
TRUST INDENTURE

Between

**CITY OF SAN JOSE,
as Issuer**

and

**WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Trustee**

Relating to

**[\$[SERIES A-1 PAR]
CITY OF SAN JOSE
MULTIFAMILY HOUSING REVENUE BONDS
(TAYLOR OAKS APARTMENTS), SERIES 2011A-1**

AND

**[\$[SERIES A-2 PAR]
CITY OF SAN JOSE
MULTIFAMILY HOUSING REVENUE BONDS
(TAYLOR OAKS APARTMENTS), SERIES 2011A-2**

Dated as of September 1, 2011

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TRUST INDENTURE

THIS TRUST INDENTURE (this “**Indenture**”), is made and entered into as of September 1, 2011, by and between the CITY OF SAN JOSE (the “**Issuer**”), a municipal corporation and chartered city, duly organized and existing under the Constitution and laws of the State of California (the “**State**”), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, organized and operating under the laws of the United States of America and authorized to accept and execute trusts of the character herein set out, having a corporate trust office in Los Angeles, California, as trustee (the “**Trustee**”). Capitalized terms are defined in Section 1.01 of this Indenture.

RECITALS

WHEREAS, Pursuant to Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State (the “**Act**”) and this Indenture, the Issuer has determined to issue its Multifamily Housing Revenue Bonds (Taylor Oaks Apartments), Series 2011A-1 (the “**Series A-1 Bonds**”) in the original principal amount of \$[SERIES A-1 PAR] and its Multifamily Housing Revenue Bonds (Taylor Oaks Apartments), Series 2011A-2 (the “**Series A-2 Bonds**” and together with the Series A-1 Bonds, the “**Bonds**”) in the original principal amount of \$[SERIES A-2 PAR] to provide for the financing of a multifamily rental housing development located at 2726-2738 Kollmar Drive in San José, California, known as Taylor Oaks Apartments (the “**Project**”).

WHEREAS, Pursuant to a Financing Agreement dated as of the date hereof (the “**Financing Agreement**”) among the Issuer, Taylor Oaks Apartments Investors, L.P., a limited partnership duly organized and existing under the laws of the State of California (the “**Borrower**”), and the Trustee, the Issuer has agreed to use the proceeds derived from the sale of Bonds to make a mortgage loan in the principal amount of \$[PAR AMOUNT] (the “**Bond Mortgage Loan**”) to the Borrower in connection with the Project.

WHEREAS, The Borrower has agreed to use the proceeds of the Bond Mortgage Loan to finance the acquisition and rehabilitation of the Project.

WHEREAS, The Borrower’s repayment obligations in respect of the Bond Mortgage Loan will be evidenced by a Bond Mortgage Note dated September [], 2011 (together with all riders and addenda thereto, the “**Bond Mortgage Note**”) delivered to the Issuer.

WHEREAS, The Borrower will cause to be delivered to the Trustee on the date of initial issuance of the Bonds (the “**Delivery Date**”) a direct pay Credit Enhancement Agreement dated as of the date hereof (the “**Credit Enhancement Agreement**”) between the Federal Home Loan Mortgage Corporation (“**Freddie Mac**”) and the Trustee which will provide for draws in an amount equal to Guaranteed Payments with respect to the Bond Mortgage Loan.

WHEREAS, The Borrower’s reimbursement obligations to Freddie Mac for draws made under the Credit Enhancement Agreement will be evidenced by a Reimbursement and Security Agreement dated as of the date hereof (the “**Reimbursement Agreement**”) between the Borrower and Freddie Mac.

WHEREAS, To secure the Borrower’s obligations under the Bond Mortgage Note, the Borrower will execute and deliver to the Issuer a First Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date hereof (the “**Bond**

Mortgage") with respect to the Project.

WHEREAS, To secure the Borrower's reimbursement obligations under the Reimbursement Agreement, the Borrower will execute and deliver to Freddie Mac a Second Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date hereof (the "**Reimbursement Mortgage**") with respect to the Project.

WHEREAS, The Issuer will assign the Bond Mortgage Note and the Bond Mortgage to the Trustee and Freddie Mac, as the respective interests of the Trustee and Freddie Mac may appear, under and subject to the terms of the Intercreditor Agreement (defined below).

WHEREAS, To further secure Freddie Mac against any loss Freddie Mac may incur as a result of advancing funds under the Credit Enhancement Agreement, and to facilitate the financing of the Bond Mortgage Loan, during the Construction Phase, Citibank, N.A. (the "**Construction Lender**"), at the request of the Borrower, will (a) make a conventional construction loan to Borrower (the "**Construction Loan**") pursuant to the terms and subject to the conditions of a Construction Loan Agreement dated as of the date hereof (the "**Construction Loan Agreement**"), (b) enter into a Letter of Credit and Reimbursement Agreement dated as of the date hereof (the "**Construction Phase Credit Reimbursement Agreement**") with the Borrower and (c) enter into a Construction Phase Financing Agreement dated as of the date hereof (the "**Construction Phase Financing Agreement**") with Freddie Mac and Citibank, N.A. (the "**Servicer**").

WHEREAS, The Construction Lender will advance proceeds of the Construction Loan, in accordance with the terms of the Construction Loan Agreement and the Construction Phase Financing Agreement, to the Borrower (i) to pay Costs of the Project, (ii) to reimburse Freddie Mac for draws made upon the Credit Facility for the payment of accrued and unpaid interest on the Bond Mortgage Loan, and (iii) to pay any regular, ongoing fees due and payable to the Issuer, the Trustee and Freddie Mac and, prior to the Trustee's receipt of a Direction to Release, to the Trustee, for the benefit of Freddie Mac, for deposit into the Freddie Mac Collateral Fund, as and to the extent necessary, to assure that, at all times during the Construction Phase, the sum of (a) amounts deposited and held in the Project Account of the Bond Mortgage Loan Fund plus (b) amounts deposited and held in the Freddie Mac Collateral Fund (disregarding any investment earnings thereon), is equal to an amount not less than the Construction Phase Collateral Requirement.

WHEREAS, Subject to the terms and conditions of the Construction Phase Credit Reimbursement Agreement and the Construction Phase Financing Agreement, the Construction Lender, in the future, but no later than [_____], shall issue to Freddie Mac of a clean, unconditional, irrevocable and transferrable standby letter of credit (the "**Construction Phase Credit Facility**") in an amount equal to the Construction Phase Collateral Requirement and, upon receipt of the Construction Phase Credit Facility and the accompanying opinion letter, Freddie Mac shall issue a Direction to Release.

WHEREAS, During the Construction Phase, the Construction Lender shall serve as the construction loan administrator and be responsible for providing inspection oversight of the Project, including monitoring of disbursement of the Bond Mortgage Loan proceeds to the Borrower, in accordance with the terms of this Indenture, the Construction Loan Agreement, the Construction Phase Credit Reimbursement Agreement and the Construction Phase Financing Agreement.

WHEREAS, If the Notice of Conversion is issued prior to the Forward Commitment Maturity Date, the Bond Mortgage Loan will convert from the Construction Phase to the Permanent Phase.

WHEREAS, If the Notice of Conversion is not issued on or prior to the Forward Commitment Maturity Date (a) Conversion will not occur, (b) the Bonds will be subject to mandatory redemption, in whole, unless the Bonds are purchased by or for the account of the Construction Lender in accordance with Section 3.08 hereof, and (c) the Credit Enhancement Agreement will terminate.

WHEREAS, During the Permanent Phase, the Servicer will act as servicer for the Bond Mortgage Loan.

WHEREAS, The Issuer, the Trustee, Freddie Mac and the Construction Lender have also entered into an Intercreditor Agreement dated as of the date hereof (the "**Intercreditor Agreement**") in connection with Freddie Mac's delivery of the Credit Enhancement Agreement to the Trustee and the Construction Lender's making of the Construction Loan to the Borrower and subsequently issuing the Construction Phase Credit Facility to Freddie Mac.

WHEREAS, The Issuer has determined that all things necessary to make the Bonds, when executed by the Issuer and authenticated by the Trustee and issued in accordance with this Indenture, the valid, binding and legal obligations of the Issuer and to constitute this Indenture a valid lien on the properties, interests, revenues and payments herein pledged to the payment of the principal of, premium, if any, and interest on, the Bonds, have been duly taken, and the creation, execution and delivery of this Indenture and the execution and delivery of the Bonds, subject to the terms of this Indenture, have been duly authorized by the Issuer.

WHEREAS, The Trustee has trust powers and the power and authority to enter into this Indenture, to accept trusts generally and to accept and execute the trust created by this Indenture; the Trustee has accepted the trust so created and, to evidence such acceptance, has joined in the execution of this Indenture.

NOW, THEREFORE, the Issuer, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the holders and owners thereof, and for other good and valuable consideration, the receipt of which is hereby acknowledged, to secure the payment of the principal of, premium, if any, and interest on the Bonds according to their tenor and effect, the payment to Freddie Mac of the Freddie Mac Reimbursement Amount and the Freddie Mac Credit Enhancement Fee (as such terms are hereinafter defined) in accordance with the provisions hereof and of the Credit Enhancement Agreement and the Reimbursement Agreement, or the payment of amounts due and owing to any other Credit Facility Provider following termination of the Credit Enhancement Agreement, and the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Bonds, does hereby grant, bargain, sell, convey, pledge and assign a security interest, unto the Trustee, and its successors in trust and its and their assigns in and to the following (said property being herein referred to as the "**Trust Estate**"), to wit:

GRANTING CLAUSE FIRST

All right, title and interest of the Issuer in and to all Revenues.

GRANTING CLAUSE SECOND

All right, title and interest of the Issuer in and to the Financing Agreement, the Bond Mortgage Note, the Bond Mortgage (other than the Unassigned Rights) and the Credit Facility, including all extensions and renewals of the terms thereof, if any, including, but without limiting the generality of the foregoing, the present and continuing right to receive, receipt for, collect or make claim for any of the money, income, revenues, issues, profits and other amounts payable or receivable thereunder (including all casualty insurance benefits or condemnation awards subject to the interest of the Credit Facility Provider under the Reimbursement Agreement and the Intercreditor Agreement), whether payable under the above-referenced documents or otherwise, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the Issuer or any other Person is or may become entitled to do under said documents.

GRANTING CLAUSE THIRD

Except for funds, money or securities in the Cost of Issuance Fund, the Administration Fund, the Borrower Equity Account, the Credit Facility Reimbursement Fund, the Freddie Mac Collateral Fund and the Rebate Fund, all funds, money and securities and any and all other rights and interests in property whether tangible or intangible from time to time hereafter by delivery or by writing of any kind, conveyed, mortgaged, pledged, assigned or transferred as and for additional security hereunder for the Bonds by the Issuer or by anyone on its behalf or with its written consent to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD, all the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee and its successors in said trust and to them and their assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all Holders of the Bonds issued under and secured by this Indenture without privilege, priority or distinction as to lien or otherwise of any of the Bonds over any of the other Bonds, except as set forth in this Indenture, and for the benefit, security and protection of the Credit Facility Provider to the extent of its interests hereunder and under the Reimbursement Agreement and the Intercreditor Agreement;

PROVIDED, HOWEVER, that if the Issuer or its successors or assigns shall pay or cause to be paid to the Holders of the Bonds the principal, interest and premium, if any, to become due thereon at the times and in the manner provided in Article IX hereof and shall discharge or cause to be discharged any and all obligations to the Credit Facility Provider hereunder and under the Reimbursement Agreement, and if the Issuer shall keep, perform and observe, or cause to be kept, performed and observed, all of its covenants, warranties and agreements contained herein, then these presents and the estate and rights hereby granted shall, at the option of the Issuer, cease, terminate and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture and execute and deliver to the Issuer such instruments in writing as shall be requisite to satisfy the lien hereof, and, subject to the provisions of Sections 4.09, 4.11 and 4.12 hereof and Article IX hereof, reconvey to the Issuer the estate hereby conveyed, and assign and deliver to the Issuer any property at the time subject to the lien of this Indenture which may then be in its possession, except for the Rebate Fund and cash held by the Trustee for the payment of interest on and principal of the Bonds or for payment of amounts payable to the Credit Facility Provider; otherwise this Indenture to be

and remain in full force and effect and upon the trusts and subject to the covenants and conditions hereinafter set forth.

AND IT IS HEREBY COVENANTED AND AGREED by and between the parties hereto, that the terms and provisions upon which the Bonds are to be issued, executed, authenticated, delivered and secured, and the trusts and conditions upon which the Trust Estate is to be held and disposed of, which said trusts and conditions the Trustee hereby accepts and agrees to discharge, are as follows (except that in the performance of the agreements of the Issuer herein contained, any obligation it may thereby incur for the payment of money shall not be a general obligation of the Issuer nor a debt or pledge of the faith and credit of the Issuer or the State, but shall be payable solely from the revenues and funds pledged for its payment in accordance with this Indenture):

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The terms used in this Indenture (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified below:

“*Act*” means Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State.

“*Actual Bond Mortgage Loan Amount*” means the amount of the Bond Mortgage Loan that shall be outstanding on the Conversion Date as determined by Freddie Mac in accordance with the Construction Phase Financing Agreement.

“*Administration Fund*” means the Administration Fund established by the Trustee pursuant to Section 4.01 hereof.

“*Alternate Credit Facility*” means a letter of credit, surety bond, insurance policy, standby purchase agreement, guaranty, mortgage-backed security or other credit facility, collateral purchase agreement or similar agreement issued by a financial institution (including without limitation Freddie Mac) which provides security for the payment of (a) the principal of and interest on the Bonds (but in no case less than all of the Outstanding Bonds when due) or (b) the Bond Mortgage Loan in an amount not less than the Guaranteed Payment, which Alternate Credit Facility is provided in accordance with Section 5.4 of the Financing Agreement.

“*Alternate Credit Facility Provider*” means the provider of an Alternate Credit Facility.

“*Authorized Denomination*” means \$5,000 principal amount or any integral multiple thereof within a series and maturity.

“*Authorized Officer*” means (a) when used with respect to the Issuer, each of the City Manager, the Debt Administrator, the Director of Housing, the Director of Finance, the Assistant Director of Finance and the Treasury Division Manager of the Issuer and such additional Person or Persons, if any, duly designated by the Issuer in writing to act on its behalf, (b) when used with respect to the Borrower, any [] of the Borrower and such additional Person or Persons, if any, duly designated by the Borrower in writing to act on its behalf, (c) when used with respect to the Trustee, any authorized signatory of the Trustee, or any Person who is authorized in writing to take the action in question on behalf of the Trustee, (d) when used with respect to the Servicer, any Person or Persons duly designated by the Servicer in writing to act on its behalf, (e) when used with respect to the Credit Facility Provider, any Person who is authorized in writing to take the action in question on behalf of the Credit Facility Provider and (f) prior to Conversion, when used with respect to the Construction Lender, any person who is authorized in writing to take the action in question on behalf of the Construction Lender.

“*Bankruptcy Code*” means Title 11 of the United States Code entitled “Bankruptcy,” as now and hereafter in effect, or any successor federal statute.

“*Bond Counsel*” means (a) on the Delivery Date, the law firm or law firms delivering the approving opinion(s) with respect to the Bonds, or (b) any other firm of attorneys selected by the

Issuer that is experienced in matters relating to the issuance of obligations by states and their political subdivisions that is listed as municipal bond attorneys in The Bond Buyer's Municipal Marketplace and is acceptable to the Credit Facility Provider.

"Bond Fee Component" means the regular, ongoing fees due from time to time to the Issuer, the Trustee, the Dissemination Agent, the Custodian and the Rebate Analyst, if any, expressed as a flat, fixed amount or in terms of a percentage of the principal amount of Outstanding Bonds (including Purchased Bonds) on an annual basis.

"Bond Financing Documents" means, collectively, this Indenture, the Bonds, the Financing Agreement, the Tax Regulatory Agreement, the Tax Certificate, the Continuing Disclosure Agreement and any Bond Mortgage Loan Documents not otherwise included in the foregoing list of documents.

"Bond Fund" means the Bond Fund established by the Trustee pursuant to Section 4.01 hereof.

"Bond Mortgage" means the First Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date hereof, together with all riders and addenda thereto, granting a first priority mortgage and security interest in the Project to the Issuer to secure the repayment of the Bond Mortgage Loan which Bond Mortgage has been assigned by the Issuer to the Trustee and Freddie Mac, as the respective interest of the Trustee and Freddie Mac may appear, under and subject to the terms and conditions of the Intercreditor Agreement, as the same may be amended, supplemented or restated.

"Bond Mortgage Loan" means the loan made by the Issuer to the Borrower in the original principal amount of \$[PAR AMOUNT] pursuant to the Financing Agreement.

"Bond Mortgage Loan Documents" means the Bond Mortgage, the Bond Mortgage Note, the Financing Agreement, the Tax Regulatory Agreement, any Custodial Escrow Agreement, the Credit Facility, the Reimbursement Agreement, the Reimbursement Mortgage, the Intercreditor Agreement, the Pledge Agreement and any and all other instruments and other documents evidencing, securing, or otherwise relating to the Bond Mortgage Loan or any portion thereof, or evidencing, securing or otherwise relating to the Borrower's obligations to the Credit Facility Provider in connection with the delivery of the Credit Facility.

"Bond Mortgage Loan Fund" means the Bond Mortgage Loan Fund established by the Trustee pursuant to Section 2.11 hereof.

"Bond Mortgage Note" means the Bond Mortgage Note dated the Delivery Date from the Borrower, including all riders and addenda thereto, evidencing the Borrower's obligation to repay the Bond Mortgage Loan, as the same may be amended, supplemented or restated from time to time, which Bond Mortgage Note will be delivered to the Issuer and assigned by the Issuer to the Trustee and Freddie Mac, as the respective interest of the Trustee and Freddie Mac may appear, under and subject to the terms and conditions of the Intercreditor Agreement.

"Bond Register" means the books or other records maintained by the Bond Registrar setting forth the registered Holders from time to time of the Bonds.

"Bond Registrar" means the Trustee acting as such, and any other bond registrar appointed pursuant to this Indenture.

“Bond Resolution” means the resolution adopted by the Issuer authorizing the issuance of the Bonds.

