PROVIDED IN THE INDENTURE OF TRUST DESCRIBED BELOW AND MAY NOT BE RESOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT TO A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT, WHICH EXECUTES AN INVESTOR LETTER IN THE FORM SET FORTH IN THE INDENTURE.

No. R 1

Date: December 1, 2010

FOR VALUE RECEIVED, Los Angeles County Regional Financing Authority (the "Issuer"), a public body corporate and politic, duly created under provisions of Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code of the State of California (the "Act"), hereby promises to pay to \_\_\_\_\_ (the "Bank"), the registered Holder hereof on [DATE], solely from the special fund hereinafter described and from no other source, [AMOUNT] (the "Stated Principal Amount") or the Principal Amount (as herein defined), whichever is less, and to pay solely from said special fund, interest thereon, on each Interest Payment Date from the Interest Payment Date next preceding the date of authentication hereof, or if this Bond is authenticated on an Interest Payment Date, from the date of authentication hereof, but if this Bond is authenticated prior to [DATE], from the Issuance Date stated above (provided, however, that if on the date of authentication hereof, interest on the hereinafter defined Bonds is in default, any Bond issued in exchange for this Bond surrendered for registration of transfer or exchange shall bear interest from the last day to which interest has been paid or duly provided for on this Bond, or if no interest has been paid or duly provided for on this Bond, from the Issuance Date set forth above).

This Bond shall initially bear interest at the per annum interest rate equal to the LIBOR Index Rate as determined in accordance with the Indenture. Interest will initially be payable at the LIBOR Index Rate determined in accordance with the Indenture. When interest is payable at (a) the LIBOR Index Rate, it will be computed on the basis of a 360 day year for the actual number of days elapsed, and (b) the SIFMA Index Rate, it will be computed on the basis of a year of 365 or 366 days, as the case may be, for the actual number of days elapsed. The principal of and interest on this Bond shall be payable to the registered Holder hereof, by check mailed to the address of such registered Holder as shown on the books kept by the Bond Registrar, hereinafter defined; provided, however, that payment of interest on the Bonds may, at the option of any Holder of Bonds in an aggregate principal amount of at least \$250,000, be transmitted by wire transfer to such Holder to the bank account in the continental United States on file with the Trustee (defined below) upon the written request of such

Holder to the Trustee. Both the principal hereof and the interest hereon are payable in lawful money of the United States of America at the principal office of U.S. Bank National Association, a national banking association, as Trustee, Paying Agent and Registrar (the "Trustee") under the hereinafter mentioned Indenture, or, if a successor is hereafter appointed, then at the principal office of such successor.

This Bond is one of an authorized issue of Bonds issued in an aggregate principal amount equal to the Stated Principal Amount. The Bonds are being issued under and secured by an Indenture of Trust, dated as of December 1, 2010, between the Issuer and the Trustee (as amended and supplemented from time to time in accordance with the terms thereof, collectively, the "Indenture") and the Security Documents (as defined in the Indenture) The principal of this Bond shall be payable in accordance with the provisions of the Indenture (defined below) and this Bond shall mature and be payable in full on November 1, 2039. The Bonds are of like tenor except as to number, interest rate and amounts. The Bonds are issued by the Issuer for the purpose of financing public capital improvements located in Los Angeles County, California, and facilities related thereto, all for use by and for the benefit of the Company and its successors and assigns, which facilities, as more particularly defined in the hereinafter defined Agreement, shall be referred to hereinafter collectively as the "Project".

This Bond is issued under the Indenture and pursuant to the Constitution and laws of the State of California, including particularly the Act. Prior to the issuance hereof, the Issuer entered into a Loan Agreement, dated as of December 1, 2010 (as amended and supplemented from time to time in accordance with the terms thereof, the "Agreement"), between the Issuer and the Company, pursuant to the terms of which the Company must pay to the Issuer certain loan payments which are committed and will be fully sufficient to pay the principal of and the interest on the Bonds as the same become due. As security for the payment of the Bonds, all right, title and interest of the Issuer in the payments, revenues and earnings to be received under the terms of the Agreement (excepting only certain Reserved Rights (as defined in the Agreement) generally relating to indemnification payments and payments to the Issuer for its fees and certain expenses incurred in connection therewith) have been assigned and pledged for the benefit of the Holders of the Bonds.

The Bond shall not be payable from or charged upon any funds other than the revenue pledged to the payment hereof, nor shall the Issuer be subject to any pecuniary liability hereon. No holder of this Bond shall ever have the right to compel any exercise of the taxing power of the Issuer to pay this Bond or the interest hereon, nor to enforce payment thereof against any property of the Issuer; nor shall the Bond constitute a charge, lien or encumbrance, legal or equitable, upon any property of the Issuer. No recourse shall be had for the payment of the principal of or interest on this Bond against any officer, director, employee or member of the Issuer. This Bond and the redemption premium, if any, and interest hereon shall not be deemed to constitute a debt of the County of Los Angeles, California, the State of California, or any other political subdivision thereof, or a pledge of the faith and credit of the County of Los Angeles, California, of the State of California, or of any other political subdivision thereof, but shall be payable solely from the Bond Fund provided for under the terms of the Indenture. The issuance of this Bond shall not directly, indirectly or contingently obligate County of Los Angeles, California, the State of California, or any other political subdivision, to levy or pledge any form of taxation whatever therefor or to make any appropriation for the payment hereof. The Issuer has no taxing power. This Bond is a limited obligation of the Issuer and is payable solely from the loan payments to be received under the terms of the Agreement and any other amounts pledged under the Indenture.

Reference to the Indenture is hereby made for a description of the aforesaid Bond Fund, the nature and extent of the security, rights, duties and obligations of the Issuer, the Company, the Paying Agent, the Registrar and the Trustee, the rights of the Holders of the Bonds, the terms and conditions under and upon the occurrence of which the Indenture, the Agreement and the Security Documents may be modified, and the terms and conditions under and upon the occurrence of which the lien of the Indenture may be defeased as to this Bond prior to the maturity or redemption date hereof, to all of the provisions of which the Holder hereof, by the acceptance of this Bond, assents. All capitalized terms not defined herein shall have the meaning set forth in the Indenture.

The Bonds are subject to optional, extraordinary and mandatory sinking fund redemption and mandatory tender for purchase prior to their stated maturity in accordance with and subject to the terms and conditions set forth in the Indenture.

When Bonds are called for redemption as aforesaid, notice thereof identifying the Bonds, postage prepaid, to be redeemed shall be given by mailing a copy of the redemption notice by first class mail to the registered Holder of each such Bond to be redeemed at the address shown on the registration books at least thirty (30) days prior to the redemption date; but no defect or failure to give any such notice of redemption to any such registered Holder shall affect the redemption or the validity of the proceedings for the redemption of Bonds. Any notice of optional redemption shall describe whether, and the conditions under which, the call for redemption shall be revoked. All Bonds called for redemption shall cease to bear interest on the specified redemption date provided sufficient monies for their redemption are on deposit at the designated place of payment at that time, and such Bonds shall no longer be secured by the lien of the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

The transfer of this Bond is registerable by the registered Holder hereof in person or by his attorney duly authorized in writing at the corporate trust office of the Registrar, but only in the manner, subject to the limitations, and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such registration of transfer a new Bond or Bonds of the same series and the same maturity for the same aggregate principal amount will be issued to the transferee in exchange therefor. The Issuer, the Trustee, the Registrar and any Paying Agent may deem and treat the registered Holder hereof as the absolute Holder hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and neither the Issuer nor the Registrar shall be affected by any notice to the contrary.

This Bond is issued with the intent that the laws of the State of California shall govern its construction.

In certain events, on the conditions, in the manner, and with the effect set forth in the Indenture, the principal of all of the Bonds may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of the Indenture, the Agreement or the other Bond Documents, or of any supplements thereto, may be made to the extent and in the circumstances permitted by the Indenture. All capitalized terms used herein and not otherwise defined shall have the respective meanings given such terms in the Indenture.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State of California to happen, exist, and be performed precedent to and

in the issuance of this Bond and the execution of the Indenture by the Issuer, have happened, exist and have been performed.

This Bond shall not become valid or obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been manually signed by the Trustee.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name by the manual or facsimile signature of its Chairman and attested by the manual or facsimile signature of its Secretary.

LOS ANGELES COUNTY REGIONAL  
FINANCING AUTHORITY

By: \_\_\_\_\_  
[NAME]  
Chair

ATTEST:

By: \_\_\_\_\_  
[NAME]  
Secretary



\* \* \* \* \*

AUTHENTICATION CERTIFICATE

This Bond is one of the Bonds described in the within mentioned Indenture and is hereby authenticated.

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Representative

Date of Authentication: \_\_\_\_\_, 2010

\* \* \* \* \*

**FORM FOR TRANSFER**

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto \_\_\_\_\_ (Tax Identification or Social Security No. \_\_\_\_\_) the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

\_\_\_\_\_



**EXHIBIT C**

**CONVERSION NOTICE**

[Name and Address of Holder]

This Conversion Notice is delivered pursuant to that certain Indenture of Trust dated as of December 1, 2010 (the "Indenture"), between U.S. Bank National Association, as trustee (the "Trustee"), and Los Angeles County Regional Financing Authority (the "Issuer"), relating to the Issuer's [24,255,000] principal amount Los Angeles County Regional Financing Authority Variable Rate Demand Recovery Zone Facility Bonds (Fairplex Project) Series 2010 (the "Bonds"). You are hereby notified that:

1. Fairplex (the "Company"), has elected to change the Interest Rate Determination Method pertaining to the Bonds to a new Interest Rate Determination Method (or the interest rate applicable during a Medium Term Rate Period to a new interest rate during a new Medium Term Rate Period, or from an Index Interest Rate Period to a new Index Interest Rate Period).

2. The consent of the Bank, if applicable, required by the Indenture is attached hereto as Exhibit 1.

3. The proposed Conversion Date shall be \_\_\_\_\_.

4. As a result of the proposed conversion, a Mandatory Purchase Date, as defined in the Indenture, shall occur and the Bonds shall be subject to mandatory tender for purchase at the Purchase Price thereof, as defined in the Indenture.

5. If certain conditions set forth in the Indenture are not satisfied or if the conversion is revoked, the Interest Rate Determination Method shall not be changed.

6. All Bonds should be presented to the Trustee at [\_\_\_\_\_].

7. Holders have no right to retain Bonds subject to mandatory tender. The Bonds will be remarketed by [\_\_\_\_\_] as Remarketing Agent. Holders interested in repurchasing Bonds on the Conversion Date may contact the Remarketing Agent at [\_\_\_\_\_].

8. All capitalized terms not otherwise defined herein shall have the meaning given to such terms in the Indenture.

Very truly yours,

U.S. BANK NATIONAL ASSOCIATION  
as Trustee

By: \_\_\_\_\_  
Authorized Representative

**EXHIBIT D**

**NOTICE OF CREDIT MODIFICATION DATE**

[Name and Address of Holder]

This Notice of Credit Modification Date is delivered pursuant to that certain Indenture of Trust dated as of December 1, 2010 (the "Indenture"), between U.S. Bank National Association, as trustee (the "Trustee"), and Los Angeles County Regional Financing Authority (the "Issuer"), relating to the Issuer's Recovery Zone Facility Bonds (Fairplex Project), Series 2010 issued in the original principal amount of [\$PAR] (the "Bonds"). You are hereby notified that:

1. The undersigned Trustee is Trustee under the Indenture.
2. A Credit Modification Date, as defined in the Indenture, shall occur on \_\_\_\_\_ and Bonds shall be subject to mandatory tender for purchase at the Purchase Price thereof, as defined in the Indenture.
3. [The Company intends to deliver an Initial Credit Facility/Alternate Credit Facility issued by \_\_\_\_\_ on the Credit Modification Date. Upon acceptance by the Trustee of the Initial Credit Facility/Alternate Credit Facility, [the ratings on the Bonds from \_\_\_\_\_ are anticipated to be \_\_\_\_\_/the Bonds are not expected to be rated]. If certain conditions set forth in the Indenture are not satisfied, the Trustee shall not accept the Initial Credit Facility/Alternate Credit Facility.]
4. All Bonds should be presented to the Trustee at [\_\_\_\_\_].
5. Holders have no right to retain Bonds subject to mandatory tender. The Bonds will be remarketed by [\_\_\_\_\_] as Remarketing Agent. Holders interested in repurchasing Bonds on the Credit Modification Date may contact the Remarketing Agent at [\_\_\_\_\_].
6. All capitalized terms not otherwise defined herein shall have the meaning given to such terms in the Indenture.

Very truly yours,

U.S. BANK NATIONAL ASSOCIATION  
as Trustee

By: \_\_\_\_\_  
Authorized Representative

**EXHIBIT E**

**NOTICE OF MANDATORY PURCHASE DATE**

**[Name and Address of Holder]**

This Notice of Mandatory Purchase Date is delivered pursuant to that certain Indenture of Trust dated as of December 1, 2010 (the "Indenture"), between U.S. Bank National Association, as trustee (the "Trustee"), and Los Angeles County Regional Financing Authority (the "Issuer"), relating to the Issuer's \$24,255,000 principal amount of Recovery Zone Facility Bonds (Fairplex Project), Series 2010 (the "Bonds"). You are hereby notified that:

1. The undersigned Trustee is Trustee under the Indenture.
2. [The Company, with the consent of the Remarketing Agent and the Credit Provider, if any, has designated \_\_\_\_\_ as a Mandatory Purchase Date.] [The Credit Provider has notified the Trustee that an event of default under the Reimbursement Agreement has occurred and is continuing and has requested that the Bonds be required to be tendered for purchase. Under the terms of the Indenture, \_\_\_\_\_ has been designated as a Mandatory Purchase Date.] The Bonds are subject to mandatory tender for purchase at the Purchase Price thereof, as defined in the Indenture, on such date.
3. All Bonds should be presented to the Trustee at [\_\_\_\_\_].
4. Holders have no right to retain Bonds subject to mandatory tender. The Bonds will be remarketed by [\_\_\_\_\_] as Remarketing Agent. Holders interested in repurchasing Bonds on the Mandatory Purchase Date may contact the Remarketing Agent at [\_\_\_\_\_].
5. All capitalized terms not otherwise defined herein shall have the meaning given to such terms in the Indenture.

Very truly yours,

U.S. BANK NATIONAL ASSOCIATION  
as Trustee

By: \_\_\_\_\_

**EXHIBIT F**

**FORM OF INVESTOR LETTER**

[Date of Purchase]

Los Angeles County Regional Financing Authority

Los Angeles County Fair Association

U.S. Bank National Association, as Trustee

Re: [PAR] LOS ANGELES COUNTY REGIONAL FINANCING AUTHORITY  
RECOVERY ZONE FACILITY BONDS  
(Fairplex Project), Series 2010

Ladies and Gentlemen:

[NAME OF PURCHASER] (“Purchaser”) has agreed to purchase the Recovery Zone Facility Bonds (Fairplex Project), Series 2010, issued in the original aggregate principal amount of [AMOUNT] and currently outstanding in the amount of \$\_\_\_\_\_ (the “Bonds”), issued by Los Angeles County Regional Financing Authority (the “Issuer”) in the Index Interest Rate Period as set forth in the Indenture of Trust, between the Issuer and U.S. Bank National Association, as trustee, dated as of December 1, 2010 (the “Indenture”). All capitalized terms used herein, but not defined herein, shall have the respective meanings set forth in the Indenture. The undersigned, an authorized officer of the Purchaser, hereby represents to you that:

1. The Purchaser has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax exempt obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Bonds;
2. The Purchaser has authority to purchase the Bonds and to execute this letter and any other instruments and documents required to be executed by the Purchaser in connection with the purchase of the Bonds;
3. The undersigned is a duly appointed, qualified and acting officer of the Purchaser and is authorized to cause the Purchaser to make the certificates, representations and warranties contained herein by execution of this letter on behalf of the Purchaser;
4. The Purchaser is a “qualified institutional buyer” as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (the “1933 Act”), and is able to bear the economic risks of such investment;
5. The Purchaser understands that no official statement, prospectus, offering circular, or other comprehensive offering statement containing material information with respect to the Issuer or the Company, the Project and the Bonds are being issued, and that it has made its own inquiry and analysis with respect to the Issuer, the Company, the Project, the Bonds and the security therefor, and other material factors affecting the security for and payment of the Bonds;

6. The Purchaser acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, regarding the Company, to which a reasonable investor would attach significance in making investment decisions, and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Issuer, the Company, the Project, the Bonds and the security therefor, so that as a reasonable investor, it has been able to make its decision to purchase the Bonds. Further, the Purchaser understands that the Bonds involve a certain degree of risk. Specifically, and without in any manner limiting the foregoing, the Purchaser understands and acknowledges that, among other risks, the Bonds are payable solely from the revenues.

7. The Purchaser understands that the Bonds (i) are not registered under the Securities Act of 1933 and are not registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state, (ii) are not listed on any stock or other securities exchange, and (iii) carry no rating from any Rating Agency. The Purchaser agrees that it will comply with any applicable state and federal securities laws then in effect with respect to any disposition of the Bonds by it, and further acknowledges that any current exemption from registration of the Bonds does not affect or diminish such requirements.

8. The Bonds are being acquired by the Purchaser for investment for its own account and not with a present view toward resale or distribution, in that the Purchaser does not now intend to resell or otherwise distribute all or any part of its interest in the Bonds; provided, however, that the Purchaser reserves the right to sell, transfer or redistribute the Bonds, but agrees that any such sale, transfer or distribution shall be to a Person the Purchaser reasonably believes to be a Qualified Institutional Buyer or to a trust or custodial arrangement, the owners of any beneficial interest in which are limited to Qualified Institutional Buyers, who have delivered to the addressees hereof an Investor’s Letter in the same form of this Investor’s Letter.

Neither the Trustee, Bond Counsel, the Issuer, its members, its governing body, or any of its employees, counsel or agents will have any responsibility to the Purchaser for the accuracy or completeness of information obtained by the Purchaser from any source regarding the Borrower or its financial condition or regarding the Bonds, the provision for payment thereof, or the sufficiency of any security therefor. No written information has been provided by the Issuer to the Purchaser with respect to the Bonds. The Purchaser acknowledges that, as between the Purchaser and all of such parties, the Purchaser has assumed responsibility for obtaining such information and making such review as the Purchaser deemed necessary or desirable in connection with its decision to purchase the Bonds.

The Purchaser understands that the Bonds are not secured by any pledge of any moneys received or to be received from taxation by the Issuer (which has no taxing power), the State of California or any political subdivision or taxing district thereof; that the Bonds will never represent or constitute a general obligation or a pledge of the faith and credit of the Issuer, the State of California or any political subdivision thereof; that no right will exist to have taxes levied by the State of California or any political subdivision thereof for the payment of principal and interest on the Bonds; and that the liability of the Issuer with respect to the Bonds is subject to further limitations as set forth in the Bonds and the Indenture.

The Purchaser is not now and has never been controlled by, or under common control with, the Borrower. The Borrower has never been and is not now controlled by the Purchaser.



The Purchaser has authority to purchase the Bonds and to execute this letter and any other instruments and documents required to be executed by the Purchaser in connection with the purchase of the Bonds. The undersigned is a duly appointed, qualified, and acting officer of the Purchaser and is authorized to cause the Purchaser to make the certifications, representations and warranties contained herein by execution of this letter on behalf of the Purchaser.

In entering into this transaction, the Purchaser has not relied upon any representations or opinions of the Issuer relating to the legal consequences or other aspects of its investment in the Bonds, nor has it looked to, nor expected, the Issuer to undertake or require any credit investigation or due diligence reviews relating to the Borrower, its financial condition or business operations, the Project (including the financing or management thereof), or any other matter pertaining to the merits or risks of the transactions contemplated by the Loan Agreement and the Indenture, or the adequacy of the funds pledged to the Trustee to secure repayment of the Bonds.

The Purchaser acknowledges that the sale of the Bonds to the Purchaser is made in reliance upon the certifications, representations and warranties herein by the addressees hereof. Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Indenture.

[PURCHASER]

By: \_\_\_\_\_  
[NAME]  
[TITLE]

EXHIBIT G  
\$24,255,000  
Los Angeles County Regional Financing Authority  
Recovery Zone Facility Bonds  
(Fairplex Project)  
Series 2010

FORM OF  
REQUEST OF COMPANY  
(Project Account of the Project Fund)

Requisition No. \_\_\_\_\_

1. Los Angeles County Fair Association (the “Company”) hereby requests U.S. Bank National Association, as trustee (the “Trustee”) under the Indenture, dated as of December 1, 2010 (the “Indenture”), between the Los Angeles County Regional Financing Authority (the “Issuer”) and the Trustee, pursuant to which the Issuer has issued its Recovery Zone Facility Bonds (Fairplex Project) Series 2010 (the “Bonds”), to pay from the moneys in the Project Account of the Project Fund established pursuant to Section 4.02 of the Indenture (the “Project Account”), the amount shown on Schedule I attached hereto to the parties indicated in said Schedule I. Of the amount shown in Schedule I, [\$\_\_\_\_\_ shall be withdrawn from the Pomona Contribution Account of the Project Fund], and \$\_\_\_\_\_ shall be withdrawn from the Project Account of the Project Fund.
2. The payees, the purpose for which the cost has been incurred, and the amount of the disbursement requested are itemized on Schedule I hereto.
3. Each obligation mentioned in Schedule I hereto has been properly incurred and is a proper charge against the Project Account for the completion of the Project. None of the items for which payment is requested has been reimbursed previously from the Project Account.
4. No Event of Default exists or is continuing and there has not been filed with or served upon the Company notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable to any of the Persons named on Schedule I which has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen’s or mechanics’ liens accruing by mere operation of law.
- [5. The payment to be made pursuant to the Construction Agreement to the Contractor listed on Schedule I is required to be paid under such Construction Contract and all conditions for such payment have been satisfied.]
6. The amounts remaining on deposit therein after said transfer, together with other moneys available to the Company, are sufficient to complete the Project.

7. Attached hereto is an original invoice or invoices or other evidence (when applicable) of the Company's payment of an invoice when such requisition is in reimbursement thereof.

Date: \_\_\_\_\_.

LOS ANGELES COUNTY FAIR ASSOCIATION

By: \_\_\_\_\_

Title: \_\_\_\_\_

Accepted and Agreed:  
[Bank]

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT H**  
**\$24,255,000**  
**Los Angeles County Regional Financing Authority**  
**Recovery Zone Facility Bonds**  
**(Fairplex Project)**  
**Series 2010**

FORM OF  
REQUEST OF COMPANY  
(Costs of Issuance Fund)

Requisition No. \_\_\_\_\_  
(to be sequentially numbered)

1. Los Angeles County Fair Association (the "Company") hereby requests U.S. Bank National Association, as trustee (the "Trustee") under the Indenture, dated as of December 1, 2010 (the "Indenture"), between the Los Angeles County Regional Financing Authority (the "Issuer") and the Trustee, pursuant to which the Issuer has issued its Recovery Zone Facility Bonds (Fairplex Project) Series 2010 (the "Bonds"), to pay from the moneys in the Costs of Issuance Fund established pursuant to Section 4.02 of the Indenture (the "Costs of Issuance Fund"), the amount shown on Schedule I attached hereto to the parties indicated in said Schedule I.
2. The payees, the purpose for which the cost has been incurred, and the amount of the disbursement requested are itemized on Schedule I hereto.
3. Each obligation mentioned in Schedule I hereto has been properly incurred and is a proper charge against the Costs of Issuance Fund. None of the items for which payment is requested has been reimbursed previously from the Costs of Issuance Fund.
4. Attached hereto is an original invoice or invoices or evidence of the Company's payment of an invoice when such requisition is in reimbursement thereof.

Date: \_\_\_\_\_.

LOS ANGELES COUNTY FAIR ASSOCIATION

By: \_\_\_\_\_

Title: \_\_\_\_\_

Accepted and Agreed:  
[Bank]

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**LOS ANGELES COUNTY REGIONAL FINANCING AUTHORITY**  
RECOVERY ZONE FACILITY BONDS  
(FAIRPLEX PROJECT)  
SERIES 2010

---

**BOND PURCHASE AGREEMENT**

---

December \_\_, 2010

Los Angeles County Fair Association  
1101 West McKinley Avenue  
Pomona, CA 91768

Los Angeles County Regional Financing Authority  
c/o County of Los Angeles  
500 West Temple Street, Room 437  
Los Angeles, California 90012

Ladies and Gentlemen:

The undersigned, Wells Fargo Bank, National Association (the “*Purchaser*”), offers to enter into this Bond Purchase Agreement (this “*Agreement*”) with the Los Angeles County Regional Financing Authority (the “*Issuer*”) and Los Angeles County Fair Association (the “*Borrower*”) to purchase all (but not less than all) of the \$33,605,000 Recovery Zone Facility Bonds (Fairplex Project) Series 2010 of the Issuer (the “*Bonds*”). This offer is made subject to the Issuer’s acceptance of this Agreement on or before 11:59 p.m., Eastern Time, on the date hereof. Upon the Issuer’s acceptance of this offer, it will be binding upon the Issuer, the Borrower and the Purchaser. Capitalized terms used but not otherwise defined herein shall have the same meanings given them in that certain Continuing Covenant Agreement dated as of December 1, 2010 between the Purchaser and the Borrower (the “*Continuing Covenant Agreement*”).

1. Upon the terms and conditions set forth herein and in the Continuing Covenant Agreement, including without limitation, the requirements of Article III thereof and upon the basis of the representations set forth herein and in the Continuing Covenant Agreement, the Purchaser hereby agrees to purchase from the Issuer, and the Issuer hereby agrees to sell and

deliver to the Purchaser, the Bonds. The terms of the Bonds, the purchase price to be paid and the place and date of delivery and payment for the Bonds (the “*Closing*”) are as set forth on Exhibit A hereto.