“Bond Year” means, with respect to an issue of Bonds, each one-year period that ends at the close of business on the day in the calendar year that is selected by Borrower as indicated in the Tax Certificate. The first and last Bond Years may be short periods. If no day is selected by Borrower before the earlier of the final maturity of an issue of Bonds or the date that is five years after the Delivery Date of such issue of Bonds, each Bond Year ends on each anniversary of the Delivery Date for such issue of Bonds and on the final maturity of such issue of Bonds.

“Bondholder” or *“Holder”* or *“Owner”* means any Person who shall be the registered owner of any Outstanding Bond or Bonds.

“Bonds” means, collectively, the Series A-1 Bonds and the Series A-2 Bonds.

“Borrower” means Taylor Oaks Apartments Investors, L.P., a limited partnership duly organized and existing under the laws of the State of California, or any of its permitted successors or assigns, as owner of the Project.

“Borrower Default” has the meaning given to that term in the Construction Phase Financing Agreement.

“Borrower Equity Account” means the Borrower Equity Account of the Bond Mortgage Loan Fund established by the Trustee pursuant to Section 2.11 hereof.

“Borrower Equity Deposit” means \$[_____], which shall be comprised of sources other than the proceeds of the Bonds.

“Business Day” means (1) any day other than (a) a Saturday, (b) a Sunday, (c) a day on which the Federal Reserve Bank of New York (or other agent acting as the Credit Facility Provider’s fiscal agent identified to the Trustee) is authorized or obligated by law or executive order to remain closed, (d) a day on which the Principal Office of the Credit Facility Provider or the Construction Lender is closed, or (2) a day on which (i) banking institutions in the City of New York or in the city in which the Principal Office of the Trustee, the Credit Facility Provider or the Construction Lender is located are authorized or obligated by law or executive order to be closed or (ii) the New York Stock Exchange is closed.

“Certificate of the Issuer” and *“Request of the Issuer”* mean, respectively, a written certificate or request signed in the name of the Issuer by an Authorized Officer of the Issuer or such other Person as may be designated and authorized to sign for the Issuer. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

“Code” means the Internal Revenue Code of 1986 and the regulations promulgated thereunder.

“Commitment” means the forward commitment from Freddie Mac to the Servicer pursuant to which Freddie Mac has agreed to provide credit enhancement for the Bond

Mortgage Loan, as the same may be amended, modified or supplemented from time to time.

“Conditions to Conversion” means the conditions set forth in Exhibit B to the Construction Phase Financing Agreement.

“Construction Lender” means Citibank, N.A., a national banking association, organized and operating under the laws of the United States of America as provider of the Construction Loan or the Construction Phase Credit Facility, as applicable, and its permitted successors and assigns.

“Construction Lender Default” has the meaning given to that term in the Construction Phase Financing Agreement.

“Construction Loan” means the conventional construction loan made by the Construction Lender to the Borrower, the proceeds of which shall be advanced, in accordance with the terms of the Construction Loan Agreement and the Construction Phase Financing Agreement, to the Borrower (i) to pay Costs of the Project, (ii) to reimburse Freddie Mac for draws made upon the Credit Facility for the payment of accrued and unpaid interest on the Bond Mortgage Loan, and (iii) to pay any regular, ongoing fees due and payable to the Issuer, the Trustee and Freddie Mac and, prior to the Trustee’s receipt of a Direction to Release, to the Trustee, for the benefit of Freddie Mac, for deposit into the Freddie Mac Collateral Fund, as and to the extent necessary, to assure that, at all times during the Construction Phase, the sum of (a) amounts deposited and held in the Project Account of the Bond Mortgage Loan Fund plus (b) amounts deposited and held in the Freddie Mac Collateral Fund (disregarding any investment earnings thereon), is equal to an amount not less than the Construction Phase Collateral Requirement or any replacement construction loan acceptable to the Credit Facility Provider.

“Construction Loan Advance” means an advance on the Construction Loan made by the Construction Lender to or on behalf of the Borrower in the aggregate principal amount of not to exceed \$[_____].

“Construction Loan Agreement” means the Construction Loan Agreement between the Borrower and the Construction Lender, as such agreement may be amended, modified, supplemented or restated from time to time.

“Construction Loan Documents” means, individually and collectively, the Construction Phase Financing Agreement, the Construction Loan Agreement, the Construction Phase Credit Reimbursement Agreement, the Construction Phase Credit Facility (if applicable) and all other documents evidencing, securing or otherwise relating to the Construction Loan or the Construction Phase Credit Facility, as applicable, including all amendments, modifications, supplements and restatements of such documents.

“Construction Phase” has the meaning given to that term in the Construction Phase Financing Agreement.

“Construction Phase Collateral Requirement” means \$[_____].

“Construction Phase Credit Facility” means the Letter of Credit or any replacement construction phase credit facility acceptable to the Credit Facility Provider.

“Construction Phase Credit Reimbursement Agreement” means the Letter of Credit and

Reimbursement Agreement between the Borrower and the Construction Lender, as such agreement may be amended, modified, supplemented or restated from time to time.

“Construction Phase Financing Agreement” means the Construction Phase Financing Agreement dated as of the date hereof, by and among Freddie Mac, the Construction Lender and the Servicer, as such agreement may be amended, modified, supplemented or restated from time to time.

“Conversion” means the conversion of the Bond Mortgage Loan from the Construction Phase to the Permanent Phase.

“Conversion Date” means the date specified as such by the Servicer in the Notice of Conversion, which date shall be at least ten (10) days following the date on which the Notice of Conversion is delivered and shall be any Business Day of a month.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement dated September [], 2011 between the Borrower and the Dissemination Agent, as such Continuing Disclosure Agreement may from time to time be amended or supplemented.

“Cost,” “Costs” or “Costs of the Project” means costs paid with respect to the Project that (i) are properly chargeable to capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general federal income tax principles and in accordance with United States Treasury Regulations Section 1.103-8(a)(1), (ii) are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code, (iii) are paid after the earlier of 60 days prior to the date of a resolution of the Issuer to reimburse costs of the Project with proceeds of Bonds or the date of issue of the Bonds, and (iv) if the Costs of the Project were previously paid and are to be reimbursed with proceeds of the Bonds such costs were (A) costs of issuance of the Bonds, (B) preliminary capital expenditures (within the meaning of United States Treasury Regulations Section 1.150-2(f)(2)) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition or rehabilitation of the Project that do not exceed twenty percent (20%) of the issue price of the Bonds (as defined in United States Treasury Regulations Section 1.148-1), or (C) were capital expenditures with respect to the Project that are reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three (3) years after the expenditure is paid); provided however, that if any portion of the Project is being constructed or developed by the Borrower or an Affiliate (whether as a developer, a general contractor or a subcontractor), *“Cost,” “Costs” or “Costs of the Project”* shall include only (a) the actual out-of-pocket costs incurred by the Borrower or such Affiliate in developing or constructing the Project (or any portion thereof), (b) any reasonable fees for supervisory services actually rendered by the Borrower or such Affiliate (but excluding any profit component) and (c) any overhead expenses incurred by the Borrower or such Affiliate which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the rehabilitation of the Project or payments received by such Affiliate due to early completion of the Project (or any portion thereof).

“Cost of Issuance Fund” means the Cost of Issuance Fund established by the Trustee pursuant to Section 4.01 hereof.

“Costs of Issuance” means (i) the fees (excluding ongoing fees), costs and expenses of (a) the Issuer, the Issuer’s counsel and the Issuer’s financial advisor, (b) the Underwriter (including discounts to the Underwriter or other purchasers of the Bonds, other than original issue discount, incurred in the issuance and sale of the Bonds) and the Underwriter’s counsel, (c) Bond Counsel, (d) the Trustee and the Trustee’s counsel, (e) the Servicer and the Servicer’s counsel, (f) the Credit Facility Provider and the Credit Facility Provider’s counsel, (g) Borrower’s counsel attributable to the issuance of the Bonds and the Borrower’s financial advisor, if any, (h) the Construction Lender and the Construction Lender’s counsel and (i) the Rating Agency, (ii) costs of printing the offering documents relating to the sale of the Bonds and (iii) all other fees, costs and expenses directly associated with the authorization, issuance, sale and delivery of the Bonds, including, without limitation, printing costs, costs of reproducing documents, filing and recording fees.

“Costs of Issuance Deposit” means the deposit to be made by the Borrower with the Trustee on the Delivery Date, which deposit shall equal \$[] and shall be comprised of sources other than the proceeds of the Bonds.

“Credit Enhancement Agreement” means the Credit Enhancement Agreement dated as of the date hereof between Freddie Mac and the Trustee, as such Credit Enhancement Agreement may from time to time be amended or supplemented.

“Credit Facility” means the Credit Enhancement Agreement or any Alternate Credit Facility at that time in effect.

“Credit Facility Account” means the Credit Facility Account of the Revenue Fund established by the Trustee pursuant to Section 4.01 hereof.

“Credit Facility Interest Reimbursement Account” means the Credit Facility Interest Reimbursement Account of the Credit Facility Reimbursement Fund established by the Trustee, for the benefit of Freddie Mac, pursuant to Section 4.01 hereof.

“Credit Facility Principal Reimbursement Account” means the Credit Facility Principal Reimbursement Account of the Credit Facility Reimbursement Fund established by the Trustee, for the benefit of Freddie Mac, pursuant to Section 4.01 hereof.

“Credit Facility Provider” means, so long as the Credit Enhancement Agreement is in effect, Freddie Mac, or so long as any Alternate Credit Facility is in effect, the Credit Facility Provider then obligated under the Alternate Credit Facility.

“Credit Facility Reimbursement Fund” means the Credit Facility Reimbursement Fund established by the Trustee, for the benefit of Freddie Mac, pursuant to Section 4.01 hereof.

“Custodial Escrow Account” means, collectively, the account or accounts established and held by the Servicer from and after the Conversion Date in accordance with the Guide or otherwise, for the purpose of funding (a) escrows for taxes, insurance and related payments and costs, if required by the Credit Facility Provider, (b) a reserve for replacements for the Project, if required by the Credit Facility Provider, and (c) a debt service reserve for the Bond Mortgage Loan, if required by the Credit Facility Provider.

“Custodial Escrow Agreement” means any agreement (which agreement may be the Guide or the Commitment as applicable) pursuant to which a Custodial Escrow Account is

established and maintained.

“*Custodian*” means Wells Fargo Bank, National Association, not in its individual capacity but solely in its capacity as collateral agent for the Credit Facility Provider under the Pledge Agreement, and any successor in such capacity.

“*Delivery Date*” means September [], 2011, the date of initial delivery of the Bonds to the initial purchasers thereof against payment therefor.

“*Direction to Draw*” has the meaning given to that term in the Construction Phase Financing Agreement.

“*Direction to Release*” means a written direction to be delivered by Freddie Mac to the Trustee directing the Trustee to release the amounts on deposit in the Freddie Mac Collateral Fund to the Construction Lender, on behalf of the Borrower, for the purpose of repaying the Construction Loan or reimbursing the Construction Lender for any amounts which the Construction Lender is owed under the Construction Loan Documents.

“*Dissemination Agent*” means initially Wells Fargo Bank, National Association, or any dissemination agent subsequently appointed in accordance with the Continuing Disclosure Agreement.

“*Dissemination Agent’s Fee*” means the annual or semi-annual fees to the Dissemination Agent as compensation for the Dissemination Agent’s services under the Continuing Disclosure Agreement, which fee(s) shall not exceed \$[] during any twelve month period.

“*DTC*” means The Depository Trust Company, New York, New York, as initial Securities Depository for the Bonds pursuant to Section 2.12 hereof or its successors.

“*Electronic Notice*” means delivery of notice in a Word format or a Portable Document Format (PDF) by electronic mail to the electronic mail addresses listed in Section 11.05 hereof; provided, that if a sender receives notice that the electronic mail is undeliverable, notice must be sent as otherwise required by Section 11.05 hereof.

“*Eligible Funds*” means (a) proceeds received pursuant to the Credit Facility, (b) proceeds of the Bonds received contemporaneously with the issuance and sale of the Bonds (including any Bond proceeds deposited to the Project Account of the Bond Mortgage Loan Fund on the Delivery Date), (c) proceeds from the investment or reinvestment of money described in clauses (a) and (b) above, or (d) money delivered to the Trustee and accompanied by a written opinion of nationally recognized counsel experienced in bankruptcy matters to the effect that if the Borrower, any general partner, member or guarantor of the Borrower, or the Issuer were to become a debtor in a proceeding under the Bankruptcy Code (i) payment of such money to holders of the Bonds would not constitute a voidable preference under Section 547 of the Bankruptcy Code and (ii) the automatic stay provisions of Section 362(a) of the Bankruptcy Code would not prevent application of such money to the payment of the Bonds.

“*Event of Default*” or “*event of default*” means any of those events specified in and defined by the applicable provisions of Article VI hereof to constitute an event of default.

“*Extraordinary Services*” means and includes, but not by way of limitation, services, actions and things carried out and all expenses incurred by the Trustee, including in its capacity

as Paying Agent and Bond Registrar, in respect of or to prevent default under this Indenture or the Bond Mortgage Loan Documents, including any reasonable attorneys' or agents' fees and expenses and other litigation costs that are entitled to reimbursement under the terms of the Financing Agreement, and other actions taken and carried out by the Trustee which are not expressly set forth in this Indenture or the Bond Mortgage Loan Documents.

"Extraordinary Servicing Fees and Expenses" means all fees and expenses of the Servicer under the Guide during any Bond Year in excess of Ordinary Servicing Fees and Expenses.

"Extraordinary Trustee's Fees and Expenses" means all those fees, expenses and disbursements earned or incurred by the Trustee as described under Section 7.06 hereof during any Bond Year for Extraordinary Services, as set forth in a detailed invoice to the Borrower and the Credit Facility Provider.

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

"Financing Agreement" means the Financing Agreement dated as of the date hereof among the Borrower, the Issuer and the Trustee, as such Financing Agreement may from time to time be amended or supplemented.

"Forward Commitment Maturity Date" means [_____], unless extended by Freddie Mac in accordance with the Freddie Mac Commitment and the Guide.

"Freddie Mac" means the Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise organized and existing under the laws of the United States of America, and its successors and assigns.

"Freddie Mac Collateral Fund" means the Freddie Mac Collateral Fund established by the by the Trustee, for the benefit of Freddie Mac, pursuant to Section 4.01 hereof.

"Freddie Mac Credit Enhancement Fee" shall have the meaning given to that term in the Reimbursement Agreement.

"Freddie Mac Credit Enhancement Payment" shall have the meaning given to that term in the Credit Enhancement Agreement.

“Freddie Mac Reimbursement Amount” shall have the meaning given to that term in the Reimbursement Agreement.

“General Account” means the General Account of the Revenue Fund established by the Trustee pursuant to Section 4.01 hereof.

“Government Obligations” means investments meeting the requirements of clause (a) or (b) of the definition of “Qualified Investments” herein.

“Guaranteed Payment” means the amount required to be paid to the Trustee pursuant to the Credit Facility, provided that so long as the Credit Enhancement Agreement is the Credit Facility, “Guaranteed Payment” shall have the meaning given to that term in the Credit Enhancement Agreement.

“Guide” means the Freddie Mac Delegated Underwriting for Targeted Affordable Housing Guide and Freddie Mac Multifamily Seller/Service Guide (as applicable), as the same may be amended, modified or supplemented from time to time.

“Indenture” means this Trust Indenture, as the same may have been from time to time amended or modified, together with any other indentures supplemental hereto.

“Information Service” means in accordance with then-current guidelines of the Securities and Exchange Commission, the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934, or any successor entity or entities designated by the Securities and Exchange Commission.

“Initial Construction Loan Advance” means the initial advance on the Construction Loan made by the Construction Lender to the Trustee, on behalf of Borrower and for the benefit of Freddie Mac, for deposit into the Freddie Mac Collateral Fund on the Delivery Date, in the amount of \$[_____].

“Intercreditor Agreement” means the Intercreditor Agreement dated as of the date hereof among the Issuer, the Trustee, Freddie Mac and the Construction Lender, as the same may be amended or supplemented.

“Interest Payment Date” means **[confirm]** (i) April 1 and October 1 of each year, commencing [April 1, 2012], (ii) for Bonds subject to redemption but only with respect to such Bonds, the date of redemption (or purchase in lieu of redemption), and (iii) the Maturity Date.

“Investment Income” means the earnings and profits derived from the investment of money pursuant to Section 4.08 hereof.

“Investment Policy” means the City of San José’s Investment Policy, as previously adopted and as most recently amended by the City Council of the City of San José prior to the Delivery Date, and as may hereafter be amended or revised.

“Issuer” means City of San José, a municipal corporation and chartered city, duly organized and existing under the Constitution and laws of the State of California.

“Issuer Fee” means the Issuer’s annual fee with respect to the Bonds in the amount as set forth in Section 7(a) of the Tax Regulatory Agreement and in accordance with and pursuant

to the provisions of the Financing Agreement and the Tax Regulatory Agreement.

“Letter of Credit” means the clean unconditional, irrevocable and transferrable standby letter of credit to be issued and delivered to, and for the sole benefit of, Freddie Mac by the Construction Lender in accordance with the terms of the Construction Phase Financing Agreement, together with any amendment delivered with respect to such letter of credit.

“Loan Differential” means the difference between the original principal amount of the Bond Mortgage Loan made to the Borrower pursuant to the Financing Agreement and the Actual Bond Mortgage Loan Amount, as determined by Freddie Mac in its sole discretion.

“Loan Equalization Payment” means a mandatory prepayment of the Bond Mortgage Loan at the discretion of Freddie Mac so as to cause a partial redemption of the Bonds on or prior to the Conversion Date in an amount equal to the Loan Differential.

“Market Risk Event” means (a) legislation enacted by the Congress, (b) a final non-appealable decision rendered by a court established under Article III of the Constitution of the United States of America, or the United States Tax Court, or (c) an order, ruling or regulation issued by the United States Department of the Treasury or the Internal Revenue Service, with the purpose or effect, directly or indirectly, of causing interest received by any Bondholder (other than a Bondholder who is a “substantial user” of the Project or a “related person” of a substantial user (each within the meaning of Section 147(a) of the Code)) to be included in the gross income of such Bondholder for purposes of federal income taxation.

“Maturity Date” means the maturity date of the Bonds set forth in Section 2.01(c) hereof.

“Moody’s” means Moody’s Investors Service, Inc., its successors and assigns, if such successors and assigns continue to perform the services of a securities rating agency.

“Net Proceeds” when used with respect to any insurance or condemnation award, means the proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all reasonable expenses incurred in the collection of such insurance proceeds or condemnation award, including reasonable attorneys’ fees.

“Notice of Conversion” means a written notice to be delivered not less than ten (10) days prior to the Conversion Date by the Servicer to the Issuer, the Trustee, the Borrower, the Construction Lender and Freddie Mac (i) stating that the Conditions to Conversion have been satisfied on or before the Forward Commitment Maturity Date or, if any Condition to Conversion has not been satisfied on or before the Forward Commitment Maturity Date, stating that such Condition to Conversion has been waived in writing by Freddie Mac (if a waiver is permitted) on or before the Forward Commitment Maturity Date, and (ii) confirming the Conversion Date.

“Official Statement” means the Official Statement dated September [], 2011, relating to the sale and issuance of the Bonds, as the same may be supplemented or amended.

“Ordinary Servicing Fees and Expenses” means the ordinary fees payable to the Servicer in connection with the servicing of the Bond Mortgage Loan under the Guide, payable monthly in arrears as provided in the Reimbursement Agreement.

“Ordinary Trustee’s Fees and Expenses” means the annual administration fee for the Trustee’s ordinary fees and expenses in rendering its services under this Indenture during each

twelve month period, which fee is equal to (and shall not exceed) \$[_____] and shall be payable [semi-]annually [in arrears on] [in advance on the Delivery Date and] each [_____] and] [_____] [commencing [_____]][thereafter].

“Outstanding” when used with respect to the Bonds or “Bonds Outstanding” means, as of any date, all Bonds that have been duly authenticated and delivered by the Trustee under this Indenture, except:

(a) Bonds surrendered and replaced upon exchange or transfer, or cancelled because of payment or redemption, at or prior to such date;

(b) Bonds for the payment, redemption or purchase for cancellation of which sufficient money has been deposited prior to such date with the Trustee (whether upon or prior to the maturity, amortization or redemption date of any such Bonds), or which are deemed to have been paid and discharged pursuant to the provisions of Section 9.01 hereof; provided that if such Bonds are to be redeemed prior to the maturity thereof, other than by scheduled amortization, notice of such redemption shall have been given or arrangements satisfactory to the Trustee shall have been made therefor, or waiver of such notice satisfactory in form to the Trustee shall have been filed with the Trustee; and

(c) Bonds in lieu of which others have been authenticated (or payment, when due, of which is made without replacement) under Section 2.07 hereof; and also except that

(d) For the purpose of determining whether the holders of the requisite amount of Bonds Outstanding have made or concurred in any notice, request, demand, direction, consent, approval, order, waiver, acceptance, appointment or other instrument or communication under or pursuant to this Indenture, Bonds known to the Trustee to be owned by or for the account of the Borrower or any Person owned, controlled by, under common control with or controlling the Borrower shall be disregarded and deemed to be not Outstanding, unless all Bonds shall be so owned, and provided that the Trustee has knowledge of the foregoing; provided, further, that all Purchased Bonds shall be deemed to be Outstanding, and the Trustee shall follow any direction provided by the Credit Facility Provider with respect to Purchased Bonds for the purposes hereof (Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee shall establish, to the satisfaction of the Trustee, the pledgee’s right to vote such Bonds, and in the event of a dispute as to the existence of such right, any decision by the Trustee taken upon the advice of counsel shall constitute full protection to the Trustee). The term “control” (including the terms “controlling”, “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise. Beneficial ownership of 5% or more of a class of securities having general voting power to elect a majority of the board of directors of a corporation shall be conclusive evidence of control of such corporation.

“Paying Agent” means the Trustee acting as such, or any other paying agent appointed pursuant to this Indenture.

“Permanent Phase” has the meaning given to that term in the Construction Phase Financing Agreement.

“Person” means an individual, a corporation, a partnership, an association, a joint stock company, a joint venture, a trust, an unincorporated association, a limited liability company or a government or any agency or political subdivision thereof, or any other organization or entity (whether governmental or private).

“Pledge Agreement” means that certain Pledge, Security and Custody Agreement dated as of the date hereof by and among Freddie Mac, the Custodian and the Borrower, as originally executed or as modified or amended from time to time, together with any similar agreement executed in connection with an Alternate Credit Facility, as originally executed or as amended or modified from time to time.

“Principal Office of the Construction Lender” means the office of the Construction Lender referenced in Section 11.05(a) hereof or such other office or offices as the Construction Lender may designate from time to time.

“Principal Office of the Credit Facility Provider” means (i) so long as Freddie Mac is the Credit Facility Provider, the office of Freddie Mac located at 8100 Jones Branch Drive, McLean, Virginia 22102, or such other office or offices as Freddie Mac may designate in writing from time to time, or (ii) the office of any Alternate Credit Facility Provider where it principally conducts its business of serving as credit facility provider under indentures pursuant to which municipal or governmental obligations are issued, or such other office or offices as the Alternate Credit Facility Provider may designate from time to time.

“Principal Office of the Trustee” means the office of the Trustee referenced in Section 11.05(a) hereof, or such other office or offices as the Trustee may designate in writing from time to time, or the office of any successor Trustee where it principally conducts its business of serving as trustee under indentures pursuant to which municipal or governmental obligations are issued.

“Project” means, collectively, the land and residential rental apartment units, and related fixtures, equipment, furnishings and site improvements known as Taylor Oaks Apartments located at 2726-2738 Kollmar Drive in San José, California, including the real estate described in the Bond Mortgage.

“Project Account” means the Project Account of the Bond Mortgage Loan Fund established by the Trustee pursuant to Section 2.11 hereof.

“Purchase Price” means, with respect to any Bond to be purchased pursuant to Section 3.06 hereof, the principal amount of such Bond plus any redemption premium due thereon plus interest accrued thereon to the Settlement Date.

“Purchased Bond” means any Bond during the period from and including the date of its purchase by the Trustee on behalf of the Borrower pursuant to Section 3.06 hereof with amounts provided by the Credit Facility Provider under the Credit Facility, to, but excluding, the date on which such Bond is (a) transferred pursuant to and in accordance with Section 3.06 hereof or (b) redeemed or otherwise cancelled.

“Purchased Bonds Account” means the Purchased Bonds Account of the Bond Fund established by the Trustee pursuant to Section 4.01 hereof.

“Qualified Investments” means any of the following, only if and to the extent permitted by law for the investment of moneys of the Issuer and conforming to the Investment Policy, except as such other investments shall have been approved by the Issuer in connection with the issuance and delivery of the Bonds: (a) direct and general obligations of the United States of America; (b) obligations of any agency or instrumentality of the United States of America the payment of the principal of and interest on which are unconditionally guaranteed by the full faith and credit of the United States of America; (c) senior debt obligations of Freddie Mac; (d) senior debt obligations of Fannie Mae; (e) demand deposits or time deposits with, or certificates of deposit issued by, the Trustee or its affiliates or any bank organized under the laws of the United States of America or any state or the District of Columbia which has combined capital, surplus and undivided profits of not less than \$50,000,000; provided that the Trustee or such other institution has been rated at least “VMIG-1”/“A-1+” by Moody’s/S&P which deposits or certificates are fully insured by the Federal Deposit Insurance Corporation or collateralized pursuant to the requirements of the Office of the Comptroller of the Currency; (f) investment agreements with Freddie Mac or a bank or any insurance company or other financial institution which has a rating assigned by Moody’s/S&P to its outstanding long-term unsecured debt which is the highest rating (as defined below) for long-term unsecured debt obligations assigned by Moody’s/S&P, and which are approved by the Credit Facility Provider and the Construction Lender; (g) shares or units in any money market mutual fund rated “Aaa”/“AAA” by Moody’s/S&P (or if a new rating scale is implemented, the equivalent rating category given by the Rating Agency for that general category of security) (including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund receives reasonable compensation therefor) registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of (A) direct obligations of the government of the United States of America, or (B) tax exempt obligations; (h)(i) tax-exempt obligations rated in the highest short term rating category by Moody’s or S&P, or (ii) shares of a tax-exempt municipal money market mutual fund or other collective investment fund registered under the federal Investment Company Act of 1940, whose shares are registered under the federal Securities Act of 1933, having assets of at least \$100,000,000, and having a rating of “Aaa”/“AAA” by Moody’s/S&P (or if a new rating scale is implemented, the equivalent rating category given by the Rating Agency for that general category of security), for which at least 95% of the income paid to the holders on interest in such money market fund will be excludable from gross income under Section 103 of the Code, including money market funds for which the Trustee or its affiliates receive a fee for investment advisory or other services to the fund; or (i) any other investments approved in writing by the Credit Facility Provider and the Construction Lender. For purposes of this definition, the “highest rating” shall mean a rating of at least “VMIG-1”/“A-1+” for obligations with less than one year maturity; at least “Aaa”/“VMIG-1”/“AAA”/“A-1+” for obligations with a maturity of one year or greater but less than three years; and at least “Aaa”/“AAA” for obligations with a maturity of three years or greater. Qualified Investments must be limited to instruments that have a predetermined fixed-dollar amount of principal due at maturity that cannot vary or change and interest, if tied to an index, shall be tied to a single interest rate index plus a single fixed spread, if any, and move proportionately with such index.

“Rating Agency” means each national rating agency then maintaining a rating on the Bonds, or any successor or assign thereof.

“Rebate Analyst” means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code, selected and retained by the Borrower at the expense of the Borrower, with the prior written

consent of the Issuer, to make the computations required under this Indenture and the Financing Agreement.

“Rebate Fund” means the Rebate Fund established by the Trustee pursuant to Section 4.01 hereof.

“Record Date” means the 15th day of the month preceding the month in which any Interest Payment Date falls.

“Redemption Fund” means the Redemption Fund established by the Trustee pursuant to Section 4.01 hereof.

“Reimbursement Agreement” means the Reimbursement and Security Agreement dated as of the date hereof between the Borrower and Freddie Mac, as the same may be amended, supplemented or restated from time to time, and upon the effectiveness of any Alternate Credit Facility, any similar agreement between the Borrower and the Alternate Credit Facility Provider pursuant to which the Borrower agrees to reimburse the Alternate Credit Facility Provider for payments made under the Alternate Credit Facility, as such agreement may be amended, supplemented or restated from time to time.

“Reimbursement Mortgage” means the Second Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date hereof from the Borrower to Freddie Mac, together with all riders and addenda thereto, granting a second priority mortgage and security interest in the Project to Freddie Mac to secure the obligations of the Borrower under the Reimbursement Agreement and all documents related thereto, and upon the effectiveness of any Alternate Credit Facility, any similar mortgage, deed of trust, deed to secure debt, security interest or other lien or encumbrance granting a mortgage and security interest in the Project to the Alternate Credit Facility Provider to secure similar obligations of the Borrower to the Alternate Credit Facility Provider, as the same may be amended, supplemented or restated from time to time.

“Reimbursement Security Documents” has the meaning given to that term in the Reimbursement Agreement.

“Requisition” means, with respect to the Bond Mortgage Loan Fund, the requisition in the form of **Exhibit E** to this Indenture required to be submitted in connection with disbursements from the Project Account and/or the Borrower Equity Account of the Bond Mortgage Loan Fund, and with respect to the Cost of Issuance Fund, the requisition in the form of **Exhibit D** to this Indenture required to be submitted in connection with disbursements from the Cost of Issuance Fund.

“Responsible Officer” means any officer of the Trustee employed within or otherwise having regular responsibility in connection with the corporate trust department of the Trustee and the trusts created hereunder.

“Revenue Fund” means the Revenue Fund established by the Trustee pursuant to Section 4.01 hereof.

“Revenues” means (a) all payments made with respect to the Bond Mortgage Loan pursuant to the Financing Agreement, the Bond Mortgage Note or the Bond Mortgage, including all casualty or other insurance benefits and condemnation awards paid in connection therewith

(subject in all events to the interests of the Credit Facility Provider therein under the terms of the Credit Facility and the Reimbursement Security Documents), (b) payments made by the Credit Facility Provider pursuant to the Credit Facility and (c) all money and securities held by the Trustee in the funds and accounts established pursuant to this Indenture (excluding money or securities designated for deposit into and held in the Cost of Issuance Fund, the Administration Fund, the Borrower Equity Account, the Credit Facility Reimbursement Fund, the Freddie Mac Collateral Fund and the Rebate Fund), together with all investment earnings thereon. Construction Loan Advances shall not constitute Revenues under this Indenture.

“S&P” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business, and its successors and assigns, if such successors and assigns continue to perform the services of a securities rating agency.

“*Securities Depository*” means (a) The Depository Trust Company, 711 Stewart Avenue, Garden City, New York 11530, facsimile: (516) 227-4039 or (516) 227-4190; or (b) any replacement registered securities depository which has been designated in a certificate of the Issuer delivered to the Trustee and the Credit Facility Provider pursuant to Section 2.12 hereof.

“*Series A-1 Bonds*” means the City of San José Multifamily Housing Revenue Bonds (Taylor Oaks Apartments), Series 2011A-1, issued pursuant to the provisions of this Indenture.

“*Series A-2 Bonds*” means the City of San José Multifamily Housing Revenue Bonds (Taylor Oaks Apartments), Series 2011A-2, issued pursuant to the provisions of this Indenture.

“*Servicer*” means the eligible servicing institution designated by Freddie Mac from time to time (which may be Freddie Mac if Freddie Mac elects to service the Bond Mortgage Loan), or its successor, as servicer of the Bond Mortgage Loan. Initially, the Servicer shall be Citibank, N.A.

“*Settlement Date*” means any date on which any Bond is purchased or deemed purchased pursuant to Section 3.06 hereof.

“*Special Purchased Bonds*” has the meaning given to that term in Section 3.08(a) hereof.

“*Special Purchase Date*” has the meaning given to that term in Section 3.08(a) hereof.

“*Special Purchase Price*” has the meaning given to that term in Section 3.08(a) hereof.

“*State*” means the State of California.

“*Substitution Date*” means the date established by the Trustee for the delivery to the Trustee of an Alternate Credit Facility pursuant to the Indenture.

“*Tax Certificate*” means, collectively, the Certificate as to Arbitrage executed by the Issuer and the Borrower on the Delivery Date and the Certificate Regarding Use of Proceeds executed by the Borrower on the Delivery Date.

“*Tax Regulatory Agreement*” means the Regulatory Agreement and Declaration of Restrictive Covenants dated as of September 1, 2011, by and among the Issuer, the Trustee and the Borrower.

“Trustee” means Wells Fargo Bank, National Association, and its successors in trust hereunder.

“Trust Estate” shall have the meaning given to that term in the granting clauses of this Indenture.

“Unassigned Rights” means all of the rights of the Issuer and its directors, officers, commissioners, elected officials, attorneys, accountants, employees, agents and consultants to be held harmless and indemnified, to be paid its fees and expenses, to give or withhold consent to amendments, changes, modifications and alterations, to receive notices and the right to enforce such rights.

Section 1.02. Interpretation. The words “hereof,” “herein,” “hereunder,” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise indicate. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as in effect from time to time. References to Articles, Sections, and other subdivisions of this Indenture are to the designated Articles, Sections and other subdivisions of this Indenture as originally executed. The headings of this Indenture are for convenience only and shall not define or limit the provisions hereof.

Section 1.03. Construction Phase Financing Agreement; Assignment of Rights to Construction Lender.

(a) *Assignment of Rights.* The Issuer and the Trustee acknowledge that, prior to the Conversion Date, and subject to the applicable terms and conditions of the Construction Phase Financing Agreement, the Construction Lender may, by assignment from the Credit Facility Provider, succeed to the interests of the Credit Facility Provider under the Bond Financing Documents and the Bond Mortgage Loan Documents with the authority to exercise the rights otherwise granted to the Credit Facility Provider under the Bond Financing Documents and the Bond Mortgage Loan Documents, subject however, to the provisions of Section 3.08(f) hereof.

(b) *Amounts Owed to Construction Lender.* Any references in this Indenture to amounts owed to the Credit Facility Provider under the Credit Enhancement Agreement shall, on and after the effective date of the assignment referred in Section 1.03(a) hereof, be deemed to refer to amounts owed to the Construction Lender under the Construction Loan Documents.

(c) *Release of Construction Phase Credit Facility.* Notwithstanding any other provision of this Indenture or the other Bond Financing Documents or the Construction Loan Documents to the contrary, the Construction Lender shall be entitled to the release and return of the Construction Phase Credit Facility (if issued and delivered to, and for the sole benefit of, Freddie Mac by the Construction Lender in accordance with the terms of the Construction Phase Financing Agreement) on the Conversion Date.

Section 1.04. Termination of References. All references in this Indenture to the Construction Lender shall be of no force or effect and shall be disregarded for all purposes of this Indenture from and after the Conversion Date or during any period the Construction Lender is in default in the performance of its obligations as and when due under the Construction Phase

Financing Agreement.

ARTICLE II
THE BONDS

Section 2.01. The Bonds.

(a) The Bonds are authorized to be issued hereunder as revenue bonds of the Issuer in accordance with the Bond Resolution. The Series A-1 Bonds shall initially be designated "City of San José Multifamily Housing Revenue Bonds (Taylor Oaks Apartments), Series 2011A-1," and the Series A-2 Bonds shall initially be designated "City of San José Multifamily Housing Revenue Bonds (Taylor Oaks Apartments), Series 2011A-2." The Bonds shall be fully registered as to principal and interest, without coupons, and shall be numbered by series, if any, in the manner and with any additional designation as the Trustee, as Bond Registrar, deems necessary for the purpose of identification. All of the Bonds are equally and ratably secured. Bonds issued on the Delivery Date shall be dated such date; Bonds issued after the Delivery Date shall be dated the date they are authenticated by the Trustee. The Bonds shall be due and payable in full on the Maturity Date.

(b) Interest on the Bonds shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Interest on the Bonds shall be payable on each Interest Payment Date, in each case from the Interest Payment Date next preceding the date of authentication thereof to which interest has been paid or duly provided for, unless the date of authentication is an Interest Payment Date to which interest has been paid or duly provided for, in which case from the date of authentication of the Bond, or unless no interest has been paid or duly provided for on the Bonds, in which case from the Delivery Date, until payment of the principal of the Bond has been made or duly provided for. Notwithstanding the foregoing, if a Bond is authenticated after a Record Date and before the following Interest Payment Date, such Bond shall bear interest from such Interest Payment Date; provided, however, that if there shall be a default in the payment of interest due on such Interest Payment Date, then the Bonds shall bear interest from the next preceding Interest Payment Date to which interest has been paid or duly provided for, or, if no interest has been paid or duly provided for on the Bonds, from the Delivery Date.