2. The Issuer represents and covenants to the Purchaser that:

(a) the Issuer is duly organized and existing under the Constitution and the laws of the State of California, has and will have at the Closing the power and authority to issue and perform its obligations under the Bonds, enter into and perform its obligations under the Indenture, the Loan Agreement and this Agreement (collectively, the “*Issuer Documents*”), to adopt the resolution authorizing the Issuer Documents and the transactions contemplated hereunder and thereunder (the “*Bond Resolution*”), to deliver and sell the Bonds to the Purchaser, and when executed and delivered by the respective parties thereto, the Issuer Documents will constitute the legal, valid and binding obligations of the Issuer enforceable in accordance with their respective terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting the enforcement of creditors’ rights generally and by the application of equitable principles if equitable remedies are sought, by the exercise of judicial discretion, and by the limitation on legal remedies against agencies of the State;

(b) by official action of the Issuer prior to or concurrently with the acceptance hereof, the Issuer has authorized and approved the execution and delivery of, and the performance by the Issuer of the obligations on its part contained in, the Bonds and the Issuer Documents;

(c) all authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would materially adversely affect the approval or adoption, as applicable, of the Issuer Documents, the issuance of the Bonds or the due performance by the Issuer of its obligations under the Issuer Documents and the Bonds, have been duly obtained;

(d) the Issuer is not in breach of or in default under any applicable constitutional provision, law or administrative regulation of the State of California or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Issuer is a party or to which the Issuer or any of its property or assets is otherwise subject, which breach or default would have a material adverse effect on the Issuer’s ability to perform its obligations under the Bonds or the Issuer Documents and no event has occurred and is continuing which constitutes, or with the passage of time or the giving of notice or both would constitute, a breach of or a default or an event of default under any such instrument, which breach or default would have a material adverse effect on the Issuer’s ability to perform its obligations under the Bonds or the Issuer Documents;

(e) the Issuer Documents, the Bond Resolution and the Bonds do not and will not conflict with or create a breach or default under any existing law, regulation, order or agreement to which the Issuer is subject or by which it is bound; and

(f) to the knowledge of the Issuer, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body in which service of process has been completed on the Issuer, or pending or threatened against or affecting the Issuer or affecting the existence of the Issuer, the titles of its officers to their respective offices or the boundaries of the Issuer, or seeking to prohibit, restrain or enjoin the sale, issuance or delivery of the Bonds or in any way contesting or affecting the transactions contemplated hereby or the validity or enforceability of the Bonds, the Bond Resolution or the Issuer Documents or contesting the powers of the Issuer or any authority for the issuance of the Bonds, the adoption of the Bond Resolution or the execution and the delivery of the Issuer Documents.

3. In connection with its purchase of the Bonds, the Purchaser represents and covenants to the Issuer that:

(a) the Purchaser has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of a purchase of the Bonds;

(b) the Purchaser has conducted its own investigation into the merits and risks of an investment in the Bonds and has received, or been afforded access to, from the Issuer or otherwise all the information it deems necessary to make an investment decision with regard to the Bonds; and

(c) the Purchaser is acquiring the Bonds (i) for investment for its own account or (ii) for resale to an affiliated entity in which the Purchaser will retain an interest, and not with a view to, or for resale in connection with, any distribution of the Bonds.

4. The effectiveness of this Agreement is subject to the following documents being filed with the Trustee:

(a) a certified copy of all resolutions adopted and proceedings had by the Issuer authorizing execution of the Indenture and the Loan Agreement and the issuance of the Bonds;

(b) an original executed counterpart of the Indenture, the Loan Agreement, this Agreement, and each of the Security Documents (as such term is defined in the Indenture);

(c) an original executed counterpart of the Continuing Covenant Agreement;

(d) copies of any Financing Statements (as such term is defined in the Indenture) filed to perfect the Security Interests (as such term is defined in the Indenture);

(e) an original executed counterpart of the Tax Certificate;

(f) an Opinion of Counsel (as such term is defined in the Indenture) to the Issuer to the effect that the Indenture and the Loan Agreement have been duly authorized, executed and delivered by the Issuer and are legal, valid and binding agreements of the Issuer; and

(g) an Opinion of Counsel given by Bond Counsel to the effect that the Bonds have been duly authorized and validly issued, that the Indenture creates a valid lien on the Trust Estate (as such term is defined in the Indenture) and that interest on the Bonds will not be included in gross income of the Holders thereof for federal tax purposes;

(h) One or more Opinions of Counsel for the Borrower and the Guarantors (as such term is defined in the Indenture) to the effect that (i) the Loan Agreement, the Security Documents and the other Bond Documents to which the Borrower is a party have been duly authorized, executed and delivered by the Borrower and are legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms; and (ii) each of the Reimbursement Agreement Guaranty, CCA Guaranty and the Bond Guaranty has been duly authorized, executed and delivered by each Guarantor and is the legal, valid and binding agreement of each Guarantor and is enforceable against each Guarantor in accordance with its terms;

(i) A request and authorization to the Trustee on behalf of the Issuer and signed by an Authorized Officer (as such term is defined in the Indenture) of the Issuer directing the Trustee to authenticate and deliver the Bonds in such specified denominations as permitted herein to the initial purchaser or purchasers upon payment to the Trustee, but for the account of the Issuer, of a specified sum of money; and

(j) An Investor Letter signed by a duly authorized officer of the Bank.

5. This Agreement is intended to benefit only the parties hereto.

6. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

7. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California, without giving effect to conflicts of laws provisions.



Very truly yours,

WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Purchaser

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Accepted by:

LOS ANGELES COUNTY REGIONAL FINANCING AUTHORITY,  
as Issuer

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

LOS ANGELES COUNTY FAIR ASSOCIATION,  
as Borrower

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **EXHIBIT A**

### **DESCRIPTION OF BONDS**

- a. PURCHASE PRICE: \$33,605,000.
- b. DENOMINATIONS: \$100,000 or any whole multiple of \$5,000 in excess thereof.
- c. FORM: Fully Registered Bonds, without coupons, dated as of the date of issuance thereof. The Bonds shall be delivered in the form of a separate, single, certificated, fully registered Bond for each of the maturities set forth below, and each such Bond shall be registered in the name of the Purchaser, all as provided in the Bond Resolution. The Bonds shall be available, if so requested by the Purchaser, at such place as the Purchaser and the Issuer agree upon, for examination by the Purchaser at least 24 hours prior to the Closing and at Closing shall be delivered to the Purchaser.
- d. INTEREST PAYABLE: the first Business Day of each month.
- e. MATURITY AND INTEREST RATES: Maturing on December 1, 2039 and subject to mandatory tender on August 26, 2012, accruing interest at the Index Interest Rate.
- f. REDEMPTION: The Bonds are subject to redemption prior to maturity as set forth in Section 5.17 of the Continuing Covenant Agreement and Section 2.18 of the Indenture.
- g. CLOSING DATE: December 15, 2010, or such other date mutually agreed to by the Issuer and the Purchaser.
- h. DELIVERY: Delivery and payment shall be made at the offices of the Purchaser or such other place as shall have been mutually agreed upon by the Issuer, the Borrower and the Purchaser.
- i. ADDITIONAL CLOSING AND OTHER DOCUMENTS:
  1. A copy of the completed and executed Information Return for Tax-Exempt Governmental Obligations, Form 8038-G.

---

---

**LOAN AGREEMENT**  
**BETWEEN**  
**LOS ANGELES COUNTY REGIONAL FINANCING AUTHORITY**  
**AND**  
**LOS ANGELES COUNTY FAIR ASSOCIATION**  
**DATED AS OF DECEMBER 1, 2010**  
**RELATING TO**  
**\$24,255,000**  
**LOS ANGELES COUNTY REGIONAL FINANCING AUTHORITY**  
**RECOVERY ZONE FACILITY BONDS**  
**(FAIRPLEX PROJECT)**  
**SERIES 2010**

Certain rights of the Issuer under this Agreement have been assigned to, and are subject to a security interest in favor of trustee, as Trustee under an Indenture of Trust, dated as of the date first above written, as amended or supplemented from time to time. Information concerning such security interest may be obtained from the Trustee at [address]

**TABLE OF CONTENTS**

**ARTICLE I**

Definitions and Rules of Construction

Section 1.01. Definitions ..... 1  
Section 1.02. Rules of Construction ..... 5

**ARTICLE II**

Representations

Section 2.01. Representations by the Issuer ..... 6  
Section 2.02. Representations by the Company ..... 7

**ARTICLE III**

Acquisition of the Project

Section 3.01. Agreement to Undertake and Complete the Project ..... 9  
Section 3.02. Disbursements from the Project Fund..... 9  
Section 3.03. Establishment of Completion Date and Certificate as to Completion ..... 10  
Section 3.04. Closeout of Project Fund; Disposition of Balance in Project Fund ..... 10  
Section 3.05. Company Required to Pay Costs in Event Project Fund Insufficient ..... 10  
Section 3.06. Company and Issuer Representatives and Successors ..... 11  
Section 3.07. Investment of Moneys in Funds..... 11  
Section 3.08. Plans and Specifications ..... 11

**ARTICLE IV**

Issuance of the Bonds

Section 4.01. Agreement to Issue the Bonds ..... 12  
Section 4.02. Third-Party Beneficiaries..... 12

**ARTICLE V**

Loan; Payment Provisions

Section 5.01. Loan of Proceeds ..... 12  
Section 5.02. Amounts Payable ..... 12  
Section 5.03. Unconditional Obligations..... 13  
Section 5.04. Prepayments..... 13  
Section 5.05. Credits Against Payments..... 14  
Section 5.06. Initial Credit Facility and Alternate Credit Facility ..... 14  
Section 5.07. Interest Rate Determination Method..... 14  
Section 5.08. Covenant Regarding Short-Term Rate Period and Medium-Term Rate  
Period ..... 14

Section 5.09.	Swaps .....	14
---------------	-------------	----

## ARTICLE VI

### Maintenance and Taxes

Section 6.01.	Company’s Obligations to Maintain and Repair .....	14
Section 6.02.	Taxes and Other Charges .....	15

## ARTICLE VII

### Insurance, Eminent Domain and Damage and Destruction

Section 7.01.	Insurance .....	15
Section 7.02.	Provisions Respecting Eminent Domain .....	15
Section 7.03.	Damage and Destruction.....	15

## ARTICLE VIII

### Special Covenants

Section 8.01.	Access to the Property and Inspection .....	15
Section 8.02.	Financial Statements .....	16
Section 8.03.	Further Assurances and Corrective Instruments .....	16
Section 8.04.	Recording and Filing; Other Instruments .....	16
Section 8.05.	Exclusion from Gross Income for Federal Income Tax Purposes of Interest on the Bonds .....	16
Section 8.06.	Indemnification of the Trustee by the Company Against Claims.....	16
Section 8.07.	Release and Indemnification.....	17
Section 8.08.	Compliance with Laws .....	19
Section 8.09.	Non-Arbitrage Covenant.....	19
Section 8.10.	Notice of Determination of Taxability.....	19
Section 8.11.	No Purchase of Bonds by Company or Issuer .....	19
Section 8.12.	Maintenance of Existence.....	19
Section 8.13.	Company Approval of Indenture .....	20
Section 8.14.	Duties and Obligations.....	20
Section 8.15.	Notice of Certain Acquisitions of Control.....	21
Section 8.16.	Continuing Disclosure .....	21

## ARTICLE IX

### Assignment, Lease and Sale

Section 9.01.	Restrictions on Transfer of Issuer’s Rights.....	21
Section 9.02.	Assignment by the Issuer .....	21
Section 9.03.	Assignment of Agreement by the Company or Lease or Sale of Project .....	21

ARTICLE X

Events of Default and Remedies

Section 10.01. Events of Default Defined ..... 22  
Section 10.02. Remedies on Default..... 23  
Section 10.03. Application of Amounts Realized in Enforcement of Remedies..... 24  
Section 10.04. No Remedy Exclusive ..... 24  
Section 10.05. Agreement to Pay Attorneys’ Fees and Expenses ..... 24  
Section 10.06. Issuer and Company to Give Notice of Default..... 24

ARTICLE XI

Prepayments; Purchase of Bonds

Section 11.01. Optional Prepayments..... 24  
Section 11.02. Optional Purchase of Bonds ..... 25  
Section 11.03. Prepayment to Include Fees and Expenses ..... 25  
Section 11.04. Purchase of Bonds. .... 25

ARTICLE XII

Miscellaneous

Section 12.01. Amounts Remaining in Funds ..... 26  
Section 12.02. No Implied Waiver ..... 26  
Section 12.03. Issuer Representative ..... 27  
Section 12.04. Notices ..... 27  
Section 12.05. Issuer, Governing Body, Members, Commissioners, Directors, Officers,  
Agents and Employees of Issuer and Governing Body Not Liable ..... 27  
Section 12.06. No Liability of Issuer; No Charge Against Issuer’s Credit..... 27  
Section 12.07. Electronic Signatures ..... 28  
Section 12.08. If Performance Date Not a Business Day ..... 28  
Section 12.09. Binding Effect..... 28  
Section 12.10. Severability ..... 28  
Section 12.11. Amendments, Changes and Modifications ..... 28  
Section 12.12. Execution in Counterparts ..... 28  
Section 12.13. Applicable Law ..... 28

EXHIBIT A — DESCRIPTION OF THE PROJECT ..... A-1

## LOAN AGREEMENT

This LOAN AGREEMENT, dated as of December 1, 2010 (this "Agreement"), is made and entered into by and between Los Angeles County Regional Financing Authority, a joint exercise of powers authority duly organized and existing under the Constitution and laws of the State of California (the "Issuer"), and Los Angeles County Fair Association, a California nonprofit mutual benefit corporation (the "Company"). Capitalized terms shall have the meaning set forth in Section 1.01 hereof.