(c) The Bonds shall be issued in Authorized Denominations and shall bear interest payable on each Interest Payment Date at the rate(s) per annum and shall mature, subject to redemption prior to maturity as provided in Article III hereof, on the date(s) set forth in the schedule below:

Series A-1 Bonds

[INSERT MATURITY SCHEDULE]

Series A-2 Bonds

[INSERT MATURITY SCHEDULE]

(d) The Person in whose name any Bond is registered on the Record Date with respect to an Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date (unless such Bond has been called for redemption on a redemption date which is prior to such Interest Payment Date) notwithstanding the cancellation of such Bond upon any registration of transfer or exchange thereof subsequent to such Record Date and prior

to such Interest Payment Date; provided, however, that if and to the extent the Issuer shall default in the payment of the interest due on any Interest Payment Date, such defaulted interest shall be paid as provided in the next paragraph.

(e) Any interest on any Bond that is due and payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called “**Defaulted Interest**”) shall forthwith cease to be payable to the person in whose name such Bond is registered on the relevant Record Date and shall be paid in the manner set forth in this paragraph. The Trustee may elect to make payment of any Defaulted Interest to the Persons in whose names the Bonds (or their respective predecessor Bonds) are registered at the close of business on a special record date for the payment of such Defaulted Interest (a “**Special Record Date**”), which shall be fixed in the following manner. The Trustee shall determine the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (a “**Special Interest Payment Date**”), shall fix a Special Record Date for the payment of such Defaulted Interest (which shall be not more than 15 nor less than 10 days prior to the Special Interest Payment Date) and shall cause notice of the Special Record Date and the proposed payment of such Defaulted Interest on the Special Interest Payment Date therefor to be mailed, first class, postage prepaid, to each Bondholder at such Bondholder’s address as it appears in the Bond Register not less than 10 days prior to such Special Record Date; notice of the proposed payment of such Defaulted Interest on the Special Interest Payment Date and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names the Bonds (or their respective predecessor Bonds) are registered on such Special Record Date.

(f) Payment of principal of, premium, if any, and interest on the Bonds shall be paid by check mailed on the Interest Payment Date to the registered Owner thereof at such registered Owner’s address as it appears on the Bond Register on the Record Date. Upon written request of a registered Owner of at least \$1,000,000 in principal amount of Bonds Outstanding received by the Trustee at least five (5) Business Days prior to a Record Date, all payments of principal, premium, if any, and interest on the Bonds, less any reasonable wire transfer fees imposed by the Trustee, shall be paid by wire transfer in immediately available funds to an account within the United States of America designated by such registered Owner.

(g) On or before the date fixed for redemption, money shall be deposited with the Trustee to pay, and the Trustee is hereby authorized and directed to apply such money to the payment of, the Bonds or portions thereof called for redemption, together with accrued interest thereon to the redemption date. CUSIP number identification with appropriate dollar amounts for each CUSIP number must accompany all payments of principal, redemption price, premium, if any, and interest, whether by check or by wire transfer.

(h) No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The total principal amount of Bonds that may be issued hereunder, or in substitution for other Bonds pursuant to Section 2.07 hereof, is expressly limited to \$[PAR AMOUNT].

Section 2.02. Intentionally Omitted.

Section 2.03. Limited Obligations.

(a) Notwithstanding any other provision of this Indenture to the contrary:

(i) the obligations of the Issuer with respect to the Bonds and under this Indenture, the Financing Agreement and the Tax Regulatory Agreement are not general obligations of the Issuer but are limited obligations of the Issuer payable by the Issuer solely from the Trust Estate and are not a debt, or a loan of the credit, of the Issuer, the State or any of its political subdivisions, and the Bonds shall not be construed to create any moral obligation on the part of the Issuer, the State or any political subdivision thereof with respect to the payment thereof; and the Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation; and the issuance of the Bonds shall not directly or indirectly or contingently obligate the Issuer, the State or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, and no Bondholder has the right to compel any exercise of any taxing power of the Issuer or the State;

(ii) nothing contained in the Bonds or in this Indenture shall be considered as assigning or pledging any funds or assets of the Issuer other than the Trust Estate;

(iii) the Bonds shall not be a debt of the State, the Issuer (except to the limited extent set forth in this Indenture) or of any other political subdivision of the State, and none of the State, the Issuer (except to the limited extent set forth in this Indenture) or any other political subdivision of the State shall be liable for the payment of the Bonds;

(iv) none of the faith and credit of the Issuer, the State, or of any other political subdivision of the State are pledged to the payment of the principal or of interest on the Bonds;

(v) no failure of the Issuer to comply with any term, condition, covenant or agreement in this Indenture or in any document executed by the Issuer in connection with the Project, or the issuance, sale and delivery of the Bonds shall subject the Issuer to liability for any claim for damages, costs or other charge except to the extent that the same can be paid or recovered from the Trust Estate;

(vi) the Issuer shall not be required to advance any moneys derived from any source other than the Trust Estate for any of the purposes of this Indenture, any of the other Bond Financing Documents or the Bond Mortgage Loan Documents, whether for the payment of the principal or redemption price of, or interest on, the Bonds, the payment of any fees or administrative expenses or otherwise; and

(vii) neither the Issuer (or any official, employee or member of the governing board thereof) nor any person executing the Bonds is liable personally on the Bonds or subject to any personal liability or accountability by reason of their issuance; and no recourse under, or upon any statement, obligation, covenant, or agreement contained in this Indenture or in any Bond hereby secured, or in the Financing Agreement, or in any document or certification whatsoever, or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, shall be

had against any member of the governing board, officer, employee or agent, as such, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for, or to, the Issuer or any receiver thereof, or for, or to, the holder of any Bond issued hereunder or otherwise, of any sum that may be due and unpaid by the Issuer upon any such Bond; and any and all personal liability of every nature, whether at common law or in equity or by statute or by constitution or otherwise, of any such member of the governing board, officer, employee or agent, as such, to respond by reason of any act or omission on his or her part or otherwise, for the payment for, or to, the Issuer or any receiver thereof, or for, or to, the holder of any Bond issued hereunder or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any of them, is hereby expressly waived and released as an express condition of, and in consideration for, the execution of this Indenture and the issuance of the Bonds.

Anything in this Indenture to the contrary notwithstanding, it is expressly understood by the parties to this Indenture that (a) the Issuer and the Trustee may rely exclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee or any Bondholder as to the existence of any fact or state of affairs, (b) the Issuer shall not be under any obligation under this Indenture to perform any record keeping or to provide any legal services, it being understood that such services shall be performed or caused to be performed by the Trustee or by the Bondholders, and (c) none of the provisions of this Indenture shall require the Issuer or the Trustee to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers under this Indenture, unless it shall first have been adequately indemnified to its satisfaction against any costs, expenses and liability which it may incur as a result of taking such action.

(b) THE BONDS ARE NOT A DEBT OF THE UNITED STATES OF AMERICA, OR ANY AGENCY OF THE UNITED STATES OF AMERICA, OR FREDDIE MAC, AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA OR BY FREDDIE MAC. PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS IS NOT GUARANTEED BY FREDDIE MAC. THE OBLIGATIONS OF FREDDIE MAC UNDER THE CREDIT ENHANCEMENT AGREEMENT ARE OBLIGATIONS SOLELY OF FREDDIE MAC AND ARE NOT BACKED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA.

Section 2.04. Indenture Constitutes Contract. In consideration of the purchase and acceptance of the Bonds issued hereunder by those who shall hold them from time to time, the provisions of this Indenture shall be part of the contract of the Issuer with the Holders of the Bonds and shall be deemed to be a contract between the Issuer and the Holders of the Bonds from time to time.

Section 2.05. Form and Execution. The Bonds shall be in substantially the form attached as Exhibit A, with necessary and appropriate variations, omissions and insertions as are customary, permitted or required by this Indenture. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of any Authorized Officer of the Issuer, and attested by the manual or facsimile signature of its City Clerk or any other Authorized Officer of the Issuer. Any facsimile signatures shall have the same force and effect as if said officers had manually signed the Bonds. Any reproduction of the official seal of the Issuer on the Bonds shall have the same force and effect as if the official seal of the Issuer had been impressed on the Bonds.

In case any officer of the Issuer whose manual or facsimile signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery, and also any Bond may bear the facsimile signatures of, or may be signed by, such Persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

Section 2.06. Authentication. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless a certificate of authentication on such Bond, substantially in the form set forth in **Exhibit A**, shall have been duly executed by an Authorized Officer of the Trustee; and such executed certificate of authentication upon any such Bond shall be conclusive evidence that such Bond has been duly executed, registered, authenticated and delivered under this Indenture. It shall not be necessary that the same Person sign the certificate of authentication on all of the Bonds.

Section 2.07. Mutilated, Lost, Stolen or Destroyed Bonds. In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer shall execute and the Trustee shall authenticate a new Bond of like denomination, interest rate, series, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated Bond or in lieu of and in substitution for such lost, stolen or destroyed Bond, upon payment by the Owner thereof of any applicable tax or governmental charge and the reasonable expenses and charges of the Issuer and the Trustee in connection therewith, and in the case of a Bond lost, stolen or destroyed, the filing with the Trustee of evidence satisfactory to it that such Bond was lost, stolen or destroyed, and of the ownership thereof, and furnishing the Issuer and the Trustee with indemnity satisfactory to each of them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond or Bonds the Issuer may pay the same without surrender thereof.

Section 2.08. Transfer and Exchange of Bonds; Persons Treated as Owners. The Trustee as Bond Registrar shall cause a Bond Register to be kept for the registration of transfers of Bonds. Any Bond may be transferred only upon an assignment duly executed by the registered Owner or such registered Owner's duly authorized representative in such form as shall be satisfactory to the Bond Registrar and upon surrender of such Bond to the Trustee for cancellation. Whenever any Bond or Bonds shall be surrendered for transfer, the Issuer shall execute and the Trustee shall authenticate and deliver to the transferee a replacement fully registered Bond or Bonds, of Authorized Denomination or Denominations and for the amount of such Bond or Bonds so surrendered.

Any Bond may, in accordance with its terms, be exchanged, at the office of the Trustee, for a new fully registered Bond or Bonds, of the same maturity, of any Authorized Denomination or Denominations and for the aggregate amount of such Bond then Outstanding.

In all cases in which Bonds shall be transferred or exchanged hereunder, the Trustee may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer or exchange shall be paid by the Borrower.

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 the principal of and premium, if any, and interest on any such Bond shall be made only to or upon the order of

the registered Owner thereof, or such registered Owner's legal representative, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary. 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 to be paid.

Neither the Issuer nor the Trustee shall be required to make any such exchange, registration or transfer of Bonds during the period of fifteen (15) days immediately preceding an Interest Payment Date or, in the case of any proposed redemption of Bonds, during the period of fifteen (15) days immediately preceding the selection of Bonds for such redemption and after the giving of notice of redemption, the Trustee is not required to transfer or exchange any Bond or portion thereof which has been called for redemption.

Section 2.09. Temporary Bonds. Until definitive Bonds are ready for delivery, there may be executed, and upon the request of the Issuer the Trustee shall authenticate and deliver, in lieu of definitive Bonds temporary printed, typewritten, engraved or lithographed Bonds, in such denomination or denominations as shall be determined by the Issuer, in fully registered form, in substantially the form hereinabove set forth and with such appropriate omissions, insertions and variations as may be required.

If temporary Bonds shall be issued, the Issuer shall cause the definitive Bonds to be prepared and to be executed and delivered to the Trustee, and the Trustee, upon presentation to it, at the Principal Office of the Trustee, of any temporary Bond shall cancel the same and authenticate and deliver in exchange therefor, without charge to the Owner thereof, a definitive Bond or Bonds, as the case may be, of an equal aggregate principal amount, of the same maturities and bearing interest at the same rates as the temporary Bond surrendered. Until so exchanged the temporary Bonds shall in all respects be entitled to the same benefit and security of this Indenture as the definitive Bonds to be issued and authenticated hereunder. Interest on temporary Bonds, when due and payable, if the definitive Bonds shall not be ready for exchange, shall be paid on presentation of such temporary Bonds and notation of such payment shall be endorsed thereon by the Trustee.

Section 2.10. Delivery of Bonds. Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver to the Trustee, and the Trustee shall authenticate the Bonds and deliver them to or upon the order of the Issuer upon receipt by the Trustee of the following:

(a) executed counterparts of this Indenture, the Financing Agreement, the Tax Regulatory Agreement, the Tax Certificate, the Continuing Disclosure Agreement, the Intercreditor Agreement, the Pledge Agreement, the Credit Enhancement Agreement, the Reimbursement Agreement, the Construction Phase Financing Agreement, the Construction Loan Agreement and the Construction Phase Credit Reimbursement Agreement;

(b) an opinion of Bond Counsel or counsel to the Issuer to the effect that the Issuer is duly organized and existing under the laws of the State and has duly authorized, executed and delivered this Indenture, other loan documents to which it is a party and the Bonds and that the Bonds are entitled to the benefits of this Indenture and are valid and binding special, limited obligations of the Issuer enforceable in accordance with their terms subject to customary exceptions;

(c) sale proceeds of the Bonds, together with accrued interest thereon, if any;

(d) the Bond Mortgage Note;

(e) a copy of the Bond Mortgage and the Reimbursement Mortgage;

(f) an opinion of counsel to the Borrower to the effect that the Borrower is duly organized and validly existing and in good standing under the laws of the state in which it has been organized and in good standing under the laws of each other state in which the Borrower transacts business and has full power and authority to enter into the agreements described herein to which it is a party, that its execution and delivery of and performance of its covenants in such agreements do not contravene law or any provision of any other agreement to which it is a party or by which it or such property is bound or affected, and that all such agreements 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 respective terms;

(g) a customary approving opinion of Bond Counsel, including but not limited to an opinion to the effect that the interest on the Bonds, under laws in effect on the date of such opinion, is excluded from gross income for federal income tax purposes and, where applicable, for State income tax purposes;

(h) a certified copy of the Bond Resolution;

(i) the written request and authorization to the Trustee by the Issuer to authenticate and deliver the Bonds to the initial purchasers thereof upon payment to the Trustee, for the account of the Issuer, of the sum specified as the purchase price therefor in such request and authorization;

(j) receipt by the Trustee of the amounts specified in Section 2.11 of this Indenture and Section 3.3 of the Financing Agreement; and

(k) receipt by the Trustee of the Initial Construction Loan Advance specified in Section 4.18 of this Indenture and Section 3.3 of the Financing Agreement.

Section 2.11. Establishment of Bond Mortgage Loan Fund; Application of Bond Proceeds and Other Money; Assignment of Bond Mortgage Loan to Trustee.

(a) The Trustee shall establish, maintain and hold in trust and there is hereby established with the Trustee a Bond Mortgage Loan Fund and therein a Project Account and a Borrower Equity Account. No amount shall be charged against the Bond Mortgage Loan Fund except as expressly provided in this Section 2.11 and Section 4.02 hereof.

(b) The proceeds of the sale of the Bonds shall be delivered to the Trustee on the Delivery Date. The Trustee shall deposit such proceeds to the credit of the Project Account of the Bond Mortgage Loan Fund. Amounts in the Bond Mortgage Loan Fund shall be disbursed as provided in subparagraph (d) below, subject to the conditions set forth in Section 3.1 of the Financing Agreement. Upon the disbursement of all amounts in the Bond Mortgage Loan Fund, the Trustee shall close the Bond Mortgage Loan Fund.

(c) The Issuer shall cause the Borrower to deliver to the Trustee, on or prior to the Delivery Date, the Costs of Issuance Deposit for deposit to the credit of the Cost of Issuance Fund established pursuant to Section 4.01 hereof and the Borrower Equity Deposit for deposit to the credit of the Borrower Equity Account. The Trustee shall also deposit in the Borrower

Equity Account any additional amounts delivered from time to time to the Trustee and directed by the Borrower or Servicer to be deposited therein, excluding any proceeds of the Bonds.

(d) Upon the deposit of money to the credit of the Bond Mortgage Loan Fund, the Issuer shall originate the Bond Mortgage Loan pursuant to the Financing Agreement and the Trustee shall make disbursements of amounts in the Bond Mortgage Loan Fund to the Borrower or otherwise as provided in Section 4.02 hereof.

Section 2.12. Book-Entry Only System of Registration.

(a) Notwithstanding the foregoing provisions of this Article II, each of the Bonds shall initially be issued in the form of one fully-registered bond for the aggregate principal amount of the Bonds of each maturity, which Bonds shall be registered in the name of Cede & Co., as nominee of DTC. Except as provided in paragraph (f) below, all of the Bonds shall be registered in the Bond Register in the name of Cede & Co., as nominee of DTC; provided that if DTC shall request that the Bonds be registered in the name of a different nominee, the Trustee shall exchange all or any portion of the Bonds for an equal aggregate principal amount of Bonds registered in the name of such nominee or nominees of DTC. No Person other than DTC or its nominee or any "FAST" agent for DTC shall be entitled to receive from the Issuer or the Trustee either a Bond or any other evidence of ownership of the Bonds, or any right to receive any payment in respect thereof unless DTC or its nominee shall transfer record ownership of all or any portion of the Bonds on the Bond Register in connection with discontinuing the book entry system as provided in paragraph (f) below or otherwise.

(b) So long as the Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all payments of the principal or redemption price of or interest on such Bonds shall be made to DTC or its nominee in same day funds on the dates provided for such payments under this Indenture. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of the Issuer and the Trustee with respect to the principal or redemption price of or interest on the Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Bonds Outstanding of any series or maturity, the Trustee shall not require surrender by DTC or its nominee of the Bonds so redeemed, but DTC (or its nominee) may retain such Bonds and make an appropriate notation on the Bond certificate as to the amount of such partial redemption; provided that DTC shall deliver to the Trustee, upon request, a written confirmation of such partial redemption and thereafter the records maintained by the Trustee shall be conclusive as to the amount of the Bonds of such maturity which have been redeemed.

(c) The Issuer and the Trustee may treat DTC or its nominee as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal or redemption price of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this Indenture, registering the transfer of Bonds, obtaining any consent or other action to be taken by Holders and for all other purposes whatsoever; and neither the Issuer nor the Trustee shall be affected by any notice to the contrary. Neither the Issuer nor the Trustee shall have any responsibility or obligation to any participant in DTC, any Person claiming a beneficial ownership interest in the Bonds under or through DTC or any such participant, or any other Person which is not shown on the Bond Register as being a Bondholder, with respect to: (1) the accuracy of any records maintained by DTC or any such participant; (2) the payment by DTC or any such participant of any amount in respect of the principal or redemption price of or interest on the Bonds; (3) the delivery to any participant or to any other Person, other than the Holders as

shown on the Bond Register, of any notice which is permitted or required to be given to Holders under this Indenture; (4) the selection by DTC or any such participant of any Person to receive payment in the event of a partial redemption of the Bonds; or (5) any consent given or other action taken by DTC as Holder.

(d) So long as the Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all notices required or permitted to be given to the Holders under this Indenture shall be given to DTC as provided in DTC's procedures, as the same may be amended from time to time.

(e) In connection with any notice or other communication to be provided to Holders pursuant to this Indenture by the Issuer or the Trustee with respect to any consent or other action to be taken by Holders, DTC shall consider the date of receipt of notice requesting such consent or other action as the record date for such consent or other action, provided that the Issuer or the Trustee may establish a special record date for such consent or other action. The Issuer or the Trustee shall give DTC notice of such special record date not less than 15 calendar days in advance of such special record date to the extent possible.

(f) The book-entry system for registration of the ownership of the Bonds may be discontinued at any time if either: (1) DTC determines to resign as securities depository for the Bonds; or (2) the Issuer determines (with the prior written consent of the Credit Facility Provider) to discontinue the system of book-entry transfers through DTC (or through a successor securities depository) subject to the rules and regulations of DTC regarding the discontinuation of the system of book-entry transfers in effect at such time. In either of such events (unless, in the case described in clause (2) above, the Issuer appoints a successor securities depository), the Bonds shall be delivered in registered certificate form to such Persons, and in such series, maturities and principal amounts, as may be designated by DTC, but without any liability on the part of the Issuer or the Trustee for the accuracy of such designation. Whenever DTC requests the Issuer and the Trustee to do so, the Issuer and the Trustee shall cooperate with DTC in taking appropriate action after reasonable notice to arrange for another securities depository to maintain custody of certificates evidencing the Bonds.

(g) The book-entry system for registration of the ownership of the Bonds shall be discontinued in the event that the Bonds are purchased in lieu of redemption pursuant to Section 3.06 or 3.08 hereof.

Section 2.13. Provisions for an Alternate Credit Facility.

(a) The Borrower, pursuant to Section 5.4 of the Financing Agreement, is permitted, with (i) the prior written confirmation to the Trustee of the Credit Facility Provider that the provisions of the Reimbursement Agreement have been satisfied and (ii) the written consent of the Construction Lender (but without the consent of the Issuer, the Trustee or the Bondholders), to provide an Alternate Credit Facility to replace the then existing Credit Facility on any Interest Payment Date occurring on or after the date that the Bonds may first be optionally redeemed at a price of not greater than par plus accrued interest to the redemption date, and, without the consent of the Borrower (and without the consent of the Issuer, the Trustee or the Bondholders), the Credit Facility Provider may provide any other form of "credit support" in substitution for the then existing Credit Facility, provided that, in either case, the conditions of Section 5.4 of the Financing Agreement are satisfied.

(b) Upon receipt by the Trustee of a form of the Alternate Credit Facility to be in

effect on and after the Substitution Date and a form of the documents required pursuant to Section 5.4 of the Financing Agreement, the Trustee shall establish the Substitution Date. Such Substitution Date shall be not less than fifteen (15) days following the Trustee's receipt of the Alternate Credit Facility to be in effect on and after the Substitution Date (which Alternate Credit Facility may be delivered in escrow), and such other required documents. The existing Credit Facility shall remain in effect until the effective date of the Alternate Credit Facility and shall be drawn upon on the Substitution Date, provided that substitution shall only occur if the existing Credit Facility Provider is immediately reimbursed for such draw (along with any fees and other costs that may be associated with such draw).

The Trustee shall give notice to the Holders of the Bonds, by first class mail not less than nine (9) days before the Substitution Date specifying: (i) the Substitution Date; (ii) the Alternate Credit Facility; and (iii) that the rating then assigned to the Bonds will not be adversely affected by such substitution.

ARTICLE III

REDEMPTION OF BONDS PRIOR TO MATURITY

Section 3.01. Redemption of Bonds Prior to Maturity.

(a) Optional Redemption. The Series A-1 Bonds are not subject to optional redemption prior to [] 1, 20[], and the Series A-2 Bonds are not subject to optional redemption prior to [] 1, 20[]. On and after [] 1, 20[], the Series A-1 Bonds, and on and after [] 1, 20[], the Series A-2 Bonds, are subject to optional redemption from payments made under the Credit Facility (subject to the limitations set forth in subsection (iii) of this Section 3.01(a)) or with other Eligible Funds deposited with the Trustee as follows:

(i) with the prior written consent of the Credit Facility Provider, in whole or in part, upon optional prepayments on the Bond Mortgage Loan in accordance with the prepayment restrictions set forth in the Bond Mortgage Note and Section 4.4 of the Financing Agreement on any Business Day, at the redemption prices set forth below expressed as percentages of their principal amount plus accrued interest, if any, to the redemption date:

Redemption Date	Redemption Price
[] 1, 20[] through [] 1, 20[]	102%
[] 1, 20[] through [] 1, 20[]	101
[] 1, 20[] and thereafter	100

(ii) [Intentionally Omitted].

(iii) Optional redemption of Bonds at a premium may only be made if the Trustee shall have received Eligible Funds (not consisting of funds drawn under the Credit Facility) on or prior to the redemption date in an amount sufficient to pay the applicable redemption premium.

(iv) The Trustee shall effect a redemption of Bonds pursuant to this Section 3.01(a) at the earliest practicable date for which notice may be given hereunder but in no event later than 35 days following its receipt of money representing an optional prepayment of the Bond Mortgage Loan.

(v) While the Bonds are registered in the name of the Construction Lender as a result of a Special Purchase of the Bonds pursuant to Section 3.08 hereof, the Bonds are subject to redemption in whole or in part on any date, at the option of the Construction Lender, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date, without premium, from any money acceptable to the Construction Lender deposited with the Trustee.

(b) Mandatory Redemption. The Bonds are subject to mandatory redemption on any Business Day, in whole or in part as indicated below, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date, without premium, at the earliest practicable date from payments made under the Credit Facility upon the occurrence of any of the following:

(i) in whole or in part, upon receipt by the Trustee of (1) proceeds of a draw

under the Credit Facility, in the amount of Net Proceeds representing casualty insurance proceeds or condemnation awards paid as a prepayment of the Bond Mortgage Loan, such amount to be applied to reimburse the Credit Facility Provider for the draw under the Credit Facility as a result of casualty or condemnation of the Project and (2) a written direction by the Credit Facility Provider (with the consent of the Construction Lender) to redeem such Bonds using money obtained as a result of a draw upon the Credit Facility; or

(ii) in whole or in part, upon receipt by the Trustee of amounts from the Credit Facility Provider pursuant to the Credit Facility as a result of the occurrence of an event of default under any Bond Mortgage Loan Document and receipt by the Trustee of a written direction by the Credit Facility Provider (with the consent of the Construction Lender) to redeem the Bonds pursuant to the Credit Facility; or

(iii) [Intentionally Omitted]; or

(iv) [Intentionally Omitted]; or

(v) in part, as provided in subsection (c) of this Section 3.01; or

(vi) [Intentionally Omitted]; or

(vii) in part, at the written direction of the Credit Facility Provider, in the event the Borrower is required to make a Loan Equalization Payment in an amount equal to the Loan Differential pursuant to the Construction Phase Financing Agreement; or

(viii) in part, on the Interest Payment Date next following the completion of the rehabilitation of the Project, to the extent amounts remaining in the Project Account of the Bond Mortgage Loan Fund are transferred to the Redemption Fund pursuant to Section 4.02(e) hereof; or

(ix) in whole, upon receipt by the Trustee of a written direction by the Credit Facility Provider to redeem the Bonds pursuant to the Credit Facility as a result of the occurrence of a Borrower Default, a Construction Lender Default (provided that no substitute construction lender is substituted in the place and stead of the Construction Lender pursuant to the Construction Phase Financing Agreement) or a Direction to Draw; or

(x) in whole, at the written direction of the Credit Facility Provider, on or after the Forward Commitment Maturity Date, if the Notice of Conversion is not issued by the Servicer prior to the Forward Commitment Maturity Date; or

(xi) in part, upon receipt by the Trustee of (1) a written direction by the Credit Facility Provider to redeem Bonds pursuant to the Credit Facility in the event the Borrower makes a Required Principal Paydown (as defined in the Reimbursement Agreement) in accordance with the terms of the Reimbursement Agreement and (2) amounts from the Credit Facility Provider pursuant to the Credit Facility.

(c) Mandatory Sinking Fund Redemption. The Bonds are subject to mandatory sinking fund redemption on the dates and in the amounts set forth in the table(s) below; provided that if less than all the Bonds shall have been redeemed pursuant to Section 3.01(a) or

3.01(b), the amount of Bonds to be redeemed in each year from sinking fund installments as provided in this Section 3.01(c) shall be decreased by an amount, in proportion, as nearly as practicable, to the decrease in the payments on the Bond Mortgage Loan in such year as determined by the Trustee (in consultation with the Servicer):

[INSERT REDEMPTION DATES AND AMOUNTS]

Section 3.02. Selection of Bonds for Redemption.

(a) The Trustee shall select Bonds subject to mandatory sinking fund redemption pursuant to Section 3.01(c) hereof by lot within the appropriate series and maturity. If less than all the Bonds then Outstanding shall be called for redemption other than as a result of mandatory sinking fund redemption pursuant to Section 3.01(c) hereof, the Trustee shall redeem an amount of Bonds so that the resulting decrease in debt service on the Bonds in each semiannual period ending on an Interest Payment Date is proportional, as nearly as practicable, to the decrease in the payments on the Bond Mortgage Note in each such semiannual period, as verified by the Servicer, and the Bonds shall be selected by lot within each series and maturity, the cost of such selection being at the Borrower's expense.

(b) Bonds shall be redeemed pursuant to this Article III only in Authorized Denominations.

(c) Unless otherwise directed by the Borrower in writing, the Trustee shall first select Series A-2 Bonds for redemption until no Series A-2 Bonds remain outstanding and, subsequently, shall select Series A-1 Bonds for redemption.

Section 3.03. Notice of Redemption. Notice of the intended redemption of each Bond shall be given by the Trustee by first class mail, postage prepaid, or by facsimile transmission, to the registered Owner at the address of such Owner shown on the Bond Register. All such redemption notices shall be given not less than ten (10) days (not less than thirty (30) days in the case of optional or mandatory sinking fund redemptions) nor more than sixty (60) days prior to the date fixed for redemption. The Trustee may provide a conditional notice of redemption upon the direction of the Credit Facility Provider or the Borrower (with the prior written consent of the Credit Facility Provider and the Construction Lender).

Notices of redemption shall state the redemption date and the redemption price, the place or places where amounts due upon such redemption will be payable, and, if less than all of the then Outstanding Bonds are called for redemption, shall state (i) the numbers of the Bonds to be redeemed by giving the individual certificate number of each Bond to be redeemed or shall state that all Bonds between two stated certificate numbers, both inclusive, are to be redeemed or that all of the Bonds of one or more maturities have been called for redemption only if bonds cease to be book entry bonds; (ii) the CUSIP numbers of all Bonds being redeemed if available; (iii) the amount of each Bond being redeemed (in the case of a partial redemption); (iv) the date of issue of the Bond as originally issued; (v) the rate of interest borne by each Bond redeemed; (vi) the maturity date of each Bond being redeemed; (vii) the possibility of a purchase of Bonds in lieu of redemption, if applicable; (viii) the conditions, if any, which must be satisfied in order for the redemption to take place on the scheduled date of redemption, including, as provided in Section 3.01(a) hereof, that Eligible Funds are available to pay any redemption premium or the redemption price, as and if applicable, on the Bonds; and (ix) any other descriptive information needed to identify accurately the Bonds being redeemed.

Each notice of redemption shall state that further interest on such Bonds will not accrue from and after the redemption date and that payment of the principal amount and premium, if any, will be made upon presentation and surrender of the Bonds at the Principal Office of the Trustee unless the Bonds are then held in a book-entry only system of registration.

Notice of such redemption shall also be sent by first class mail, overnight delivery service, facsimile transmission or other secure means, postage prepaid, to the Credit Facility Provider, to the Servicer, to the Construction Lender, to the Rating Agency, to all of the Securities Depositories and to the Information Service that disseminates securities redemption notices, when possible, not later than the time of mailing of notices required by the first paragraph above, and in any event no later than simultaneously with the mailing of notices required by the first paragraph above; provided, that neither failure to receive such notice nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the redemption of such Bonds.

In addition to providing notice of redemption as set forth above, if the Bonds are no longer held in book-entry form, the Trustee shall send a second notice of redemption within sixty (60) days following the redemption date, by first class mail, overnight delivery service, or other secure means, postage prepaid to the registered Owners of any Bonds called for redemption, at their addresses appearing on the Bond Register as of the Record Date immediately preceding the redemption date, who have not surrendered their Bonds for redemption within thirty (30) days following the redemption date.

Failure to give notice by mailing to the registered Owner of any Bond designated for redemption or to any depository or information service shall not affect the validity of the proceedings for the redemption of any other Bond if notice of such redemption shall have been mailed as herein provided.

Section 3.04. Cancellation. All Bonds that have been redeemed shall be marked cancelled by the Trustee, and shall not be reissued. A counterpart of the certificate of cancellation evidencing such cancellation shall, upon request, be furnished by the Trustee to the Issuer.

Section 3.05. Effect of Notice of Redemption. If a conditional notice of redemption has been provided pursuant to the terms of this Indenture and the conditions are not satisfied, such notice of redemption shall be of no force and effect and the Bondholders shall be restored to their former positions as though no such notice of redemption had been delivered. Notice of redemption having been given in the manner provided in this Article III and if either there were no conditions to such redemption or the conditions have been satisfied, and money for the redemption being held by the Trustee or Paying Agent for that purpose, thereupon the Bonds so called for redemption shall become due and payable on the redemption date, and interest thereon shall cease to accrue on such date; and such Bonds shall thereafter no longer be entitled to any security or benefit under this Indenture except to receive payment of the redemption price thereof.

Section 3.06. Purchase of Bonds in Whole in Lieu of Redemption. Notwithstanding anything in this Indenture to the contrary but subject to Section 3.08 hereof, at any time the Bonds are subject to redemption in whole pursuant to the provisions of this Indenture, all (but not less than all) of the Bonds to be redeemed may be purchased by the Trustee (for the account of the Borrower or the Credit Facility Provider or their respective designee, as directed by such party) on the date which would be the redemption date at the direction of the Credit

Facility Provider or the Borrower, with the prior written consent of the Credit Facility Provider (which direction shall specify that such purchase is pursuant to this Section 3.06 and shall be given no later than 5:00 p.m., Washington, D.C. time on the Business Day immediately prior to such redemption date), at a purchase price equal to the redemption price which would have been applicable to such Bonds on the redemption date. The Bonds shall be purchased in lieu of redemption only from amounts provided by the Credit Facility Provider or from other Eligible Funds. In the event the Trustee is so directed to purchase Bonds in lieu of redemption, no notice to the holders of the Bonds to be so purchased (other than the notice of redemption otherwise required hereunder) shall be required, and the Trustee shall be authorized to apply to such purpose the funds in the Redemption Fund which would have been used to pay the redemption price for such Bonds if such Bonds had been redeemed rather than purchased. Such Bonds so purchased for the account of the Borrower shall for all purposes under this Indenture constitute Purchased Bonds held by the Custodian pursuant to the Pledge Agreement. The Credit Facility Provider shall have the right to direct the transfer of Purchased Bonds (without reinstatement of the then existing Credit Facility or delivery to the Trustee of an Alternate Credit Facility, which will result in such Bonds being unrated) to the Credit Facility Provider or any subsidiary of the Credit Facility Provider, or to a single Bondholder which has provided the Trustee with an investment letter in the form attached to this Indenture as **Exhibit C** (and otherwise subject to the provisions of Section 2.12(g) hereof), provided that any transfer to a single Bondholder as described above shall require delivery of an opinion of Bond Counsel to the Trustee to the effect that such transfer will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds. Such Purchased Bonds, if not transferred as provided herein, shall be deemed redeemed and cancelled automatically by the Trustee on the date which is not later than two (2) years from the date of purchase, unless an opinion of Bond Counsel is delivered to the Trustee to the effect that not redeeming and canceling such Purchased Bonds will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds. Any purchase of Bonds hereunder is not intended as an extinguishment of the debt represented by the Bonds.

Section 3.07. Cancellation of Purchased Bonds. Following any purchase of the Bonds in lieu of redemption and prior to any transfer of such Purchased Bonds pursuant to Section 3.06 hereof, the Credit Facility Provider may direct the cancellation of Purchased Bonds in whole or in part at any time. No further money shall be required to be paid by the Issuer or the Credit Facility Provider in connection with such cancellation; provided, however, that such cancellation shall not release the obligation of the Borrower to reimburse the Credit Facility Provider for payments made in respect of principal of, interest on or Purchase Price of the Bonds, including Purchased Bonds.

Section 3.08. Special Purchase in Lieu of Redemption.

(a) If all Bonds Outstanding are called for redemption in whole under Section 3.01(b)(ii), 3.01(b)(ix) or 3.01(b)(x) hereof at any time during the Construction Phase, provided that a Construction Lender Default has not occurred or, at any time following the Trustee's receipt of a Direction to Release, the Construction Phase Credit Facility is in effect, the Bonds may, in lieu of such redemption, be purchased ("**Special Purchased Bonds**") by the Trustee, at the written direction of the Construction Lender to the Trustee, for the account of the Construction Lender, so long as the Credit Facility Provider has received, from amounts on deposit in the Freddie Mac Collateral Fund and the Project Account of the Bond Mortgage Loan Fund, an amount equal to the Construction Phase Collateral Requirement or, if applicable, the Construction Lender has fully and timely honored, and has paid the Credit Facility Provider the full amount drawn by the Credit Facility Provider under, the Construction Phase Credit Facility.