### WITNESSETH:

WHEREAS, the Issuer was created under the provisions of Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code of the State of California (the "State"), and any successor provisions thereto (the "Act") and a joint exercise of powers agreement, dated as of December 1, 2010 (the "JPA Agreement") between the County of Los Angeles and the Los Angeles County Public Works Financing Authority;

WHEREAS, the Issuer is further authorized by the Act and the JPA Agreement to issue revenue bonds, as defined in the Act, payable solely from revenues and receipts from any revenue producing project and secured by a pledge of said revenues and receipts;

WHEREAS, in order to further the purposes of the Act and the JPA Agreement, the Issuer proposes to undertake the financing of the acquisition, construction and equipping of the Project described in Exhibit A hereto (the "Project"), and to obtain the funds therefore by the issuance of its Bonds under an Indenture of Trust dated as of the date hereof (the "Indenture") between the Issuer and U.S. Bank National Association, a national banking association, as Trustee (the "Trustee"), securing such Bonds;

WHEREAS, it has been determined that the financing of the acquisition, construction and equipping of the Project will require the issuance, sale and delivery by the Issuer of the Bonds; and

WHEREAS, the Issuer proposes to loan the Bond Proceeds to the Company to acquire, construct and equip the Project upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto covenant, agree and bind themselves as follows.

## ARTICLE I

### DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01. *Definitions.* In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein shall have the following meanings unless the context or use clearly indicates another or different meaning or intent, and any other words and terms defined in the Indenture shall have the same meanings when used herein as assigned in the Indenture unless the context or use clearly indicates another or different meaning or intent.

"Acquisition" means, the acquisition, construction, installation and equipping of the Project.

"Act" shall have the meaning set forth in the recitals.

“Affiliate” means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Agreement” means this Loan Agreement between the Issuer and the Company and any modifications, amendments and supplements hereto made in accordance with the provisions hereof and of the Indenture.

“Bond Proceeds” means the principal of the Bonds and any investment earnings thereon.

“Company” shall have the meaning set forth in the opening paragraph.

“Company Representative” means any one of the persons at the time designated to act on behalf of the Company by written certificate furnished to the Issuer and the Trustee containing the specimen signatures of such persons and signed on behalf of the Company by the [\_\_\_\_\_] of the Company.

“Completion Date” means the earlier of (a) September 30, 2011, or such later date as the Bank shall approve in writing in its sole discretion, and (b) the date on which the Company Representative delivers a completion certificate to the Trustee pursuant to Section 3.03.

“Continuing Covenant Agreement” means the Continuing Covenant Agreement dated as of December 1, 2010, by and between the Company and the Bank and relating to the Bonds.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise.

“Controlling” or “Controlled” have meanings correlative to the meaning of “Control” above.

“Cost(s) of the Project,” “Cost” or “Costs” means all costs and allowances which the Issuer or the Company may properly pay or accrue for the Project and which, under generally accepted accounting principles, are chargeable to the capital account of the Project or could be so charged either with a proper election to capitalize such costs or, but for a proper election, to expense such costs, including (without limitation) the following costs:

(a) fees and expenses incurred in preparing the Plans and Specifications for the Project (including any preliminary study or planning or any aspect thereof); any labor, services, materials and supplies used or furnished in site improvement and construction; any equipment for the Project; and all real and tangible personal property deemed necessary by the Company and acquired in connection with the Project;

(b) fees for architectural, engineering, supervisory and consulting services;

(c) any fees and expenses incurred in connection with perfecting and protecting title to the Project and any fees and expenses incurred in connection with preparing, recording or filing such documents, instruments or financing statements as either the Company or the Issuer may deem desirable to perfect or protect the rights of the Issuer or the Trustee under the Bond Documents;



(d) any legal, accounting or financial advisory fees and expenses, including, without limitation, fees and expenses of Bond Counsel and counsel to the Issuer, the Company, the Bank, the Credit Provider, if any, the Remarketing Agent or the Trustee, any fees and expenses of the Issuer, Trustee, Remarketing Agent, the Bank, Credit Provider, if any, Paying Agent or any rating agency, filing fees, and printing and engraving costs, incurred in connection with the authorization, issuance, sale and purchase of the Bonds, and the preparation of the Bond Documents and all other documents in connection with the authorization, issuance and sale of the Bonds;

(e) any administrative or other fees charged by the Issuer or reimbursement thereto of expenses in connection with the Project incurred on or prior to the Completion Date; and

(f) any other costs and expenses relating to the Project which could constitute costs or expenses for which the Issuer may expend Bond Proceeds under the Act.

“Eminent Domain” means the taking of title to, or the temporary use of, the Project or any part thereof pursuant to eminent domain or condemnation proceedings, or by any settlement or compromise of such proceedings, or any voluntary conveyance of the Project or any part thereof during the pendency of, or as a result of a threat of, such proceedings.

“Environmental Laws” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and the Asset Conservation, Lender Liability, and Deposit Insurance Act of 1996, 42 U.S.C. §9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Solid and Hazardous Waste Amendments of 1984, 42 U.S.C. §9601 et seq.; the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. §1251 et seq.; the Toxic Substances Control Act of 1976, 15 U.S.C. §2601 et seq.; the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. §11001 et seq.; the Clean Air Act of 1966, as amended 42 U.S.C. §7401 et seq.; the National Environmental Policy Act of 1975, 42 U.S.C. §4321 et seq.; the Rivers and Harbours Act of 1899, 33 U.S.C. §401 et seq.; the Endangered Species Act of 1973, as amended 16 U.S.C. §1531 et seq.; the Occupational Safety and Health Act of 1970, as amended 29 U.S.C. §651 et seq.; and the Safe Drinking Water Act of 1974, as amended 42 U.S.C. §300(f) et seq.; and all rules, regulations and guidance promulgated or published thereunder, and any state, regional, country or local statute, law, rule, regulation or ordinance relating to public health, safety or the environment, including, without limitation, those relating (i) to releases, discharges, emissions or disposals to air, water, land or ground water, (ii) to the use, handling or disposal of polychlorinated biphenyls (PCB’s), asbestos or urea formaldehyde, (iii) to the treatment, storage, disposal or management of Hazardous Materials (including, without limitation petroleum, crude oil or any fraction thereof) and any other solid, liquid or gaseous substance, exposure to which is prohibited, limited or regulated, or may or could pose a hazard to the health and safety of the occupants of the Property or the adjacent or surrounding property, (iv) to the exposure of persons to toxic, hazardous, or other controlled, prohibited or regulated substances, and (v) to the transportation, storage, disposal, management or release of gaseous or liquid substances, and any regulations, order, injunction, judgment, declaration, notice or demand issued thereunder.

“Event of Default” shall have the meaning set forth in Section 10.01.

“Fiscal Year” means the period of twelve (12) consecutive calendar months for which financial statements of the respective entity have been examined by its independent certified public accountants; currently for the Company, a year ending on December 31st.

“Governing Body” means the board, commission, council or other body in which the general legislative powers of the Issuer are vested.

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

“Hazardous Materials” means any oil, flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, hazardous wastes, toxic or contaminated substances or similar materials, including, without limitation, any substances which are “hazardous substances,” “hazardous wastes,” “hazardous materials,” “toxic substances,” “wastes,” “regulated substances,” “industrial solid wastes,” or “pollutants” under the Hazardous Materials Laws and/or other applicable environmental laws, ordinances and regulations.

“Hazardous Materials Laws” means all laws, ordinances and regulations relating to Hazardous Materials, including, without limitation: the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq.; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 et seq.; the Comprehensive Environment Response, Compensation and Liability Act of 1980, as amended (including the Superfund Amendments and Reauthorization Act of 1986, “CERCLA”), 42 U.S.C. Section 9601 et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. Section 2601 et seq.; the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Section 11001 et seq.; the Mine Safety and Health Act of 1977, as amended, 30 U.S.C. Section 801 et seq.; the Safe Drinking Water Act, as amended, 42 U.S.C. Section 300f et seq.; and all comparable state and local laws, laws of other jurisdictions or orders and regulations.

“Indemnified Parties” shall have the meaning set forth in Section 8.07(b).

“Indenture” shall have the meaning set forth in the recitals.

“Insurance Proceeds” means the insurance claims under and the proceeds of any and all policies of insurance covering the Project or any part thereof, including all returned and unearned premiums with respect to any insurance relating to the Project, in each case whether now or hereafter existing or arising.

“Issuer” shall have the meaning set forth in the opening paragraph.

“Issuer Representative” means any one of the persons at the time designated to act on behalf of the Issuer by written certificate furnished to the Company and the Trustee containing the specimen signatures of such persons and signed on behalf of the Issuer by its Chairman or his/her designee.

“JPA Agreement” shall have the meaning set forth in the recitals.

“Loan” means the loan from the Issuer to the Company of the Bond Proceeds, the repayment obligation of which is evidenced by this Agreement.

“Net Proceeds” means, when used with respect to any Insurance Proceeds or proceeds resulting from Eminent Domain, the gross proceeds therefrom less all expenses (including attorneys’ fees) incurred in the realization thereof.

“Plans and Specifications” means the plans and specifications used in the Acquisition, as the same may be revised from time to time by the Company in accordance with Section 3.08.

“Project” means the construction of a conference center facility and related infrastructure, as more particularly described in Exhibit A hereto.

“Reserved Rights” means (a) the rights of, and amounts payable to, the Issuer pursuant to Section 3.08, Section 5.02(b), 5.02(c), Section 8.01, Section 8.06, Section 8.07, Section 10.05, Section 12.06 and Section 12.07 hereof, and (b) Sections of this Agreement providing that notices, reports and other statements be given to the Issuer and that consents be obtained from the Issuer.

“Rule” shall have the meaning set forth in Section 8.16.

“State” means the State of California.

“Trustee” shall have the meaning set forth in the recitals.

Section 1.02. *Rules of Construction.* Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Agreement:

(a) Capitalized terms used but not defined in this Agreement shall have the meaning ascribed to them in the Indenture and the Reimbursement Agreement or the Continuing Covenant Agreement, as applicable.

(b) Words importing the singular number shall include the plural number and vice versa.

(c) The table of contents, captions and headings herein are solely for convenience of reference only and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

(d) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders, and words of the neuter gender shall be deemed and construed to include correlative words of the masculine and feminine genders.

(e) All references in this Agreement to particular Articles or Sections are references to Articles and Sections of this Agreement, unless otherwise indicated.

(f) Except during any period in which a Credit Facility is in effect and during the period immediately succeeding such a period until receipt by the Trustee of a certificate from the Credit Provider stating that all amounts payable to the Credit Provider under the

Reimbursement Agreement have been paid in full, all references to the Credit Provider and the Reimbursement Agreement shall be ineffective, except as provided in the following sentence. For purposes of the approval and consent rights of the Credit Provider under this Agreement, the Bank shall be deemed to be and shall be vested with and exercise all of the rights, remedies and prerogatives of the Credit Provider during any Index Interest Rate Period.

## **ARTICLE II**

### **REPRESENTATIONS**

Section 2.01. Representations by the Issuer. The Issuer represents and warrants as follows:

(a) The Issuer is a joint exercise of powers authority created and existing under and pursuant to the Act and the JPA Agreement and is authorized by the Act and the JPA Agreement to execute and to enter into this Agreement and to undertake the transactions contemplated herein and to carry out its obligations hereunder.

(b) The Issuer has all requisite power, authority and legal right to execute and deliver the Bond Documents to which it is a party and all other instruments and documents to be executed and delivered by the Issuer pursuant thereto, to perform and observe the provisions thereof and to carry out the transactions contemplated thereby the Bond Documents. All corporate action on the part of the Issuer which is required for the execution, delivery, performance and observance by the Issuer of the Bond Documents to which it is a party has been duly authorized and effectively taken, and such execution, delivery, performance and observation by the Issuer do not contravene applicable law or any contractual restriction binding on or affecting the Issuer.

(c) The Issuer has duly approved the issuance of the Bonds and the Loan to the Company for the Acquisition; no other authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or regulatory body is required as a condition to the performance by the Issuer of its obligations under any Bond Documents to which it is a party.

(d) This Agreement is, and each other Bond Document to which the Issuer is a party when delivered will be, legal, valid and binding special limited obligations of the Issuer enforceable against the Issuer in accordance with its terms except as the enforceability thereof may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by the application of equitable principals, regardless of whether enforcement is sought in a proceeding at law or in equity, or by public policy.

(e) There is no default of the Issuer in the payment of the principal of or interest on any of its indebtedness for borrowed money or under any instrument or instruments or agreements under and subject to which any indebtedness for borrowed money has been incurred which does or could affect the validity and enforceability of the Bond Documents or the ability of the Issuer to perform its obligations thereunder, and no event has occurred and is continuing under the provisions of any such instrument or agreement which constitutes or, with the lapse of time or the giving of notice, or both, would constitute such a default.

(f) With respect to the Bonds, there are no other obligations of the Issuer that have been, are being or will be (i) sold at substantially the same time, (ii) sold pursuant to the same plan of financing and (iii) reasonably expected to be paid from substantially the same source of funds.

(g) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending, or, to the best knowledge of the Issuer, threatened against or affecting the Issuer wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the validity or enforceability of, the Bonds, the Indenture or this Agreement or (ii) the tax-exempt status of interest on the Bonds.

(h) In connection with the authorization, issuance and sale of the Bonds, the Issuer has complied with all provisions of the Constitution and laws of the State, including the Act.

(i) The Issuer has not assigned or pledged and will not assign or pledge its interest in this Agreement for any purpose other than to secure the Bonds under the Indenture. The Bonds constitute the only bonds or other obligations of the Issuer in any manner payable from the revenues to be derived from this Agreement, and except for the Bonds, no bonds or other obligations have been or will be issued on the basis of this Agreement.

(j) To the best knowledge of the Issuer, the Issuer is not in default under any of the provisions of the laws of the State, where any such default would materially adversely affect the issuance, validity or enforceability of the Bonds or the transactions contemplated by this Agreement or the Indenture.