Any purchase of Bonds pursuant to this Section 3.08(a) shall be in whole and not in part. Such purchase shall be made on the date the Bonds are otherwise scheduled to be redeemed (the “**Special Purchase Date**”). The purchase price of the Special Purchased Bonds (the “**Special Purchase Price**”) shall be equal to the principal amount of the Special Purchased Bonds, plus accrued interest, if any, on the Special Purchased Bonds to the Special Purchase Date. The payment source shall consist solely of funds to be advanced by the Credit Facility Provider under the Credit Facility.

(b) Bonds to be purchased under subsection (a) of this Section 3.08 which are not delivered to the Trustee on the Special Purchase Date shall be deemed to have been so purchased and not redeemed on the Special Purchase Date and shall cease to accrue interest as to the former owner on the Special Purchase Date. Special Purchased Bonds shall be registered in the name of the Construction Lender or any subsidiary of the Construction Lender designated by the Construction Lender and shall be delivered to the Construction Lender or any subsidiary of the Construction Lender designated by the Construction Lender. Following such purchase, the registered owner of the Special Purchased Bonds shall be the owner of such Bonds for all purposes under this Indenture and interest accruing on such Bonds from and after the Special Purchase Date shall be payable solely to the registered owner of the Special Purchased Bonds.

(c) Notice of the election by the Construction Lender to purchase Bonds otherwise called for redemption shall be delivered in writing to the Trustee, the Credit Facility Provider, the Servicer and the Rating Agency not less than one (1) Business Day prior to the date otherwise scheduled for redemption of the Bonds. In the event the Trustee is so directed to purchase Bonds in lieu of redemption, no notice to the holders of the Bonds to be so purchased (other than the notice of redemption otherwise required hereunder) shall be required, and the Trustee shall be authorized to apply to such purpose the funds in the Redemption Account which would have been used to pay the redemption price for such Bonds if such Bonds had been redeemed rather than purchased.

(d) The Trustee shall proceed to take such action as is required under the Credit Facility to receive payments from the Credit Facility Provider under the Credit Facility as if the Special Purchased Bonds were to be redeemed pursuant to Section 3.01(b)(ii), 3.01(b)(ix) or 3.01(b)(x) hereof in order to pay the Special Purchase Price of the Bonds on the Special Purchase Date.

(e) The purchase of Bonds pursuant to this Section 3.08 shall not constitute a merger or extinguishment of the indebtedness of the Issuer evidenced by the Bonds so purchased or of the indebtedness of the Borrower under the Bond Mortgage Loan; Special Purchased Bonds shall for all purposes be regarded as Outstanding under this Indenture, except as otherwise expressly provided in this Section 3.08 and in this Indenture.

(f) Following any purchase of Bonds pursuant to subsection (a) or (d) of this Section 3.08, in no event shall the Credit Facility (or any funds advanced under the Credit Facility) directly or indirectly secure, or provide a source of payment of amounts due from time to time with respect to, the Special Purchased Bonds. From and after the Special Purchase Date and until the Credit Facility Provider has received funds in an amount equal to the Construction Phase Collateral Requirement or, if applicable, the Construction Lender honors a draw upon the Construction Phase Credit Facility in order to accomplish a purchase of Bonds pursuant to this Section 3.08, the Credit Facility Provider shall continue to be entitled to all rights, privileges, benefits and security granted to the Credit Facility Provider under the Bond Financing

Documents and the Bond Mortgage Loan Documents. In no event shall Freddie Mac be deemed to be the owner of any Special Purchased Bond whether pursuant to this Section 3.08 or otherwise unless such Bond is transferred to, and registered in the name of, Freddie Mac in accordance with the provisions of this Indenture and only at the written direction of Freddie Mac.

(g) Special Purchased Bonds may be transferred to any subsidiary of the Construction Lender, or to a single Bondholder which has provided the Trustee with an investment letter in the form attached to this Indenture as **Exhibit C** (and otherwise subject to the provisions of Section 2.12(g) hereof), provided that any transfer to a single Bondholder as described above shall require delivery of an opinion of Bond Counsel to the Trustee to the effect that such transfer will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

ARTICLE IV

REVENUES AND FUNDS

Section 4.01. Pledge of Revenues and Assets; Establishment of Funds. The pledge and assignment of and the security interest granted in the Trust Estate pursuant to the Granting Clauses hereof shall attach, be perfected and be valid and binding from and after the time of the delivery of the Bonds by the Trustee or by any Person authorized by the Trustee to deliver the Bonds. The Trust Estate so pledged and then or thereafter received by the Trustee shall immediately be subject to the lien of such pledge and security interest without any physical delivery thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Issuer irrespective of whether such parties have notice thereof.

In addition to the Bond Mortgage Loan Fund established pursuant to Section 2.11 hereof, the Trustee shall establish, maintain and hold in trust the following funds and accounts, each of which is hereby established and each of which shall be disbursed and applied only as herein authorized:

- (a) Revenue Fund, and within the Revenue Fund a General Account and a Credit Facility Account;
- (b) Bond Fund, and within the Bond Fund a Purchased Bonds Account;
- (c) Redemption Fund;
- (d) Administration Fund;
- (e) Cost of Issuance Fund;
- (f) Credit Facility Reimbursement Fund, and within the Credit Facility Reimbursement Fund a Credit Facility Principal Reimbursement Account and a Credit Facility Interest Reimbursement Account;
- (g) Freddie Mac Collateral Fund; and
- (h) Rebate Fund.

The funds and accounts established pursuant to this Section 4.01 shall be maintained in the corporate trust department of the Trustee as segregated trust accounts, separate and identifiable from all other funds held by the Trustee. The funds and accounts established hereunder shall bear a designation clearly indicating that the funds deposited therein are held for the benefit of (i) the Holders of the Bonds, respecting the Revenue Fund, the Bond Fund and the Redemption Fund, (ii) the Credit Facility Provider, respecting the Credit Facility Reimbursement Fund and the Freddie Mac Collateral Fund, (iii) the Borrower, respecting the Administration Fund and the Cost of Issuance Fund, and (iv) the Issuer, respecting the Rebate Fund. The Trustee shall, at the written direction of an Authorized Officer of the Issuer, and may, in its discretion, establish such additional accounts within any Fund, and subaccounts within any of the accounts, as the Issuer or the Trustee may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from that Fund and its accounts, or for the purpose of complying with the requirements of the Code relating to

arbitrage, but the establishment of any such account or subaccount shall not alter or modify any of the requirements of this Indenture with respect to a deposit or use of money in the funds established hereunder, or result in commingling of funds not permitted hereunder.

Section 4.02. Bond Mortgage Loan Fund.

(a) Deposit. The Trustee shall deposit the proceeds of the sale of the Bonds into the Project Account of the Bond Mortgage Loan Fund as provided in Section 2.11(b) hereof. The Trustee shall deposit the Borrower Equity Deposit into the Borrower Equity Account of the Bond Mortgage Loan Fund, as well as any additional amounts delivered from time to time to the Trustee and directed by the Borrower or Servicer to be deposited therein (excluding any proceeds of the Bonds), as provided in Section 2.11(c) hereof.

(b) Disbursements. Amounts on deposit in the Bond Mortgage Loan Fund shall be disbursed from time to time by the Trustee for the purpose of paying Costs of the Project. In addition, amounts on deposit in the Borrower Equity Account of the Bond Mortgage Loan Fund shall be disbursed from time to time by the Trustee for the purpose of (i) reimbursing the Credit Facility Provider for draws under the Credit Facility to pay interest on the Bonds and (ii) paying (1) the Bond Fee Component, (2) any fees due and payable to the Credit Facility Provider, (3) any fees due and payable to the Construction Lender or (4) Costs of the Project. In addition, amounts in the Bond Mortgage Loan Fund shall be transferred to the Redemption Fund, the Rebate Fund and the Borrower at the times and in the manner provided in subsection (e) of this Section 4.02.

(c) Transfers and Requisitions. The Trustee shall automatically transfer amounts from the Borrower Equity Account of the Bond Mortgage Loan Fund, without any need for a Requisition or other written direction, to (i) the Administration Fund to pay to the appropriate party its accrued fees that are included in the Bond Fee Component that are due and payable as set forth herein or upon receipt of an invoice, to the Credit Facility Provider any fees due and payable as set forth in the Reimbursement Agreement and to the Construction Lender any fees due and payable upon receipt of an invoice, and (ii) the Credit Facility Interest Reimbursement Account of the Credit Facility Reimbursement Fund to reimburse the Credit Facility Provider for draws under the Credit Facility to pay interest on the Bonds, should the amount in the Credit Facility Interest Reimbursement Account be insufficient to reimburse the Credit Facility Provider for any such draw pursuant to Section 4.07(a) hereof. The Trustee shall make disbursements from the respective accounts of the Bond Mortgage Loan Fund for the purpose of paying Costs of the Project (as described in the first sentence of subsection (b) of this Section 4.02) only upon the receipt of Requisitions signed by an Authorized Officer of the Borrower and countersigned by an Authorized Officer of the Construction Lender (signifying the consent to the Requisition by the Construction Lender). The Trustee shall have no right or duty to determine whether any requested disbursement from the Bond Mortgage Loan Fund complies with the terms, conditions and provisions of the Construction Loan Documents. The countersignature of the Authorized Officer of the Construction Lender on a Requisition shall be deemed a certification and, insofar as the Trustee and the Issuer are concerned, constitute conclusive evidence, that all of the terms, conditions and requirements of the Construction Loan Documents applicable to such disbursement have been fully satisfied or waived. The Trustee shall, immediately upon each receipt of a completed Requisition signed by an Authorized Officer of the Borrower and countersigned by an Authorized Officer of the Construction Lender, initiate procedures with the provider of a Qualified Investment to make withdrawals as necessary to fund the Requisition.

Notwithstanding anything to the contrary contained in the immediately preceding

paragraph, but subject to the immediately succeeding paragraph, of this Section 4.2(c), (i) no signature of an Authorized Officer of the Borrower shall be required during any period in which a default has occurred and is then continuing under the Bond Mortgage Loan or any Construction Loan Document (notice of which default has been given in writing by the Construction Lender to the Trustee and the Issuer, and the Trustee shall be entitled to conclusively rely on any such written notice as to the occurrence and continuation of such a default); and (ii) the Trustee shall disburse amounts in the Bond Mortgage Loan Fund upon receipt of a Requisition signed only by the Construction Lender (and without any need for any signature by an Authorized Officer of the Borrower or Servicer), with notice to the Borrower, so long as the amount to be disbursed is to be used solely to make payments of interest and fees due under the Bond Mortgage Loan Documents or the Construction Loan Documents.

Notwithstanding anything to the contrary contained in this Indenture or any other Bond Financing Document, prior to receipt by the Trustee of a Direction to Release, the Trustee shall not make any disbursement from the Project Account of the Bond Mortgage Loan Fund until the Trustee shall have ascertained that, after giving effect to the disbursement to be made in accordance therewith, the sum of (A) amounts deposited and held in the Project Account of the Bond Mortgage Loan Fund plus (B) amounts deposited and held in the Freddie Mac Collateral Fund (disregarding any investment earnings thereon) will not be less than the Construction Phase Collateral Requirement.

(d) If a Requisition signed by an Authorized Officer of the Borrower and countersigned by an Authorized Officer of the Construction Lender or (as permitted hereunder) solely by an Authorized Officer of the Construction Lender, is received by the Trustee, the requested disbursement shall be paid by the Trustee as soon as practicable, but in no event later than three (3) Business Days after the later of (i) receipt thereof by the Trustee and (ii), if from the Project Account of the Bond Mortgage Loan Fund prior to receipt by the Trustee of a Direction to Release, the determination by the Trustee that, after giving effect to the disbursement to be made in accordance therewith, the sum of (A) amounts deposited and held in the Project Account of the Bond Mortgage Loan Fund plus (B) amounts deposited and held in the Freddie Mac Collateral Fund (disregarding any investment earnings thereon) will not be less than the Construction Phase Collateral Requirement. Upon final disbursement of all amounts on deposit in the Bond Mortgage Loan Fund, including all interest accrued therein, the Trustee shall close the Bond Mortgage Loan Fund.

(e) Immediately prior to any mandatory redemption of Bonds pursuant to Section 3.01(b)(ii), 3.01(b)(ix) or 3.01(b)(x) hereof, any amount then remaining in the Bond Mortgage Loan Fund shall, at the written direction of the Credit Facility Provider, be transferred to the Redemption Fund to be applied to reimburse the Credit Facility Provider for the related redemption of Bonds pursuant to Section 3.01(b)(ii), 3.01(b)(ix) or 3.01(b)(x). In addition, any amount remaining in the Project Account of the Bond Mortgage Loan Fund upon the earlier of (a) the Conversion Date and not required to pay Costs of the Project not yet due and payable or being contested in good faith, in each case determined in accordance with the Construction Loan Documents, or (b) the Forward Commitment Maturity Date shall be transferred to the Redemption Fund and used to reimburse the Credit Facility Provider for the related redemption of Bonds in accordance with Section 3.01(b)(viii) hereof. Furthermore, any amount remaining in the Borrower Equity Account of the Bond Mortgage Loan Fund upon the earlier of (a) the Conversion Date and not required to pay Costs of the Project not yet due and payable or being contested in good faith, in each case determined in accordance with the Construction Loan Documents, or (b) the Forward Commitment Maturity Date, and provided no default by the Borrower exists under this Indenture or any Bond Mortgage Loan Document, such funds shall

be paid by the Trustee to the Borrower at the written direction of the Credit Facility Provider.

(f) Amounts on deposit in the Bond Mortgage Loan Fund shall be invested as provided in Section 4.08 hereof. All Investment Income on amounts on deposit in the Bond Mortgage Loan Fund shall be retained in and credited to and become a part of the amounts on deposit in the Bond Mortgage Loan Fund, and shall constitute part of any transfers required by subsection (b) or (e) of this Section 4.02.

Section 4.03. Application of Revenues.

(a) All Revenues shall be deposited by the Trustee, promptly upon receipt thereof, to the General Account of the Revenue Fund, except (i) the proceeds of the Bonds received by the Trustee on the Delivery Date, which shall be applied in accordance with the provisions of Section 2.11 hereof; (ii) amounts paid pursuant to the Credit Facility, which shall be deposited in the Credit Facility Account; (iii) as otherwise specifically provided in subsection (c) of this Section 4.03 with respect to certain deposits into the Redemption Fund; (iv) with respect to Investment Income to the extent required under the terms hereof to be retained in the funds and accounts to which they are attributable; and (v) with respect to amounts required to be transferred between funds and accounts as provided in this Article IV.

(b) On each Interest Payment Date or any other date on which payment of principal of or interest on the Bonds becomes due and payable, the Trustee, out of money in the Credit Facility Account and the General Account of the Revenue Fund, shall credit the following amounts to the following funds, but in the order and within the limitations hereinafter indicated with respect thereto, as follows:

FIRST: to the Bond Fund from money in the Credit Facility Account of the Revenue Fund, an amount equal to the principal of and interest due on the Bonds on such date (excluding principal of and interest on any Purchased Bonds and excluding the principal constituting a mandatory sinking fund payment on any Bonds on such date and, prior to the Conversion Date, taking into account amounts in the Project Account of the Bond Mortgage Loan Fund available to make such payments); and

SECOND: to the Redemption Fund from money in the Credit Facility Account of the Revenue Fund, an amount equal to the principal amount due and payable on the Bonds with respect to mandatory sinking fund redemption (excluding principal of any Purchased Bonds) on such date; and

THIRD: to the Redemption Fund from money in the Credit Facility Account (i) amounts paid to the Trustee under the Credit Facility to be applied to the mandatory redemption of all or a portion of the Bonds pursuant to Section 3.01(b) hereof (other than a mandatory sinking fund redemption) and (ii) amounts paid to the Trustee under the Credit Facility to be applied to the optional redemption of all or a portion of the Bonds pursuant to Sections 3.01(a)(i) and 3.01(a)(ii) hereof; and

FOURTH: to the Purchased Bonds Account in the Bond Fund from money in the General Account, such amount as the Credit Facility Provider shall advise the Trustee is equal to the interest due on the Purchased Bonds on such date.

(c) Promptly upon receipt, the Trustee shall deposit directly to the Redemption Fund (i) Net Proceeds representing casualty insurance proceeds or condemnation awards paid as a

prepayment of the Bond Mortgage Loan, such amount to be applied to reimburse the Credit Facility Provider for a draw under the Credit Facility in such amount to provide for extraordinary mandatory redemption of all or a portion of the Bonds pursuant to Section 3.01(b)(i) hereof; (ii) Eligible Funds (other than draws under the Credit Facility) paid to the Trustee to be applied to the optional redemption of all or a portion of the Bonds pursuant to Sections 3.01(a)(i) and 3.01(a)(ii) hereof; (iii) Eligible Funds (other than draws under the Credit Facility) paid to the Trustee to be applied to the payment of any redemption premium in connection with an optional redemption of all or a portion of the Bonds pursuant to Section 3.01(a)(i) hereof; and (iv) amounts transferred to the Redemption Fund from the Bond Mortgage Loan Fund pursuant to Section 4.02(e) hereof.

(d) Should the amount in the Bond Fund be insufficient to pay the amount due on the Bonds on any given Interest Payment Date or other payment date after the transfers from the Credit Facility Account, the Trustee shall credit to the Bond Fund the amount of such deficiency by charging the following funds and accounts in the following order of priority: (1) the General Account of the Revenue Fund; and (2) the Redemption Fund, except no such charge to the Redemption Fund shall be made from money to be used to effect a redemption for which notice of redemption has been provided for or from money which is held for payment of Bonds which are no longer Outstanding hereunder.

(e) At the written direction of the Borrower, and with the written consent of the Credit Facility Provider and the Construction Lender, together with a certificate setting forth that no default exists under the Bond Mortgage Loan Documents signed by the Servicer, Investment Income deposited into the General Account of the Revenue Fund shall be paid to the Borrower semi-annually on each Interest Payment Date, commencing on the first Interest Payment Date after Conversion occurs, so long as (i) there is no deficiency in the Credit Facility Reimbursement Fund, the Administration Fund, the Rebate Fund, the Freddie Mac Collateral Fund or any Custodial Escrow Account, (ii) no default exists under the Bond Mortgage Loan and (iii) no event of default exists under any of the Bond Mortgage Loan Documents.