(k) No representation is made herein as to compliance with the securities or “blue sky” laws of any jurisdiction. The Issuer shall not be required to consent to service of process in any jurisdiction or be required to submit to the general jurisdiction of any state.

Section 2.02. *Representations by the Company.* The Company represents and warrants as follows:

(a) The Company (i) is a California nonprofit mutual benefit corporation organized and existing under the laws of the State, (ii) has organizational and other legal power and authority to enter into and to perform the agreements and covenants on its part contained in the Bond Documents to which it is a party and (iii) has duly authorized the execution, delivery and performance of the Bond Documents to which it is a party and has duly approved such Bond Documents.

(b) The execution and delivery by the Company of the Bond Documents to which it is a party and the performance by the Company of its obligations thereunder (i) do not violate provisions of statutory laws or regulations applicable to the Company, (ii) do not violate its articles of incorporation or bylaws, (iii) do not breach or result in a default under any other agreement to which it is a party, and (iv) do not violate the terms of any judicial or administrative judgment, order, decree or arbitral decision that names the Company and is specifically directed to it or its properties.

(c) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending, or, to the best knowledge of the Company, threatened against or affecting the Company wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the validity or enforceability of, the Bond Documents or (ii) the tax-exempt status of interest on the Bonds.

(d) No further authorizations, consents or approvals of any Governmental Authority are required in connection with the execution and delivery by the Company of this Agreement or the other Bond Documents to which the Company is a party or in connection with the carrying out by the Company of its obligations under this Agreement or the other Bond Documents to which the Company is a party, other than those required in the ordinary course of construction.

(e) This Loan Agreement when assigned to the Trustee pursuant to the Indenture and the other Bond Documents will constitute the legal, valid and binding agreements of the Company enforceable against the Company by the Trustee in accordance with their terms for the benefit of the Holders of the Bonds, and any rights of the Issuer and obligations of the Company not so assigned to the Trustee constitute the legal, valid, and binding agreements of the Company enforceable against the Company by the Issuer in accordance with their terms; except in each case as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally, by the application of equitable principles regardless of whether enforcement is sought in a proceeding at law or in equity and by public policy.

(f) The Company acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Project; that it is familiar with the provisions of all of the documents and instruments relating to such financing to which the Company is a party or of which it is a beneficiary, including the Indenture; that it understands the risks inherent in such transactions; and that it has not relied on the Issuer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Bond Documents and the Indenture or otherwise relied on the Issuer for any advice.

(g) No written information, exhibit or report furnished to the Issuer by the Company in connection with the negotiation of the Bond Documents, and no official statement or other offering document in connection with the issuance of the Bonds, if any, as of its date or as of the date hereof, contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(h) The financing of the Project as provided under this Agreement, and commitments therefor made by the Issuer have induced the Company to expand or locate its operations in the jurisdiction of the Issuer.

(i) The Company anticipates that upon completion of the Acquisition, the Company will operate the Project as a "public capital improvement" within the meaning of the Act until the Bonds have been paid in full.

(j) The Project is of the type authorized and permitted by the Act, and the Project is substantially the same in all material respects to that described in the notice of public hearing published on November 16, 2010.

(k) The Project will be acquired, constructed and installed and will be operated by the Company in such manner as to conform with all applicable zoning, planning, building, environmental and other regulations of the governmental authorities having jurisdiction over the Project.

(l) The Company has taken no action, and has not omitted to take any action, which action or omission to take action would in any way affect or impair the excludability of interest on the Bonds from gross income of the Holders thereof for federal income tax purposes.

(m) All of the representations and warranties of the Company contained in the Tax Certificate are hereby reaffirmed and incorporated herein by reference.

(n) The Company presently in good faith estimates the Costs of the Project to equal or exceed the original principal amount of the Bonds.

(o) The Project will be located wholly within the County of Los Angeles.

### **ARTICLE III**

#### **ACQUISITION OF THE PROJECT**

Section 3.01. *Agreement to Undertake and Complete the Project.* The Company covenants and agrees to undertake and complete the Acquisition. Upon written request of the Issuer or the Trustee, the Company agrees to make available to the Issuer and the Trustee (for review and copying) all the then current Plans and Specifications for the Project.

The Company agrees to cause the Project to be completed as soon as may be practicable and to cause all Bond Proceeds, to be expended no later than three years from the Issue Date. For Costs of the Project incurred prior to receipt by the Issuer of the Bond Proceeds, the Company agrees to advance all funds necessary for such purpose. Such advances may be reimbursed to the extent permitted by the Code and Section 3.02.

The Company shall obtain or cause to be obtained all necessary permits and approvals for the Acquisition, operation and maintenance of the Project.

Section 3.02. *Disbursements from the Project Fund.* In the Indenture, the Issuer has authorized and directed the Trustee to use the moneys in the Project Fund for payment or reimbursement to the Company of the Costs of the Project and to use the moneys in the Costs of Issuance Fund for payment or reimbursement to the Company of Costs of Issuance.

Each Advance for a Cost of the Project shall be made only during an Index Interest Rate Period and upon the receipt by the Trustee of a Project Payment Request signed by the Company Representative, approved by the Bank and otherwise meeting the requirements and conditions of the Continuing Covenant Agreement.

The Advance for Costs of Issuance shall be made only upon the receipt by the Trustee of a duly executed Cost of Issuance Payment Request, approved by the Bank.

The Company further agrees that it will not request any Advance hereunder which, if paid, would result in (i) less than substantially all (at least ninety-five percent (95%)) of the Bond Proceeds being used to provide land or property subject to the allowance for depreciation under Section 167 of the Code, (ii) less than all of the Bond Proceeds being used for the purposes of the Project under the Act, or (iii) the inclusion of the interest on any of the Bonds in the gross income of any Holder for purposes of federal income taxation. Notwithstanding the foregoing, the Company may request an Advance to pay costs of issuance with respect to the Bonds not to exceed in total 2% of the Bond Proceeds.

Section 3.03. Establishment of Completion Date and Certificate as to Completion. Within thirty (30) days following the completion of Acquisition of the Project, the Company Representative shall sign and deliver to the Trustee a certificate stating that, except for amounts retained by the Trustee in the Project Account of the Project Fund for Costs relating to the Project or Costs of Issuance not then due and payable, or the liability for which the Company is, in good faith, contesting or disputing, (a) the Project has been completed to the satisfaction of the Company, and all labor, services, materials and supplies used in such Acquisition have been paid for, and (b) the Project is suitable and sufficient for the efficient operation as a “public capital improvement” (as defined in the Act).

Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

Section 3.04. Closeout of Project Fund; Disposition of Balance in Project Fund. All Surplus Bond Proceeds available in the Project Account of the Project Fund shall, on the Completion Date of the Project, be transferred to and deposited in the Surplus Fund as described in Section 4.03 of the Indenture. The Trustee shall, at the direction of the Company Representative, retain moneys in the Project Account of the Project Fund or the Cost of Issuance Fund for payment of Costs of the Project or Costs of Issuance, respectively, not then due and payable or which are disputed.

Section 3.05. Company Required to Pay Costs in Event Project Fund Insufficient. If the moneys in the Project Account of the Project Fund available for payment of the Costs of the Project should not be sufficient to make such payments in full, the Company agrees to pay directly (or to deposit moneys in the Project Account of the Project Fund, for the payment of) such costs of completing the Project, as may be in excess of the moneys available therefor in the Project Account of the Project Fund. **THE ISSUER DOES NOT MAKE ANY WARRANTY OR REPRESENTATION (EITHER EXPRESS OR IMPLIED) THAT THE MONEYS DEPOSITED INTO THE PROJECT FUND AND AVAILABLE FOR PAYMENT OF THE COSTS OF THE PROJECT, UNDER THE PROVISIONS OF THIS AGREEMENT, WILL BE SUFFICIENT TO PAY ALL OF THE COSTS OF THE PROJECT OR THAT THE PROJECT WILL BE SUITABLE FOR THE PURPOSES OF THE COMPANY.** If, after exhausting the moneys in the Project Fund for any reason (including, without limitation, losses on investments made by the Trustee under the Indenture), the Company pays, or deposits moneys in the Project Fund for the payment of, any portion of the Costs of the Project pursuant to the provisions of this Section 3.05, the Company shall not be entitled to any reimbursement therefor from the Issuer or from the Trustee, nor shall it be entitled to any diminution of the amounts payable under Section 5.02.



Section 3.06. Company and Issuer Representatives and Successors. At or prior to the initial sale of the Bonds, the Company and the Issuer shall appoint a Company Representative and an Issuer Representative, respectively, for the purpose of taking all actions and delivering all certificates required to be taken and delivered by the Company Representative and the Issuer Representative under the provisions of this Agreement. The Company and the Issuer, respectively, may appoint alternate Company Representatives and alternate Issuer Representatives to take any such action or make any such certificate if the same is not taken or made by the Company Representative or the Issuer Representative. In the event any of such persons, or any successor appointed pursuant to the provisions of this Section 3.06, should resign or become unavailable or unable to take any action or deliver any certificate provided for in this Agreement, another Company Representative or alternate Company Representative, or another Issuer Representative or alternate Issuer Representative, shall thereupon be appointed by the Company or the Issuer, respectively. If the Company or the Issuer fails to make such designation within ten (10) days following the date when the then incumbent Company Representative or Issuer Representative resigns or becomes unavailable or unable to take any such actions, the President or General Counsel of the Company, or the Chairman of the Issuer or his/her designee, shall serve as the Company Representative or the Issuer Representative, respectively.

Whenever the provisions of this Agreement require the Company's approval or require the Issuer or the Trustee to take some action at the request or direction of the Company, the Company Representative shall make such approval or such request or direction in writing unless otherwise specified in this Agreement. Any action so taken with the written approval of or at the written direction of the Company Representative shall be binding upon the Company.

Section 3.07. Investment of Moneys in Funds. The Trustee may invest or reinvest any moneys held pursuant to the Indenture to the extent permitted by Section 4.07 of the Indenture and by law (but subject to the provisions of Section 8.09 hereof), in Permitted Investments, as directed by a Company Representative.

Any such securities may be purchased at the offering or market price thereof at the time of such purchase.

The Trustee may make any and all such investments through its own bond department or trust investments department. The Trustee shall not be liable for any loss resulting from any such investments, provided the Trustee has performed its respective obligations under Section 4.07 of the Indenture in accordance with Section 7.01(e) of the Indenture. For the purposes of this Section 3.07, any interest-bearing deposits, including certificates of deposit, issued by or on deposit with the Trustee shall be deemed to be investments and not deposits. The Issuer shall not be liable for any loss resulting from any such investments.

Section 3.08. Plans and Specifications. The Company shall maintain a set of Plans and Specifications at the Project which shall be available to the Issuer, the Bank and the Trustee for inspection and examination during the Company's regular business hours. The Trustee shall have no duty to inspect or examine the Plans and Specifications. The Issuer, the Trustee and the Company agree that the Company may supplement, amend and add to the Plans and Specifications, and the Company may omit or make substitutions for components of the Project, without the approval of the Issuer or the Trustee, but subject to the requirements of the Continuing Covenant Agreement, including any required consent of the Bank, and, provided that no such change shall be made which, after giving effect to such change, would cause any of the representations and warranties set forth in

Section 2.02 hereof to be false or misleading in any material respect, or would result in a violation of the covenant set forth in Section 8.05. If any such change would render materially incorrect or inaccurate the description of the initial components of the Project as previously described in writing by the Company to the Bank, the Company shall deliver to the Issuer, the Bank and the Trustee an opinion of Bond Counsel to the effect that such change will not cause the interest on the Bonds to be includable in the gross income of the Holders thereof for federal income tax purposes, and thereafter, the Company, the Bank and the Issuer shall amend Exhibit A to this Agreement to reflect such change. No approvals of the Issuer and the Trustee shall be required for the Acquisition or for the solicitation, negotiation, award or execution of contracts relating thereto.

## ARTICLE IV

### ISSUANCE OF THE BONDS

Section 4.01. Agreement to Issue the Bonds. To provide funds for the Acquisition, the Issuer agrees that it will sell, issue and deliver the Bonds in the aggregate principal amount not to exceed \$24,255,000 to the initial purchaser thereof and will cause the Bonds Proceeds to be applied as provided in Section 4.05 of the Indenture.

Section 4.02. Third-Party Beneficiaries. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to establish in favor of the public or any member thereof, other than as expressly provided herein or as contemplated in the Indenture, the rights of a third-party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law. Notwithstanding the foregoing, it is specifically agreed between the parties that during any Index Interest Rate Period, the Bank, and while any Reimbursement Agreement is in effect, the Credit Provider, is an express third party beneficiary of this Agreement, entitled, but not obligated, to enforce each of the covenants and provisions of this Agreement.

## ARTICLE V

### LOAN; PAYMENT PROVISIONS

Section 5.01. Loan of Proceeds. The Issuer agrees, upon the terms and conditions contained in this Agreement and the Indenture, to lend to the Company, the proceeds received by the Issuer from the sale of the Bonds. The Loan shall be made by depositing the proceeds from the initial sale of the Bonds into the Project Fund and the Costs of Issuance Fund in accordance with Section 4.05 of the Indenture. Such proceeds shall be disbursed to or on behalf of the Company as provided in Section 3.02.

Section 5.02. Amounts Payable. The Company hereby agrees to repay the Loan made pursuant to this Agreement by making the following payments:

- (a) The Company shall pay or cause to be paid to the Trustee in immediately available funds for the account of the Issuer for deposit into the Bond Fund on or before any Interest Payment Date for the Bonds or any other date that any payment of interest, premium, if any, or principal is required to be made in respect of the Bonds pursuant to the Indenture or

pursuant to Section 2.01(b)(iii) of the Continuing Covenant Agreement, until the principal of, premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, a sum which, together with any Eligible Funds available for such payment in the Bond Fund, will enable the Trustee to pay the amount due and payable on such date as principal of (whether at maturity or upon redemption or acceleration or otherwise), premium, if any, and interest on the Bonds becomes due and payable, as provided in the Indenture.

It is understood and agreed that all payments due and payable by the Company under this Section 5.02(a) are assigned by the Issuer to the Trustee for the benefit of the Holders. The Company assents to such assignment. The Issuer hereby directs the Company and the Company hereby agrees to pay to the Trustee at the principal corporate trust office of the Trustee all payments due and payable by the Company pursuant to this Section 5.02(a).

(b) The Company also shall pay or cause to be paid the reasonable fees and expenses of the Issuer, the Trustee, the Paying Agent and the Registrar under the Indenture and all other amounts which may be due and payable to the Trustee, Paying Agent or Registrar under Section 7.02 of the Indenture, and the reasonable fees and expenses of the Remarketing Agent and all other amounts which may be payable to the Remarketing Agent under the Remarketing Agreement, such fees and expenses to be paid when due and payable by the Company directly to the Issuer, Trustee, Paying Agent, Registrar and Remarketing Agent, respectively, for their own account. The Company also shall pay (i) to the Bank any amounts owed to the Bank under any Continuing Covenant Agreement and (ii) to the Credit Provider, any amounts owed to the Credit Provider under any Reimbursement Agreement.

(c) The Company also shall pay or cause to be paid when due and payable the reasonable fees and expenses of the Issuer related to the Project and the issuance of the Bonds, including without limitation, reasonable attorneys' fees and expenses.

(d) The Company shall pay or cause to be paid, when due to the Paying Agent, such amounts as shall be necessary to enable the Paying Agent to pay the Purchase Price of Bonds delivered to it for purchase, all as more particularly described in Section 2.06 of the Indenture; provided, however, that the obligation of the Company to make any such payment under this Section 5.02(d) shall be reduced by the amount of moneys available for such payment described in Section 2.06(g)(i) or (ii) of the Indenture.

(e) In the event the Company shall fail to make any of the payments required in this Section 5.02, the item or installment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid.

Section 5.03. *Unconditional Obligations.* The obligation of the Company to make the payments required by Section 5.02 shall be absolute and unconditional. The Company shall pay all such amounts without abatement, diminution or deduction (whether for taxes or otherwise) regardless of any cause or circumstance whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim that the Company may have or assert against the Issuer, the Trustee, the Paying Agent, the Bank or any other Person.

Section 5.04. *Prepayments.* The Company may prepay all or any part of the amounts required to be paid by it under Section 5.02, at the times and in the amounts provided in ARTICLE

XI for redemption of the Bonds, and in any such case, the Company shall cause to be furnished to the Issuer such amounts on or prior to the applicable redemption dates. Prepayment of amounts due hereunder pursuant to this Section 5.04 shall be deposited in the Bond Fund (except such payments specified in Section 5.02(d), which shall be deposited in the Bond Purchase Fund).

Section 5.05. Credits Against Payments. To the extent that principal of, Purchase Price, premium, if any, or interest on the Bonds shall be paid with moneys available under the Credit Facility, if any, from remarketing proceeds (with respect to Purchase Price) or other sources available under the Indenture, the obligation of the Company to make payments required by Section 5.02 shall be satisfied and discharged to the extent of the principal of, Purchase Price, premium, if any, or interest on the Bonds so paid. If the principal of, premium, if any, and interest on the Bonds shall have been paid sufficiently that payment of the Bonds shall have occurred in accordance with ARTICLE V of the Indenture, then the obligations of the Company pursuant to Section 5.02, ipso facto, shall be deemed to have been paid in full, and the Company's obligations under Section 5.02 and this Agreement shall be discharged.

Section 5.06. Initial Credit Facility and Alternate Credit Facility. The Company shall be entitled to provide an Initial Credit Facility and an Alternate Credit Facility under certain circumstances as provided in the Indenture.

Section 5.07. Interest Rate Determination Method. The Company is hereby granted the right to designate from time to time changes in the Interest Rate Determination Method in the manner and to the extent set forth in Section 2.04 of the Indenture.

Section 5.08. Covenant Regarding Short-Term Rate Period and Medium-Term Rate Period. The Company acknowledges and agrees that the Bonds initially shall not be rated by any Rating Agency. Further, the Company acknowledges that in the event that it shall select a Short-Term Rate Period as the Rate Period, it shall be required to provide a Credit Facility in accordance with Section 3.08 of the Indenture. The Company covenants that, in the event that it shall select a Short-Term Rate Period or a Medium-Term Rate Period, it shall amend or cause the amendment of this Agreement and the Indenture, respectively, such that the Bonds shall be rated as investment grade by Moody's, Fitch or S&P, as the case may be.

Section 5.09. Swaps. Subject to the requirements of the Continuing Covenant Agreement, the Company may enter into a Swap relative to its obligation to pay interest under Section 5.02 of this Agreement. The Company shall timely make to the Swap Provider all payments required by the Swap.

## ARTICLE VI

### MAINTENANCE AND TAXES

Section 6.01. Company's Obligations to Maintain and Repair. The Company agrees that during the term of this Agreement it will keep and maintain the Project in good condition, repair and working order, ordinary wear and tear excepted, at its own cost, and will make or cause to be made from time to time all repairs thereto (including external and structural repairs) and renewals and replacements thereto necessary for the operation thereof.

Section 6.02. Taxes and Other Charges. The Company will promptly pay and discharge or cause to be promptly paid and discharged, as the same become due, all taxes, assessments, governmental charges or levies and all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project imposed upon it or in respect of the Project before the same shall become in default, as well as all lawful claims which, if unpaid, might become a lien or charge upon such property and assets or any part thereof, except such that are contested in good faith by the Company for which the Company has maintained adequate reserves satisfactory to the Credit Provider or the Bank, as applicable.

## ARTICLE VII

### INSURANCE, EMINENT DOMAIN AND DAMAGE AND DESTRUCTION

Section 7.01. Insurance. The Company will during the term of this Agreement and at all times while any Bonds are outstanding continuously maintain casualty and liability insurance on the Project in amounts and covering such risks as are customarily insured against by businesses of like size and type, paying as the same become due all premiums in respect thereof. In addition the Company shall comply, or cause compliance, with applicable worker's compensation laws of the State.

Section 7.02. Provisions Respecting Eminent Domain. In case of a taking or proposed taking of all or any part of the Project or any right therein by Eminent Domain, the party hereto upon which notice of such taking is served shall give prompt written notice to the other party and to the Trustee, the Credit Provider, if any, and the Bank, if any. Each such notice shall describe generally the nature and extent of such damage, destruction, taking, loss, proceedings or negotiations.

Section 7.03. Damage and Destruction. If at any time while any of the Bonds are Outstanding, the Project, or any portion thereof, shall be damaged or destroyed by fire, flood, windstorm or other casualty, or title to, or the temporary use of, the Project, or any portion thereof, shall have been taken by the power of Eminent Domain, the Company (unless it shall have exercised its option to prepay all of the Bonds) shall cause the Net Proceeds or an amount equal thereto to be used for the repair, reconstruction, restoration or improvement of the Project or the redemption of the Bonds, or any combination thereof. In case of any damage to or destruction of all or any part of the Project exceeding \$50,000, the Company shall give prompt written notice thereof to the Issuer and the Trustee. Notwithstanding the above, (a) so long as a Credit Facility is outstanding, the Company shall comply with the terms of the Reimbursement Agreement related to the use of Net Proceeds and (b) during any Index Interest Rate Period, the Company shall comply with the terms of the Continuing Covenant Agreement relating to the use of Net Proceeds.

## ARTICLE VIII

### SPECIAL COVENANTS

Section 8.01. Access to the Property and Inspection. The Issuer and the Trustee, and their respective agents and employees, shall have the right, (but not any duty) at all reasonable times during normal business hours of the Company upon the furnishing of reasonable notice to the Company under the circumstances, to enter upon and examine and inspect the Project and to examine and copy the books and records of the Company insofar as such books and records relate to Costs of the Project or the Bond Documents.

Section 8.02. Financial Statements. The Company shall, upon request, deliver to the Trustee and the Issuer as soon as practicable and in any event within 120 days after the end of each Fiscal Year, the financial reports of the Company for such Fiscal Year.

Section 8.03. Further Assurances and Corrective Instruments. Subject to the provisions of the Indenture, the Issuer and the Company agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements and amendments hereto and such further instruments as may reasonably be required for carrying out the intention or facilitating the performance of this Agreement or the transactions contemplated hereby.

The Company shall cause this Agreement, the Security Documents and all necessary Financing Statements to be recorded and filed in such manner and in such places as may be required by law to fully preserve and protect the security of the Holders and the rights of the Trustee and to perfect the security interest created by the Indenture.

Section 8.04. Recording and Filing; Other Instruments. The Company covenants that it will cause continuation statements to be filed as required by law in order fully to preserve and to protect the rights of the Collateral Agent, Trustee or the Issuer in the assignment of certain rights of the Issuer under this Agreement and otherwise under the Indenture and the Security Documents. The Company and the Issuer shall execute and deliver all instruments and shall furnish all information and evidence deemed necessary or advisable in order to enable the Company to fulfill its obligations as provided in this Section 8.04. The Company shall file and re-file and record and re-record or shall cause to be filed and re-filed and recorded and re-recorded all instruments required to be filed and re-filed and recorded or re-recorded and shall continue or cause to be continued the lien of such instruments for so long as any of the Bonds shall be Outstanding.

Section 8.05. Exclusion from Gross Income for Federal Income Tax Purposes of Interest on the Bonds. The Company covenants and agrees that it has not taken and will not take or cause to be taken, and has not omitted and will not omit or cause to be omitted, any action which will result in interest paid on the Bonds being included in gross income of the Holders of the Bonds for the purposes of federal income taxation.

The Company covenants and agrees that it will take or cause to be taken all required actions necessary to preserve the exclusion from gross income for federal income tax purposes of interest on the Bonds; and the Issuer covenants and agrees that it will take or cause to be taken all required actions to preserve the exclusion from gross income for federal income tax purposes of interest on the Bonds; provided that the Issuer has no obligation or responsibility to direct or cause the Company to take any action.

Section 8.06. Indemnification of the Trustee by the Company Against Claims. The Company will pay and discharge and will indemnify and hold harmless the Trustee, and their respective directors, members, officers, employees and agents, from any taxes, assessments, impositions and other charges in respect of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges, are sought to be imposed, the Trustee, as the case may be, will give prompt written notice to the Company; provided, however, that the failure to provide such notice will not relieve the Company of the Company's obligations and liability under this Section 8.06 and will not give rise to any claim against or liability of or the Trustee. The Company shall have the sole right and duty to assume, and

shall assume, the defense thereof, with counsel acceptable to the Person on behalf of whom the Company undertakes a defense, with full power to litigate, compromise or settle the same in its sole discretion.

Section 8.07. Release and Indemnification.

(a) The Company shall at all times protect, indemnify and hold the Bank, and the Trustee, any Credit Provider, and their respective members, directors, officers, employees and agents, harmless against any and all liability, losses, damages, costs, expenses, taxes, causes of action, suits, claims, demands and judgments of any nature arising from or in connection with the Project or the financing of the Project, including, without limitation, all claims or liability resulting from, arising out of or in connection with the acceptance or administration of the Bond Documents or the trusts thereunder or the performance of duties under the Bond Documents or any loss or damage to property or any injury to or death of any Person that may be occasioned by any cause whatsoever pertaining to the Project or the use thereof, including without limitation any lease thereof or assignment of the Company's interest in this Agreement, such indemnification to include the reasonable costs and expenses of defending itself or investigating any claim of liability and other reasonable expenses and attorneys' fees incurred by the Bank, any Credit Provider and the Trustee, and their respective members, directors, officers, employees, attorneys and agents, in connection therewith; provided that the benefits of this Section 8.07 shall not inure to any Person other than the Bank, any Credit Provider, the Trustee, their respective members, directors, officers, employees and agents; and provided further that such loss, damage, death, injury, claims, demands or causes shall not have resulted from the gross negligence or willful misconduct of the Issuer, the Bank, any Credit Provider, the Governing Body, the Trustee or such members, directors, officers, employees, attorneys and agents.