Section 4.04. Application of Bond Fund. The Trustee shall charge the Bond Fund, on each Interest Payment Date, an amount equal to the unpaid interest and principal due on the Bonds on such Interest Payment Date, and shall cause the same to be applied to the payment of such interest and principal when due (excluding principal on any Purchased Bond). Any money remaining in the Bond Fund on any Interest Payment Date after application as provided in the preceding sentence may, to the extent there shall exist any deficiency in the Redemption Fund to redeem Bonds called for mandatory sinking fund redemption on such Interest Payment Date, be transferred to the Redemption Fund to be applied for such purpose. Any balance remaining in the Bond Fund on the Business Day immediately succeeding an Interest Payment Date shall be transferred to the Servicer for payment to the Credit Facility Provider to be applied in accordance with the Reimbursement Agreement.

Any Investment Income on amounts on deposit in the Bond Fund shall be deposited by the Trustee upon receipt thereof in the General Account of the Revenue Fund.

No amount shall be charged against the Bond Fund except as expressly provided in this Article IV and in Section 6.05 hereof.

Section 4.05. Application of Redemption Fund. Any money credited to the Redemption Fund shall be applied as set forth in Sections 4.03(b) and 4.03(c) hereof; provided, however, that to the extent any money credited to the Redemption Fund from Eligible Funds

(other than draws under the Credit Facility) is in excess of the amount necessary to effect the redemptions described in Sections 4.03(b) and 4.03(c) hereof it shall be applied to make up any deficiency in the Bond Fund on any Interest Payment Date, to the extent money then available in accordance with Section 4.03(d) hereof in the General Account of the Revenue Fund is insufficient to make up such deficiency, provided that no money to be used to effect a redemption for which a conditional notice of redemption, the conditions of which have been satisfied, or an unconditional notice of redemption has been provided or money which is held for payment of Bonds which are no longer Outstanding hereunder shall be so transferred to the Bond Fund.

On or before each Interest Payment Date, any Investment Income on amounts on deposit in the Redemption Fund shall be credited by the Trustee to the General Account of the Revenue Fund.

No amount shall be charged against the Redemption Fund except as expressly provided in this Article IV and in Section 6.05 hereof.

Section 4.06. Administration Fund. The Trustee shall deposit into the Administration Fund, promptly upon receipt thereof, all amounts received from the Servicer, the Borrower and, prior to the Conversion Date, the Construction Lender designated for deposit into such fund. Prior to the earlier of the Conversion Date or the payment in full of all Bonds Outstanding, amounts on deposit in the Administration Fund shall be applied on each Interest Payment Date as follows: first, to the payment of accrued fees that are included in the Bond Fee Component that are due and payable; second, the payment of any fees due and payable to Freddie Mac under the Reimbursement Agreement; and third, to the Construction Lender any fees due and payable under the Construction Loan Agreement and the Construction Phase Credit Reimbursement Agreement. Thereafter, amounts in the Administration Fund shall be withdrawn or maintained, as appropriate, by the Trustee and used **FIRST**, to pay to the Trustee when due the Ordinary Trustee's Fees and Expenses; **SECOND**, to pay to the Issuer when due the Issuer Fee; **THIRD**, to pay when due the reasonable fees and expenses of a Rebate Analyst in connection with the computations relating to arbitrage rebate required under this Indenture and the Financing Agreement, upon receipt of an invoice from the Rebate Analyst; **FOURTH**, to deposit to any Custodial Escrow Account any deficiency in the amount held therein as certified in writing by the Servicer (or subsequent holder of such an account) to the Trustee; **FIFTH**, to pay to the Trustee any Extraordinary Trustee's Fees and Expenses due and payable from time to time, as set forth in an invoice submitted to the Borrower and Freddie Mac; **SIXTH**, to pay to the Issuer any extraordinary expenses it may incur in connection with the Bonds or this Indenture from time to time, as set forth in an invoice submitted to the Trustee and Freddie Mac; **SEVENTH**, to pay to the Credit Facility Provider any unpaid portion of the amounts due under the Reimbursement Agreement, as certified in writing by the Credit Facility Provider to the Trustee; **EIGHTH**, to pay to the Servicer any unpaid portion of the Ordinary Servicing Fees and Expenses and any Extraordinary Servicing Fees and Expenses due and owing from time to time, as set forth in an invoice submitted to the Trustee and Freddie Mac; **NINTH**, to make up any deficiency in the Redemption Fund on any redemption date of Bonds, to the extent money then available in accordance with Section 4.03(d) hereof in the Redemption Fund is insufficient to redeem Bonds called for redemption on such redemption date; **TENTH**, to pay to the Dissemination Agent when due the Dissemination Agent's Fee; **ELEVENTH**, to pay to the Rating Agency when due the annual rating maintenance fee, if any, as set forth in an invoice submitted to the Trustee; and **TWELFTH**, to transfer any remaining balance after application as aforesaid to the General Account of the Revenue Fund.

In the event that the amounts on deposit in the Administration Fund are not equal to the amounts payable from the Administration Fund as provided in the preceding paragraph on any date on which such amounts are due and payable, the Trustee shall give notice to the Borrower of such deficiency and of the amount of such deficiency and request payment within two (2) Business Days to the Trustee of the amount of such deficiency. Upon payment by the Borrower of such deficiency, the amounts for which such deficiency was requested shall be paid by the Trustee.

On or before each Interest Payment Date, any Investment Income on amounts on deposit in the Administration Fund not needed to pay the foregoing amounts shall be credited by the Trustee to the General Account of the Revenue Fund.

No amount shall be charged against the Administration Fund except as expressly provided in this Article IV and Section 6.05 hereof.

Section 4.07. Credit Facility Reimbursement Fund.

(a) The Trustee shall deposit into the Credit Facility Interest Reimbursement Account of the Credit Facility Reimbursement Fund, promptly upon receipt thereof, all amounts received from the Servicer, including, but not limited to, scheduled monthly interest collections pursuant to Section 3.3(a) of the Reimbursement Agreement, and, prior to the Conversion Date, all amounts received from the Borrower and the Construction Lender, designated for deposit into such account. Amounts on deposit in the Credit Facility Interest Reimbursement Account shall be applied by the Trustee to reimburse the Credit Facility Provider for amounts drawn under the Credit Facility to pay interest on the Bonds. On each Interest Payment Date, the Trustee, without the need for any further direction, shall pay to the Credit Facility Provider by no later than 2:30 p.m., Washington, D.C. time, from and to the extent of amounts on deposit in the Credit Facility Interest Reimbursement Account, an amount equal to the amount drawn by the Trustee under the Credit Facility to pay interest on the Bonds on such date.

(b) The Trustee shall deposit into the Credit Facility Principal Reimbursement Account of the Credit Facility Reimbursement Fund, promptly upon receipt thereof, all amounts received from the Servicer designated for deposit into such account, including, but not limited to, scheduled monthly principal deposits pursuant to Section 3.3(h) of the Reimbursement Agreement, and, prior to the Conversion Date, all amounts received from the Borrower and the Construction Lender, designated for deposit into such account. Amounts on deposit in the Credit Facility Principal Reimbursement Account shall be applied by the Trustee to reimburse the Credit Facility Provider for amounts drawn under the Credit Facility to pay principal on the Bonds. On each maturity date for the Bonds and each date the Bonds are subject to optional or mandatory redemption, the Trustee, without the need for any further direction, shall pay to the Credit Facility Provider by no later than 2:30 p.m., Washington, D.C. time, from and to the extent of amounts on deposit in the Credit Facility Principal Reimbursement Account, an amount equal to the principal amount drawn by the Trustee under the Credit Facility to pay or redeem Bonds in Authorized Denominations on such date.

(c) In the event that the amounts on deposit in the respective accounts in the Credit Facility Reimbursement Fund are insufficient to reimburse the Credit Facility Provider (as provided in subsection (a) or (b) of this Section 4.07) the full amount to be drawn under the Credit Facility to pay interest or principal on the Bonds, as applicable, the Trustee shall promptly give notice to the Credit Facility Provider, the Servicer and the Borrower of such deficiency and of the amount of such deficiency.

(d) All Investment Income on amounts on deposit in the Credit Facility Reimbursement Fund shall be retained in and credited to and become a part of the amounts on deposit in the respective accounts in such fund. Provided that (as confirmed by the Trustee with the Servicer or the Credit Facility Provider) (i) there is no deficiency in the Credit Facility Reimbursement Fund, the Administration Fund, the Rebate Fund, or any Custodial Escrow Account, (ii) no default exists under the Bond Mortgage Loan, (iii) no Event of Default exists hereunder or under any of the other Borrower Documents (as defined in the Reimbursement Agreement), and (iv) the Credit Facility Provider has been fully reimbursed for amounts drawn on the Credit Facility, the Trustee, without the need for any further direction, shall pay such Investment Income to the Borrower on the Interest Payment Date next succeeding receipt thereof (after making all payments specified in this Section 4.07).

(e) At the written direction of the Credit Facility Provider, the amounts on deposit in the Credit Facility Reimbursement Fund shall be used by the Trustee to pay any amounts required to be paid by the Borrower under any Bond Mortgage Loan Document, to pay any amounts owed to the Credit Facility Provider in connection with any loan purchased by the Credit Facility Provider and secured by the Project, or to pay any other amount agreed to in writing by the Borrower and the Credit Facility Provider; provided that the amounts on deposit in the Credit Facility Reimbursement Fund shall, upon the occurrence of an event of default under any Bond Mortgage Loan Document, be used in any manner and for any purpose specified by the Credit Facility Provider.

(f) At the written request of the Borrower, the Credit Facility Provider, in its sole and absolute discretion, may (i) consent to the release of all or a portion of the amounts on deposit in the Credit Facility Reimbursement Fund to the Borrower (in which case the Trustee shall release such amounts to the Borrower, provided that if, in the judgment of the Rebate Analyst, the amount on deposit in the Rebate Fund at such time is less than the amount required under Section 4.12 hereof to be rebated to the United States Department of the Treasury, then prior to any such release to the Borrower, any amounts on deposit in the Credit Facility Reimbursement Fund (up to the amount of such deficiency) shall be transferred to the Rebate Fund) and/or (ii) reduce or no longer require deposits to the Credit Facility Reimbursement Fund.

(g) Any amounts remaining in the Credit Facility Reimbursement Fund after payment in full of the principal of and interest on the Bonds and reimbursement of the Credit Facility Provider for all amounts drawn under the Credit Facility shall be applied as provided in Section 4.11 hereof.

Section 4.08. Investment of Funds. The money held by the Trustee shall constitute trust funds for the purposes hereof. Any money attributable to each of the funds and accounts hereunder shall be, except as otherwise expressly provided herein, invested by the Trustee, at the written direction of the Borrower (or, in the case of the Rebate Fund, as provided in Section 5.07(b)), in Qualified Investments which mature or shall be subject to redemption or withdrawal at par without penalty on or prior to the earlier of (i) six months from the date of investment and (ii) the date such money is needed; provided, that if the Trustee shall have entered into any investment agreement requiring investment of money in any fund or account hereunder in accordance with such investment agreement and if such investment agreement constitutes a Qualified Investment, such money shall be invested in accordance with such requirements; provided, further, that all amounts on deposit in the Credit Facility Reimbursement Fund and the Credit Facility Account of the Revenue Fund shall be held uninvested or shall be invested only in Government Obligations or in Qualified Investments of the type described in subparagraph (g)

of the definition thereof which, in any case, shall mature or be subject to redemption or withdrawal at par without penalty on or prior to the earlier of (i) 30 days from the date of investment and (ii) the date such money is required to be applied pursuant to the provisions of this Indenture. In the absence of written direction from the Borrower, the Trustee shall invest amounts on deposit in the funds and accounts established under this Indenture in Government Obligations or in investments of the type described in subparagraph (g) of the definition of Qualified Investments which shall have the same maturity and other restrictions as set forth above. Such investments may be made through the investment or securities department of the Trustee. The Trustee may purchase from or sell to itself or an affiliate, as principal or agent, securities herein authorized. The Trustee shall be entitled to assume, absent receipt by the Trustee of written notice to the contrary, that any investment which at the time of purchase is a Qualified Investment remains a Qualified Investment thereafter.

Amounts on deposit in the Freddie Mac Collateral Fund shall be invested and reinvested by the Trustee in (i) non-AMT tax exempt obligations rated in the highest short term category by Moody's or S&P; or (ii) money market mutual funds (including funds of the Trustee or affiliates) registered under the Investment Company Act of 1940, as amended, investing solely in investments described in (i) which are rated in the highest short term category by Moody's or S&P, which in any case, shall mature or be subject to tender or redemption at par on or prior to the earlier of (A) 35 days from the date of investment or (B) the date such moneys are needed for the purposes thereof. All such investments shall be attributable to and deemed at all times to be a part of the Freddie Mac Collateral Fund.

Qualified Investments representing an investment of money attributable to any fund or account shall be deemed at all times to be a part of said fund or account, and, except as otherwise may be provided expressly in other Sections hereof, the interest thereon and any profit arising on the sale thereof shall be credited to the General Account of the Revenue Fund, and any loss resulting on the sale thereof shall be charged against the General Account of the Revenue Fund. Such investments shall be sold at the best price obtainable (at least par) whenever it shall be necessary so to do in order to provide money to make any transfer, withdrawal, payment or disbursement from said fund or account. In the case of any required transfer of money to another such fund or account, such investments may be transferred to that fund or account in lieu of the required money if permitted hereby as an investment of money in that fund or account. The Trustee shall not be liable or responsible for any loss resulting from any investment made in accordance herewith.

The Issuer acknowledges that to the extent that regulations of the Comptroller of the Currency or other applicable regulatory agency grant the Issuer the right to receive brokerage confirmations of the security transactions as they occur, to the extent permitted by law, the Issuer specifically waives compliance with 12 C.F.R. 12 and hereby notifies the Trustee hereunder, that no brokerage confirmations need be sent relating to the security transactions as they occur.

In computing for any purpose hereunder the amount in any fund or account on any date, obligations so purchased shall be valued at Fair Market Value.

Section 4.09. Money Held for Particular Bonds; Funds Held in Trust. The amounts held by the Trustee for the payment of the interest, principal or redemption price due on any date with respect to particular Bonds pending such payment, shall be set aside and held in trust by it for the Holders of the Bonds entitled thereto, and for the purposes hereof such interest, principal or redemption price, after the due date thereof, shall no longer be considered to be

unpaid.

All money held by the Trustee for such purpose at any time pursuant to the terms of this Indenture shall be and hereby are assigned, transferred and set over unto the Trustee in trust for the purposes and under the terms and conditions of this Indenture.

Section 4.10. Accounting Records. The Trustee shall maintain accurate books and records for all funds and accounts established hereunder and provide monthly statements (or other electronic access as agreed to by the parties) of such funds and accounts to the Issuer, the Borrower, the Servicer and the Construction Lender.

Section 4.11. Amounts Remaining in Funds. After full payment of the Bonds (or provision for payment thereof having been made in accordance with Section 9.01 hereof) and full payment of the fees, charges and expenses of the Issuer and the Trustee and other amounts required to be paid hereunder or under any Bond Mortgage Loan Document, including, but not limited to, the Credit Facility and the Reimbursement Agreement or the Construction Loan Documents, any amounts remaining in any fund or account hereunder other than the Rebate Fund shall be paid to the Borrower; provided however, that if a default shall have occurred and remain uncured under any Bond Mortgage Loan Document of which the Trustee shall have received written notice from the Credit Facility Provider or the Servicer, then any such amounts remaining in any fund or account hereunder shall be paid to the Credit Facility Provider in accordance with the Reimbursement Agreement; provided, further, that if a default shall have occurred and remain uncured under the Construction Loan Documents of which the Trustee shall have received written notice from the Construction Lender, then following payment of any amounts due and payable to the Credit Facility Provider, any such amounts remaining in any fund or account hereunder shall be paid to the Construction Lender in accordance with the Construction Loan Documents.

Section 4.12. Rebate Fund; Compliance with Tax Certificate. The Rebate Fund shall be established by the Trustee and held and applied as provided in this Section 4.12. On any date on which any amounts are required by applicable federal tax law to be rebated to the federal government, amounts shall be deposited into the Rebate Fund by the Borrower for such purpose. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the rebate requirement (as set forth in the Tax Certificate) and as calculated by the Rebate Analyst, for payment to the government of the United States of America, and neither the Issuer, the Borrower, the Credit Facility Provider nor the Bondholders shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section 4.12 and by the Tax Certificate. The Trustee shall conclusively be deemed to have complied with such provisions if it follows the written instructions of the Issuer, Bond Counsel or the Rebate Analyst, including supplying all necessary information in the manner set forth in the Tax Certificate, and shall not be required to take any actions under the Tax Certificate in the absence of written instructions from the Issuer, Bond Counsel or the Rebate Analyst.

Within 55 days of the end of each fifth Bond Year, the Borrower shall cause the Rebate Analyst to calculate the amount of rebatable arbitrage, in accordance with Section 148(f)(2) of the Code and Section 1.148-3 of the Treasury Regulations (taking into account any exceptions with respect to the computation of the rebatable arbitrage, described, if applicable, in the Tax Certificate (e.g., the temporary investments exceptions of Section 148(f)(4)(B) and (C) of the Code)), for this purpose treating the last day of the applicable Bond Year as a (computation) date, within the meaning of Section 1.148-1(b) of the Treasury Regulations (the "**Rebatable**

Arbitrage”). Pursuant to Section 2.4 of the Financing Agreement, the Borrower shall cause the Rebate Analyst to provide such calculations to the Trustee and the Issuer. In the event that the Borrower fails to provide such information to the Trustee and the Issuer within 55 days of the end of each fifth Bond Year, the Trustee, at the expense of the Borrower, shall select the Rebate Analyst, with the prior written approval of the Issuer, and shall cause the Rebate Analyst to calculate the amount of rebatable arbitrage as required herein.

Within 55 days of the end of each fifth Bond Year, upon the written direction of the Issuer, Bond Counsel or the Rebate Analyst, an amount shall be deposited to the Rebate Fund by the Trustee from amounts provided by the Borrower, if and to the extent required so that the balance in the Rebate Fund shall equal the amount of Rebatable Arbitrage so calculated in accordance with the preceding paragraph.