(b) To the fullest extent permitted by law, the Company agrees to indemnify, hold harmless and defend the Issuer, the Governing Body and each of their respective past, present and future officers, members, directors, officials, employees, attorneys and agents (collectively, the "Indemnified Parties"), against any and all losses, damages, claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under or any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

(i) the Bond Documents or the execution or amendment hereof or thereof or in connection with transactions contemplated hereby or thereby, including the issuance, sale or resale of the Bonds;

(ii) the suitability of the Project for financing with Recovery Zone Facility Bonds;

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

(iv) any lien or charge upon payments by the Company to the Issuer and the Trustee hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Issuer or the Trustee in respect of any portion of the Project;

(v) any violation of any Environmental Laws with respect to, or the release of any Hazardous Materials from, the Project or any part thereof;

(vi) the defeasance and/or redemption, in whole or in part, of the Bonds;

(vii) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering statement or disclosure or continuing disclosure document for the Bonds or any of the documents relating to the Bonds, or any omission or alleged omission from any offering statement or disclosure or continuing disclosure document for the Bonds of any material fact necessary to be stated therein in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(viii) any Determination of Taxability, or allegations that interest on the Bonds is taxable or any regulatory audit or inquiry regarding whether interest on the Bonds is taxable; or

(ix) the Trustee's acceptance or administration of the trust of the Indenture, or the exercise or performance of any of its powers or duties thereunder or under any of the documents relating to the Bonds to which it is a party;

except, in the case of the foregoing indemnification of the Indemnified Parties, to the extent such damages are caused by the willful misconduct of such Indemnified Party. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Company, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Company shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Company if in the judgment of such Indemnified Party a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

The obligations of the Company under this Section 8.07 shall survive the termination of this Agreement and the Indenture and the resignation or removal of the Trustee. Notwithstanding any other provision of this Agreement or the Indenture to the contrary, the Company agrees (i) not to assert any claim or institute any action or suit against the Trustee or its employees arising from or in connection with any investment of funds made by the Trustee in good faith as directed by a Company Representative, and (ii) to indemnify and hold the Trustee and its employees harmless against any liability, losses, damages, costs, expenses, causes of action, suits, claims, demands and judgments of any nature arising from or in connection with any such investment.



Section 8.08. Compliance with Laws. The Company agrees to comply with all applicable zoning, planning, building, environmental and other regulations of the Governmental Authorities having jurisdiction over the Project during the Company's operation of the Project.

Section 8.09. Non-Arbitrage Covenant.

(a) The Company and the Issuer covenant that they will (i) not take, or fail to take, any action or make any investment or use of the Bond Proceeds that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and (ii) comply with the requirements of Section 148 of the Code.

(b) In the event that all of the Bond Proceeds, are not expended by the date which is six (6) months following the Issue Date, or if for any other reason a rebate is payable to the United States pursuant to Section 148 of the Code, the Company shall calculate, or cause to be calculated, the Rebate Amount. The Company agrees to pay the amount so calculated, together with supporting documentation, to the Trustee so as to permit the Trustee to pay such rebate to the United States at the times required by the Code. The amount paid by the Company to the Trustee shall be deposited into the Rebate Fund. The Company shall maintain or cause to be maintained records of the determinations of the Rebate Amount, if any, pursuant to this Section 8.09(b) until six (6) years after the retirement of the Bonds. This Section 8.09(b) shall be construed in accordance with Section 148(f) of the Code, including, without limitation, any applicable tax regulations promulgated under the Code. Nothing contained in this Agreement or in the Indenture shall be interpreted or construed to require the Issuer to pay any applicable Rebate Amount, such obligation being the sole responsibility of the Company. The Company shall pay all fees, costs and expenses associated with calculation of the Rebate Amount and upon request from the Issuer provide the Issuer with a copy of such calculation. The Issuer covenants that, if so requested by the Company, it shall execute any form required to be signed by an issuer of tax-exempt bonds in connection with the payment of any rebate or the recovery of overpayment of any rebate amount under the Code (including Internal Revenue Service Form 8038-T and Internal Revenue Form 8038-R). The Company shall supply all information required to be stated in such form and shall prepare such form. Except for the execution and delivery of such form upon timely presentation by the Company, the Issuer shall have no responsibility for such form or the information stated thereon.

Section 8.10. Notice of Determination of Taxability. Promptly after the Company first becomes aware of the occurrence of a Taxable Date or an event that could trigger the occurrence of a Taxable Date, the Company shall give written notice thereof to the Issuer, the Remarketing Agent, the Trustee, the Credit Provider, if any, and during any Index Interest Rate Period, the Bank.

Section 8.11. No Purchase of Bonds by Company or Issuer. During the time a Credit Facility is in effect none of the Company, the Issuer and any Affiliates of any of them shall purchase any of the Bonds from the Remarketing Agent except under the circumstances under which the Remarketing Agent may remarket Bonds to the Company or the Issuer as provided in Section 2.07(d) of the Indenture.

Section 8.12. Maintenance of Existence. The Company agrees that it will maintain its organizational existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, except in strict compliance with the terms of any Reimbursement Agreement or Continuing Covenant Agreement. If no Credit Facility or Continuing Covenant

Agreement is in effect, the Company agrees that it will (i) continue to be a California corporation either organized under the laws of the State or duly qualified to do business as a foreign organization in the State, (ii) maintain its organizational existence, (iii) not dissolve or otherwise dispose of all or substantially all of its assets, and (iv) not consolidate with or merge into another Person or permit one or more Persons to consolidate with or merge into it; provided, that the Company may, without violating the foregoing, consolidate with or merge into another Person, or permit one or more Persons to consolidate with or merge into it, or transfer all or substantially all of its assets to another such Person (and thereafter dissolve or not dissolve, as the Company may elect) if the Person surviving such merger or resulting from such consolidation, or the Person to which all or substantially all of the assets of the Company are transferred, as the case may be:

(i) is the Company or another corporation, limited liability company or other business entity organized under the laws of the United States of America, or any state, district or territory thereof, and qualified to do business in the State;

(ii) shall expressly in writing assume all of the obligations of the Company contained in this Agreement; and

(iii) has a consolidated tangible net worth (after giving effect to such consolidation, merger or transfer) of not less than the consolidated tangible net worth of the Company and its consolidated subsidiaries immediately prior to such consolidation, merger or transfer;

provided, that no Event of Default has occurred and is continuing hereunder.

The term “consolidated tangible net worth,” as used in this Section 8.12, shall mean the difference obtained by subtracting total consolidated liabilities (not including as a liability any capital or surplus item) from total consolidated tangible assets of the Company and all of its consolidated subsidiaries, computed in accordance with generally accepted accounting principles. Prior to any such consolidation, merger or transfer the Trustee shall be furnished a certificate from the chief financial officer of the Company or his/her deputy stating that in the opinion of such officer none of the covenants in this Agreement or in any of the other Bond Documents will be violated as a result of said consolidation, merger or transfer.

Section 8.13. *Company Approval of Indenture.* The Company understands that the Issuer will, pursuant to the Indenture and as security for the payment of the principal of, premium, if any, and the interest on the Bonds, assign and pledge to the Trustee for the benefit of the Holders, and create a security interest in favor of the Trustee for the benefit of the Holders in certain of its rights, title and interest in and to this Agreement (including all payments hereunder) reserving, however, the Reserved Rights; and the Company hereby agrees and consents to such assignment and pledge. The Company acknowledges that it has received a copy of the Indenture for its examination and review. By its execution of this Agreement, the Company acknowledges that it has approved, has agreed to and is bound by the provisions of the Indenture. The Company agrees that the Trustee shall be entitled to enforce and to benefit from the terms and conditions of this Agreement that relate to it notwithstanding the fact that it is not a signatory hereto.

Section 8.14. *Duties and Obligations.* The Company covenants and agrees that it will fully and faithfully perform all the duties and obligations that the Issuer has covenanted and agreed in the Indenture to cause the Company to perform and any duties and obligations that the Company is

required in the Indenture to perform. The foregoing shall not apply to any duty or undertaking of the Issuer that by its nature cannot be delegated or assigned.

Section 8.15. *Notice of Certain Acquisitions of Control.* The Company hereby covenants to provide or cause to be provided written notice to the Trustee, the Remarketing Agent and the Holders, at least 30 days prior, where reasonable, and not more than 30 days subsequent to the consummation of any transaction that would result in the Company controlling or being controlled by the Credit Provider, if any. The Company acknowledges that the foregoing sentence supersedes any exemptions from the continuing disclosure requirement pursuant to the Rule (as defined in Section 8.16).

Section 8.16. *Continuing Disclosure.* The Company hereby covenants and agrees that on or before any conversion of the Interest Rate Determination Method, the Company shall provide to the Trustee, the Issuer and the Remarketing Agent at least two (2) Business Days prior to the proposed Conversion Date, either (a) a copy of a continuing disclosure agreement imposing obligations upon the Company, the Trustee or any other responsible party to comply with the requirements of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule"), with respect to the Bonds, together with such disclosure documents as the Remarketing Agent shall require in order to comply with the Rule, if the Rule will be applicable upon such conversion, or (b) an opinion of counsel that, notwithstanding such conversion, the Rule will not be applicable to the Bonds as of and after the Conversion Date.

## ARTICLE IX

### ASSIGNMENT, LEASE AND SALE

Section 9.01. *Restrictions on Transfer of Issuer's Rights.* The Issuer agrees that, except for the assignment of certain of its rights, title and interests under this Agreement to the Trustee pursuant to the applicable provisions herein and in the Indenture, it will not during the term of this Agreement sell, assign, transfer or convey its rights, title and interests in this Agreement except as provided in Section 9.02.

Section 9.02. *Assignment by the Issuer.* It is understood, agreed and acknowledged that the Issuer, as security for payment of the principal of and premium, if any, and interest on the Bonds, will assign to the Trustee pursuant to the Indenture, among other things, all of its rights, title and interests in and to this Agreement (reserving, however, its Reserved Rights). The Company consents to such assignment and agrees that the Trustee shall be entitled to enforce this Agreement directly against the Company as a third party beneficiary hereof.

Section 9.03. *Assignment of Agreement by the Company or Lease or Sale of Project.* All or a portion of the rights, duties and obligations of the Company under this Agreement may be assigned by the Company and the Project may be leased or sold as a whole or in part by the Company, without having to obtain the consent of the Issuer or the Trustee; provided that unless permitted in the immediately succeeding sentence, the Company shall not be released from its obligations hereunder in connection with any such assignment, lease or sale. Upon the assignment of all of the Company's rights, duties and obligations under this Agreement or the lease or sale of the Project as a whole, the Trustee may execute a release of the Company from its obligations hereunder and under the Security Documents and all references to the "Company" in this Agreement, the Security Documents, the Indenture and the Bonds shall mean the assignee, lessee or purchaser if (i) such assignee; lessee or

purchaser assumes the Company's obligations hereunder in writing; (ii) such assignee, lessee or purchaser has a consolidated tangible net worth (after giving effect to such assignment, lease or sale) of not less than the consolidated tangible net worth of the Company and its consolidated subsidiaries immediately prior to such assignment, lease or sale; (iii) no Event of Default has occurred and is continuing hereunder; and (iv) the Credit Provider, if any, and the Bank, if any, have consented in writing to such release. Prior to any assignment, lease or sale pursuant to this Section 9.03, the Company shall have caused to be delivered to the Issuer, the Trustee, the Credit Provider, if any, and during any Index Interest Rate Period, the Bank, an Opinion of Counsel issued by Bond Counsel, satisfactory in form and substance to each of them, to the effect that such assignment, lease or sale (and release, if applicable) will not cause interest on the Bonds to be includable in the gross income of the Holders thereof for purposes of federal income taxation. For purposes of this Section 9.03, the term "consolidated tangible net worth" shall have the same meaning given such term in Section 8.12 hereof.

## ARTICLE X

### EVENTS OF DEFAULT AND REMEDIES

Section 10.01. Events of Default Defined. The term "Event of Default" shall mean any one or more of the following events:

- (a) Failure by the Company to make any payment required to be paid pursuant to Section 5.02;
- (b) The occurrence of an Event of Default under the Indenture or the Security Documents;
- (c) Any representation by or on behalf of the Company contained in this Agreement or in any instrument furnished in compliance with or in reference to this Agreement or the Indenture proves false or misleading in any material respect as of the date of the making or furnishing thereof;
- (d) Failure by the Company to observe or perform any of its other covenants, conditions, payments or agreements under this Agreement (other than as referred to in Sections 10.01(a) or 10.01(b)) for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to the Company by the Issuer or the Trustee, unless the Issuer and the Trustee shall agree in writing to an extension of such time prior to its expiration;
- (e) The Company shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, assignee, sequestrator, trustee, liquidator or similar official of the Company or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other federal or state law relating to bankruptcy, insolvency, reorganization, arrangement, winding-up or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against the

Company in an involuntary case under the Bankruptcy Code, or (vii) take any corporate action for the purpose of effecting any of the foregoing;

(f) A proceeding or case shall be commenced, without the application or consent of the Company, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, arrangement, dissolution, winding-up or composition or adjustment of debts of the Company, (ii) the appointment of a trustee, receiver, custodian, assignee, sequestrator, liquidator or similar official of the Company or of all or any substantial part of its assets, or (iii) similar relief in respect of the Company under any law relating to bankruptcy, insolvency, reorganization, arrangement, winding-up or composition or adjustment of debts and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of 90 days from the commencement of such proceeding or case or the date of such order, judgment or decree, or an order for relief against the Company shall be entered in an involuntary case under the Bankruptcy Code;

(g) Receipt by the Trustee of written notice from the Bank that an Event of Default has occurred and is existing under the Continuing Covenant Agreement (which Event of Default may include one or more of the events described above regardless of notice or opportunity to cure), together with written instructions to the Trustee to declare an Event of Default under this Agreement; or

(h) Receipt by the Trustee of written notice from the Credit Provider that an Event of Default has occurred and is existing under any Reimbursement Agreement (which Event of Default may include one or more of the events described above regardless of notice or opportunity to cure), together with written instructions to the Trustee to declare an Event of Default under this Agreement..

Section 10.02. *Remedies on Default.* Upon the occurrence of an Event of Default under this Agreement, the Trustee may, with the consent of the Credit Provider (if any) and the Bank (if any), and shall, if acceleration of the principal amount of the Bonds has been declared pursuant to Section 6.02 of the Indenture, take any one or more of the following actions:

(a) By written notice declare all payments hereunder immediately due and payable, whereupon the same shall become immediately due and payable without presentment, demand, protest or any other notice whatsoever, all of which are hereby expressly waived by the Company.

(b) Cause the Collateral Agent to exercise all rights which it may possess pursuant to the Security Documents.

Moneys realized upon any such exercise of rights, pursuant to the Security, Intercreditor and Collateral Agency Agreement, shall be delivered to the Trustee for deposit in the Bond Fund for payment as provided in the Indenture.

The exercise of any rights by the Collateral Agent for the benefit of Trustee pursuant to the Security Documents shall not operate to release the Company from any payments to be made or covenants to be performed under this Agreement during the full term of this Agreement.

(c) Take whatever other action at law or in equity may appear necessary or desirable to collect the amounts payable pursuant hereto then due and thereafter to become due or to enforce the performance and observance of any obligation, agreement or covenant of the Company under this Agreement, including the making of any drawing under the Credit Facility, if any.

In the enforcement of the remedies provided in this Section 10.02, the Issuer and the Trustee may treat all reasonable expenses of enforcement, including, without limitation, legal, accounting and advertising fees and expenses, as additional amounts payable by the Company then due and owing. The determination to take, or not to take, any action or other remedial measure or to exercise any remedy or commence any proceeding or forego, waive or rescind any of the foregoing shall be made pursuant to and in accordance with the provisions of Section 6.04 of the Indenture and any applicable provisions of the Security, Intercreditor and Collateral Agency Agreement and any Reimbursement Agreement or Continuing Covenant Agreement.

Section 10.03. *Application of Amounts Realized in Enforcement of Remedies.* Any amounts collected from the Collateral Agent pursuant to action taken under Section 10.02 shall be paid to the Trustee and applied in accordance with Section 6.07 of the Indenture.

Section 10.04. *No Remedy Exclusive.* No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon an Event of Default under this Agreement shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 10.05. *Agreement to Pay Attorneys' Fees and Expenses.* Upon the occurrence of an Event of Default under this Agreement, if the Issuer or the Trustee employs attorneys or incurs other expenses for the collection of amounts payable hereunder or for the enforcement of the performance or observance of any covenants or agreements on the part of the Company herein contained, whether or not suit is commenced, the Company agrees that it will on demand therefor pay to the Issuer or the Trustee or any combination thereof, as the case may be, the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Issuer or the Trustee.

Section 10.06. *Issuer and Company to Give Notice of Default.* The Issuer and the Company severally covenant that they will, at the expense of the Company, promptly give to the Trustee, the Remarketing Agent, the Paying Agent, the Credit Provider, if any, during any Index Interest Rate Period, the Bank, and to each other, written notice of any Event of Default under this Agreement of which they shall have actual knowledge or written notice, but the Issuer shall not be liable for failing to give such notice.

## ARTICLE XI

### PREPAYMENTS; PURCHASE OF BONDS

Section 11.01. *Optional Prepayments.*

(a) The Company shall have, and is hereby granted, the option to prepay the unpaid principal amount of the Loan in whole, together with interest thereon to the date of redemption of the Bonds, at any time by taking, or causing the Issuer to take, the actions required by the Indenture for the redemption of all Bonds then Outstanding, upon the occurrence of any of the events set forth in Section 2.18(b) of the Indenture, but subject to the provisions of the Continuing Covenant Agreement during any Index Interest Rate Period.

(b) The Company shall have, and is hereby granted, the option to prepay all or any portion of the unpaid principal amount of the Loan, together with interest thereon to the date of redemption of the Bonds, at any time by taking, or causing the Issuer to take, the actions required by the Indenture (i) to discharge the lien thereof through the redemption, or provision for payment of redemption of all Bonds then Outstanding or (ii) to effect the redemption, or provision for payment or redemption, of less than all Bonds then Outstanding, in each case, pursuant to Section 2.18(a) of the Indenture.

(c) To make a prepayment pursuant to this Section 11.01, the Company shall give written notice not less than 60 days (unless a shorter notice period is agreed to by all parties) from the date any Bonds are to be redeemed from such prepayment to the Issuer, the Trustee, the Registrar and during any Index Interest Rate Period, the Bank, which shall specify therein the principal amount to be prepaid and the date or dates on which the prepayment is to occur. All such prepayments shall be in the amount of the unpaid amount hereunder if made pursuant to Section 11.01(a) or in the amount of an Authorized Denomination if made pursuant to Section 11.01(b) and the Company shall furnish additional funds, if necessary, to make such prepayments in such amounts. In addition, the Company shall make such additional payments as shall be necessary to pay any redemption premium on the Bonds in connection with such redemption.

Section 11.02. *Optional Purchase of Bonds.* Subject to the terms of the Indenture regarding the use of Eligible Funds, the Company may at any time, and from time to time, furnish moneys to the Remarketing Agent accompanied by a notice directing such moneys to be applied to the purchase of Bonds delivered for purchase pursuant to the terms thereof, which Bonds shall be delivered to the Trustee for cancellation or for registration of transfer to the Company in accordance with Section 2.08 of the Indenture. The Company shall deliver to the Credit Provider, if any, a copy of any such notice.

Section 11.03. *Prepayment to Include Fees and Expenses.* Any prepayment under this ARTICLE XI shall also include any expenses of prepayment, as well as all expenses and costs provided for herein. In addition, on or before the date that prepayment under this Article is made by the Company, the Company shall have paid any amounts required to be paid in connection with such redemption pursuant to any Continuing Covenant Agreement, Reimbursement Agreement, or to any Swap Provider.

Section 11.04. *Purchase of Bonds.*

(a) In consideration of the issuance of the Bonds by the Issuer, but for the benefit of the Holders, the Company has agreed, and does hereby covenant, to cause the necessary arrangements to be made and to be thereafter continued whereby the Holders from time to time may deliver, or may be required to deliver Bonds for purchase and whereby such Bonds shall be so purchased. In furtherance of the foregoing covenant of the Company, the Issuer, at the request of the Company, has

set forth in the Bonds the terms and conditions relating to the delivery of Bonds by the Holders thereof for purchase, has set forth in the Indenture the duties and responsibilities of the Remarketing Agent with respect to the purchase and remarketing of Bonds and has therein provided for the appointment of the Remarketing Agent.

Without limiting the generality of the foregoing covenant of the Company, and in consideration of the Issuer's having set forth in the Bonds and the Indenture the aforesaid provisions, the Company covenants, for the benefit of the Holders, to provide for arrangements to pay, or cause to be paid, such amounts as shall be necessary to effect the payment of the Purchase Price of Bonds delivered for purchase, all as more particularly described in the Indenture.

(b) Notwithstanding the provisions of Section 11.04(a), the obligations of the Company under Section 11.04(a) with respect to the purchase of Bonds shall be terminated on the date the Bonds begin to bear interest at the Fixed Rate in accordance with the Indenture.

(c) In furtherance of the obligations of the Company under Section 11.04(a), the Company may provide for the payment of its obligations under such Section 11.04(a) by the delivery of a Credit Facility simultaneously with the conversion of the Interest Rate Determination Method for Bonds to a Rate requiring or permitting a Credit Facility under the terms of the Indenture. In order to implement such undertaking of the Company, the Issuer, at the direction of the Company, has set forth in the Indenture the terms and conditions relating to drawings under the Credit Facility to provide moneys for the purchase of Bonds. The Company hereby authorizes and directs the Trustee to draw moneys under the Credit Facility, if any, in accordance with the provisions of the Indenture to the extent necessary to provide moneys payable under Section 2.07 of the Indenture if and when due.

(d) The Issuer shall have no obligation or responsibility, financial or otherwise, with respect to the purchase of Bonds or the making or continuation of arrangements therefor other than as expressly set forth in Section 11.04(a), except that the Issuer shall generally cooperate with the Company and the Remarketing Agent as contemplated in Section 2.07 of the Indenture.

## ARTICLE XII

### MISCELLANEOUS

Section 12.01. *Amounts Remaining in Funds.* Subject to the provisions of Article V of the Indenture and as provided in Article IV of the Indenture, it is agreed by the parties hereto that amounts remaining in the Bond Fund, the Project Fund, the Surplus Fund or the Bond Purchase Fund upon expiration or earlier termination of this Agreement, as provided in this Agreement, after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) and all other amounts owing hereunder and under the Indenture, shall be paid (a) first, (i) during any Index Interest Rate Period, to the Bank, if there is any amount then owing from the Company to the Bank under the Continuing Covenant Agreement, or (ii) to the Credit Provider, if a Credit Facility is in effect and there is any amount then owing by the Company to the Credit Provider under such Credit Facility, and (b) second, after all amounts payable under paragraph (a) have been paid, to the Company by the Trustee.

Section 12.02. *No Implied Waiver.* In the event any provision of this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the



particular breach so waived and shall not be deemed to waive any other breach thereunder or hereunder.

Section 12.03. Issuer Representative. Whenever under the provisions of this Agreement the approval of the Issuer is required or the Issuer is required to take some action at the request of the Company, such approval shall be made or such action shall be taken by the Issuer Representative, and the Company and the Trustee shall be authorized to rely on any such approval or action.

Section 12.04. Notices. Notice under this Agreement shall be given in accordance with Section 9.04 of the Indenture.

Section 12.05. Issuer, Governing Body, Members, Commissioners, Directors, Officers, Agents and Employees of Issuer and Governing Body Not Liable. To the extent permitted by law, no recourse shall be had for the enforcement of any obligation, promise or agreement of the Issuer contained herein or in the other Bond Documents to which the Issuer is a party or for any claim based hereon or thereon or otherwise in respect hereof or thereof against the Issuer, the Governing Body, any member, commissioner, director, officer, agent or employee, as such, in his/her individual capacity, past, present or future, of the Issuer, the Governing Body, or of any successor entity, either directly or through the Issuer, the Governing Body or any successor entity, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise. No personal liability whatsoever shall attach to, or be incurred by, any member, commissioner, director, officer, agent or employee, as such, in his/her individual capacity, past, present or future, of the Issuer, the Governing Body, or of any successor entity, either directly or through the Issuer, the Governing Body or any successor entity, under or by reason of any of the obligations, promises or agreements entered into between the Issuer and the Company, whether herein contained or to be implied herefrom as being supplemental hereto; and all personal liability of that character against every such member, commissioner, director, officer, agent or employee is, by the execution of this Agreement and as a condition of, and as part of the consideration for, the execution of this Agreement, expressly waived and released.

Notwithstanding any other provision of this Agreement, the Issuer shall not be liable to the Company or the Trustee or any other person for any failure of the Issuer to take action under this Agreement unless the Issuer (a) is requested in writing by an appropriate person to take such action, (b) is assured of payment of, or reimbursement for, any reasonable expenses in such action, and (c) is afforded, under the existing circumstances, a reasonable period to take such action. In acting under this Agreement, or in refraining from acting under this Agreement, the Issuer may conclusively rely on the advice of its counsel.

Section 12.06. No Liability of Issuer; No Charge Against Issuer's Credit. Any obligation of the Issuer created by, arising out of, or entered into in contemplation of this Agreement, including the Bonds, shall not impose a debt or pecuniary liability upon the Issuer, the State or any political subdivision thereof or constitute a charge upon the general credit or taxing powers of any of the foregoing. The Issuer has no taxing power. Any such obligation shall be payable solely out of the Trust Estate, including revenues and any other moneys derived hereunder and under the Indenture and the Credit Facility, except (as provided in the Indenture and in this Agreement) to the extent it shall be paid out of moneys attributable to the Bond Proceeds.

The principal of, premium, if any, the Purchase Price and interest on the Bonds shall be payable solely from the funds pledged for their payment in accordance with the Indenture, including from payments made pursuant to the Credit Facility, if any.

Section 12.07. *Electronic Signatures.* The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or “printouts,” if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, “electronic signature” means a manually signed original signature that is then transmitted by electronic means; “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a “pdf” (portable document format) or other replicating image attached to an e-mail message; and, “electronically signed document” means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

Section 12.08. *If Performance Date Not a Business Day.* If the last date for performance of any act or the exercising of any right, as provided in this Agreement, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day.

Section 12.09. *Binding Effect.* This Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Company, and their respective successors and assigns and shall inure to the benefit of the Credit Provider, if any, and the Bank as provided in Section 4.02, and their respective successors and assigns. No assignment of this Agreement by the Company shall relieve the Company of its obligations hereunder, except in accordance with Sections 9.03 and 9.04.

Section 12.10. *Severability.* In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 12.11. *Amendments, Changes and Modifications.* Subsequent to the issuance of the Bonds and prior to payment of the Bonds, this Agreement may not be effectively amended, changed, modified, altered or terminated except in accordance with the Indenture.

Section 12.12. *Execution in Counterparts.* This Agreement may be executed in several counterparts, each of which, taken together, shall be an original and all of which shall constitute but one and the same instrument.

Section 12.13. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State. Any action arising under this Agreement shall be filed and maintained in Los Angeles County, California, unless the Issuer waives this requirement.

[Remainder of page intentionally left blank]



In Witness Whereof, the Issuer and the Company have caused this Agreement to be executed in their respective legal names as of the date first above written.

LOS ANGELES COUNTY REGIONAL  
FINANCING AUTHORITY

By: \_\_\_\_\_  
[Name]  
Chair

LOS ANGELES COUNTY FAIR ASSOCIATION

By: \_\_\_\_\_  
[Name]  
Chief Financial Officer

**EXHIBIT A**  
**DESCRIPTION OF THE PROJECT**