The Trustee shall pay, as directed by the Issuer, Bond Counsel or the Rebate Analyst, to the United States Department of the Treasury, out of amounts in the Rebate Fund:

(i) Not later than 60 days after the end of (A) the fifth Bond Year, and (B) each applicable fifth Bond Year thereafter, an amount equal to at least 90% of the Rebatable Arbitrage calculated as of the end of such Bond Year; and

(ii) Not later than 60 days after the payment of all the Bonds, an amount equal to 100% of the Rebatable Arbitrage calculated as of the end of such applicable Bond Year, and any income attributable to the Rebatable Arbitrage, computed in accordance with Section 148(f) of the Code.

Each payment required to be made under this Section shall be made to the Internal Revenue Service Center, Ogden, Utah 84201 (or such other address provided in such direction), on or before the date on which such payment is due, and shall be accompanied by Internal Revenue Service Form 8038-T, which shall be prepared by the Rebate Analyst and provided to the Trustee.

Notwithstanding any provision of this Indenture to the contrary, the obligation to remit payment of the Rebatable Arbitrage to the United States of America and to comply with all other requirements of Sections 2.4 and 4.3 of the Financing Agreement and this Section 4.12, and the requirements of the Tax Certificate shall survive the defeasance or payment in full of the Bonds.

Any funds remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Requirement, or provision made therefor satisfactory to the Trustee, shall be withdrawn and remitted to the Borrower.

The Trustee shall obtain and keep such records of the computations made pursuant to this Section 4.12 as are required under Section 148(f) of the Code to the extent furnished to the Trustee. The Borrower shall or shall cause the Rebate Analyst to provide to the Issuer and the Trustee copies of all rebate computations made pursuant to this Section 4.12. The Trustee shall keep and make available to the Borrower such records concerning the investments of the gross proceeds of the Bonds and the investments of earnings from those investments made by the Trustee as may be requested by the Borrower in order to enable the Borrower to cause the Rebate Analyst to make the aforesaid computations as are required under Section 148(f) of the Code.

Notwithstanding the foregoing, the computations and payments of Rebatable Arbitrage

need not be made to the extent that neither the Issuer nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on an opinion of Bond Counsel, to the effect that such failure will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds, a copy of which shall be provided to the Trustee, at the expense of the Borrower.

Section 4.13. Cost of Issuance Fund. The Trustee shall use money on deposit to the credit of the Cost of Issuance Fund to pay the costs of issuance on the Delivery Date or as soon as practicable thereafter in accordance with written instructions to be given to the Trustee by the Borrower, as set forth in the closing memorandum prepared by the underwriter for the Bonds (and accepted and agreed to by the Issuer and the Borrower) on the Delivery Date or by Requisition, upon delivery to the Trustee of appropriate invoices for such expenses. Amounts in the Cost of Issuance Fund funded with proceeds of the Bonds, if any, shall be expended prior to the application of the Costs of Issuance Deposit. Investment Income on amounts on deposit in the Cost of Issuance Fund shall be retained in such fund. Amounts remaining on deposit in the Cost of Issuance Fund six (6) months after the Delivery Date shall be transferred to the Borrower Equity Account of the Bond Mortgage Loan Fund. Upon such final disbursement, the Trustee shall close the Cost of Issuance Fund.

Section 4.14. Reports From the Trustee. The Trustee shall, on or before the fifteenth (15th) day of each month, file with the Multifamily Loan Servicing Department of the Credit Facility Provider, the Issuer (at its written request), the Construction Lender and the Borrower a statement setting forth in respect of the preceding calendar month:

- (i) the amount withdrawn or transferred by it, and the amount deposited within or on account of each fund and account held by it under the provisions of this Indenture, including the amount of investment income on each fund and account;
- (ii) the amount on deposit with it at the end of such month to the credit of each fund and account;
- (iii) a brief description of all obligations held by it as an investment of money in each such fund and account; and
- (iv) any other information which the Credit Facility Provider, the Construction Lender or the Issuer may reasonably request and to which the Trustee has access in the ordinary course of its operations.

Upon the written request of any Bondholder, the Trustee, at the cost of the Borrower, shall provide a copy of such statement to such Bondholder. All records and files pertaining to the Trust Estate shall be open at all reasonable times to the inspection of the Issuer, the Credit Facility Provider, the Construction Lender and their agents and representatives upon reasonable prior notice during normal business hours.

Section 4.15. Payments Under Bond Mortgage Loan. The Trustee and the Issuer hereby expressly acknowledge that references in this Indenture to payments or prepayments of the Bond Mortgage Loan shall, for all purposes of this Indenture, refer solely to such portion of such payments or prepayments actually paid by the Credit Facility Provider to the Trustee as Guaranteed Payments pursuant to the Credit Facility for which the Borrower has correspondingly reimbursed the Credit Facility Provider in an amount equal to the Guaranteed Payments. Without in any way limiting the foregoing, the Trustee and the Issuer hereby

acknowledge that, following the Conversion Date, pursuant to the Guide, the Servicer will pay the Freddie Mac Credit Enhancement Fee and the Ordinary Servicing Fees and Expenses from payments under the Bond Mortgage Loan made by the Borrower prior to remitting the balance of such payments or prepayments to the Trustee for application as provided in this Indenture.

Section 4.16. Drawings Under Credit Facility. The Credit Facility shall be held by the Trustee and drawn upon in accordance with its terms and the provisions of this Indenture. Money derived from draws upon the Credit Facility shall be deposited in the Credit Facility Account of the Revenue Fund and applied by the Trustee to pay the principal of and interest on the Bonds, and, in the event of a purchase of the Bonds in lieu of redemption pursuant to Section 3.06 hereof, to pay, to the extent provided in the Credit Facility, the Purchase Price of the Bonds in accordance with this Indenture.

The Trustee shall draw money under the Credit Facility in accordance with the terms thereof when needed and in amounts sufficient to make timely payments of the principal of and interest, but not premium, on the Bonds when due and payable (i.e., on any Interest Payment Date, any Settlement Date, any redemption date or the Maturity Date).

Should the Credit Facility Provider become the owner of the Project by foreclosure or otherwise, the Trustee shall nevertheless continue to make payments on the Bonds only from draws on the Credit Facility or from other Eligible Funds.

The Trustee shall send to the Borrower via facsimile or Electronic Notice a copy of any documents which are presented to the Credit Facility Provider in connection with a drawing on the Credit Facility concurrently with its submission of those documents to the Credit Facility Provider, if requested to do so by the Borrower. The Borrower shall be permitted to provide the Trustee with an Alternate Credit Facility in accordance with this Indenture and the Financing Agreement.

Section 4.17. Notices Under Credit Facility. The Trustee hereby agrees to provide to the Credit Facility Provider all such notices, including any notice of failure to receive a payment, as shall be required under the Credit Facility in the manner and within the periods of time provided therein and the Trustee and the Issuer hereby acknowledge that certain notices constitute a condition precedent to payment by the Credit Facility Provider under the Credit Facility.

Section 4.18. Freddie Mac Collateral Fund.

(a) The Trustee shall deposit into the Freddie Mac Collateral Fund, promptly upon receipt thereof, each Construction Loan Advance, including the Initial Construction Loan Advance, received from the Construction Lender, designated for deposit into such fund. Income realized from the investment or deposit of money in the Freddie Mac Collateral Fund shall be deposited by the Trustee upon receipt thereof in the Freddie Mac Collateral Fund.

(b) Upon receipt by the Trustee of money derived from a draw on the Credit Facility in connection with a written direction by the Credit Facility Provider to redeem the Bonds as a result of the occurrence of a Borrower Default, a Construction Lender Default or a Direction to Draw, amounts on deposit in the Freddie Mac Collateral Fund in an amount equal to difference between (i) the Construction Phase Collateral Requirement and (ii) amounts remaining in the Project Account of the Bond Mortgage Loan Fund being transferred to the Redemption Fund to be applied to reimburse the Credit Facility Provider for the related redemption of Bonds

pursuant to Section 4.02(e), shall be released to the Credit Facility Provider.

(c) Upon receipt by the Trustee of a Direction to Release from the Credit Facility Provider, amounts on deposit in the Freddie Mac Collateral Fund shall be released to the Construction Lender.

(d) Investment earnings, if any, on amounts on deposit in the Freddie Mac Collateral Fund may be transferred by the Trustee to the Borrower Equity Account of the Bond Mortgage Loan Fund on the Business Day immediately prior to each Interest Payment Date so long as (A) no default by the Borrower has occurred and is continuing under any of the Borrower Documents and (B) the Trustee shall have ascertained that, after giving effect to the disbursement, the sum of (A) amounts deposited and held in the Project Accounts of the Bond Mortgage Loan Fund plus (B) amounts deposited and held in the Freddie Mac Collateral Fund (disregarding any investment earnings thereon), will not be less than the Construction Phase Collateral Requirement.

ARTICLE V

GENERAL COVENANTS AND REPRESENTATIONS

Section 5.01. Payment of Principal and Interest. The Issuer covenants that it will promptly pay or cause to be paid, but only from the sources identified herein, sufficient amounts to provide for the payment of the principal of, premium, if any, and interest on the Bonds at the place, on the dates and in the manner provided herein and in the Bonds, according to the true intent and meaning thereof.

Section 5.02. Performance of Covenants. The Issuer covenants that it will faithfully perform at all times any and all of its covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings pertaining thereto.

Section 5.03. Instruments of Further Assurance. The Issuer covenants that it 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 may be reasonably required for the better assuring, transferring, conveying, pledging, assigning and confirming unto the Trustee all and singular its interest in the property herein described and the revenues, receipts and other amounts pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds. Any and all interest in property hereafter acquired which is of any kind or nature herein provided to be and become subject to the lien hereof shall and without any further conveyance, assignment or act on the part of the Issuer or the Trustee, become and be subject to the lien of this Indenture as fully and completely as though specifically described herein, but nothing in this sentence contained shall be deemed to modify or change the obligations of the Issuer under this Section 5.03. The Issuer covenants and agrees that, except as herein otherwise expressly provided, it has not and will not sell, convey, mortgage, encumber or otherwise dispose of any part of its interest in the Trust Estate or the revenues or receipts therefrom.

The Issuer will promptly notify the Trustee and, so long as Freddie Mac is the Credit Facility Provider, the Servicer and the Construction Lender in writing of the occurrence of any of the following:

- (i) the submission of any claim or the initiation of any legal process, litigation or administrative or judicial investigation against the Issuer with respect to the Bonds;
- (ii) any change in the location of the Issuer's principal office or any change in the location of the Issuer's books and records relating to the transactions contemplated hereby;
- (iii) the occurrence of any default or Event of Default of which the Issuer has actual knowledge;
- (iv) the commencement of any proceedings or any proceedings instituted by or against the Issuer in any federal, state or local court or before any governmental body or agency, or before any arbitration board, relating to the Bonds; or
- (v) the commencement of any proceedings by or against the Issuer under any applicable bankruptcy, reorganization, liquidation, rehabilitation, insolvency or other

similar law now or hereafter in effect or of any proceeding in which a receiver, liquidator, conservator, trustee or similar official shall have been, or may be, appointed or requested for the Issuer or any of its assets relating to the Bonds.

Section 5.04. Inspection of Project Books. The Issuer covenants and agrees that all books and documents in its possession relating to the Project shall, upon reasonable prior notice, during normal business hours, be open to inspection and copying by such accountants or other agents as the Trustee, the Credit Facility Provider or the Construction Lender may from time to time reasonably designate.

Section 5.05. No Modification of Security; Additional Indebtedness. The Issuer covenants that it will not, without the written consent of the Trustee, the Credit Facility Provider and the Construction Lender, alter, modify or cancel, or agree to consent to alter, modify or cancel any agreement to which the Issuer is a party, or which has been assigned to the Issuer, and which relates to or affects the security for the Bonds or the payment of any amount owed to the Credit Facility Provider. The Issuer further covenants not to create or suffer to be created any lien upon the Trust Estate or any part thereof other than the lien created hereby and by the Bond Mortgage and the Reimbursement Mortgage without the prior written consent of the Credit Facility Provider and the Construction Lender.

Section 5.06. Damage, Destruction or Condemnation. Subject to the provisions of the Intercreditor Agreement and the Construction Phase Financing Agreement, Net Proceeds resulting from casualty to or condemnation of the Project shall be applied as provided in the Bond Mortgage Loan Documents and, to the extent consistent therewith, Section 3.01(b)(i) hereof.

Section 5.07. Tax Covenants.

(a) Issuer's Covenants. The Issuer covenants to and for the benefit of the Holders of the Bonds that it will:

(i) neither knowingly make or use nor cause to be made or used any investment or other use of the proceeds of the Bonds or the moneys and investments held in the funds and accounts created hereunder which would cause the Bonds to be arbitrage bonds under Section 148 of the Code and the Regulations issued under Section 148 of the Code or which would otherwise cause the interest payable on the Bonds to be includable in gross income for federal income tax purposes; provided that it is expressly stated and acknowledged that the use and investment of moneys held in the Funds and Accounts established hereunder will not be under the control or subject to the direction of the Issuer, but will be under the control and direction of Trustee and the Borrower;

(ii) not knowingly take or cause to be taken any other action or actions, or fail to take any action or actions within its control, which would cause the interest payable on the Bonds to be includable in gross income for federal income tax purposes;

(iii) at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by the Issuer on the Bonds will be excluded from the gross income for federal income tax purposes, of the Bondholders pursuant to Section 103 of the Code, except in the event where any such owner of Bonds is a "substantial user" of the facilities financed with the Bonds or a

“related person” within the meaning of the Code;

(iv) not knowingly take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations;

(v) require the Borrower to agree, pursuant to the terms and provisions of the Financing Agreement, not to commit any act and not to make any use of the proceeds of the Bonds, or any other moneys which may be deemed to be proceeds of the Bonds pursuant to the Code, which would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code, and to comply with the requirements of the Code throughout the term of the Bonds; and

(vi) not knowingly cause to be made any investment or other use of the proceeds of the Bonds that would cause the Bonds to be arbitrage bonds under section 148 of the Code and the regulations thereunder or otherwise cause the interest on the Bonds to become included in gross income for federal income tax purposes. This covenant shall extend throughout the term of the Bonds, to all funds and accounts created hereunder and all money on deposit to the credit of any such fund or account.

In furtherance of the covenants in this Section 5.09, the Issuer and the Borrower shall execute, deliver and comply, as applicable, with the provisions of the Tax Certificate, which is by this reference incorporated into this Indenture and made a part of this Indenture as if set forth in this Indenture in full, and by its acceptance of this Indenture the Trustee acknowledges receipt of the Tax Certificate and acknowledges its incorporation into this Indenture by this reference, but notwithstanding such acknowledgment, the Trustee shall have no duties thereunder unless and until it receives explicit written instructions from the Borrower.

(b) Trustee’s Covenants. The Trustee agrees that it will invest funds held under this Indenture in accordance with the terms of this Indenture and the Tax Certificate (this covenant shall extend throughout the term of the Bonds, to all funds and accounts created under this Indenture and all moneys on deposit to the credit of any such fund or account). The Trustee covenants to and for the benefit of the Bondholders that, notwithstanding any other provisions of this Indenture or of any other instrument, it will not make or cause to be made any investment or other use of the moneys in the funds or accounts created hereunder which would cause the Bonds to be classified as “arbitrage bonds” within the meaning of Sections 103(b) and 148 of the Code or would cause the interest on the Bonds to be includable in gross income for federal income tax purposes; provided that the Trustee shall be deemed to have complied with such requirements and shall have no liability to the extent it reasonably follows the written directions of the Borrower, the Issuer or the Rebate Analyst. This covenant shall extend, throughout the term of the Bonds, to all funds created under this Indenture and all moneys on deposit to the credit of any such fund. Pursuant to this covenant, with respect to the investments of the funds and accounts under this Indenture, the Trustee obligates itself to comply throughout the term of the issue of the Bonds with the requirements of Sections 103(b) and 148 of the Code; provided that the Trustee shall be deemed to have complied with such requirements and shall have no liability to the extent it reasonably follows the written directions of the Borrower, the Issuer or the Rebate Analyst. The Trustee further covenants that should the Issuer or the Borrower file with the Trustee (it being understood that neither the Issuer nor the Borrower has an obligation to so file), or should the Trustee receive, an opinion of Bond Counsel to the effect that any proposed investment or other use of proceeds of the Bonds would cause the Bonds to become “arbitrage bonds,” then the Trustee will comply with any written instructions of the Borrower or Bond

Counsel regarding such investment (which shall, in any event, be a Qualified Investment) or use so as to prevent the Bonds from becoming “arbitrage bonds,” and the Trustee will bear no liability to the Issuer, the Borrower, the Bondholders or the Credit Facility Provider for investments made in accordance with such instructions.

Section 5.08. Representations and Warranties of the Issuer. The Issuer hereby represents and warrants as follows:

(a) The Issuer is a municipal corporation and chartered city, duly organized and existing under the Constitution and laws of the State.

(b) The Issuer has all necessary power and authority to issue the Bonds and to execute and deliver this Indenture, the Financing Agreement and the other Bond Financing Documents to which it is a party, and to perform its duties and discharge its obligations hereunder and thereunder.

(c) The revenues and assets pledged for the repayment of the Bonds are and will be free and clear of any pledge, lien or encumbrance prior to, or equal with, the pledge created by this Indenture, and all action on the part of the Issuer to that end has been duly and validly taken.

(d) The Bond Financing Documents to which the Issuer is a party have been validly authorized, executed and delivered by the Issuer, and assuming due authorization, execution and delivery by the other parties thereto, constitute valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium or other laws affecting creditors’ rights generally and the application of equitable principles.

ARTICLE VI

DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS

Section 6.01. Events of Default. Each of the following shall be an event of default with respect to the Bonds (an “**Event of Default**”) under this Indenture:

(a) failure to pay the principal of, premium, if any, or interest on any Bond (other than Purchased Bonds or Special Purchased Bonds) when due, whether on an Interest Payment Date, at the stated maturity thereof, by proceedings for redemption thereof, by acceleration or otherwise; or

(b) failure by the Credit Facility Provider to make when due a required payment under the Credit Facility; or

(c) failure to observe or perform any of the covenants, agreements or conditions on the part of the Issuer (other than those set forth in Section 5.01 hereof) set forth in this Indenture or in the Bonds and the continuance thereof for a period of thirty (30) days (or such longer period, if any, as is specified herein for particular defaults) after written notice thereof (which notice shall be effective only with the written consent of the Credit Facility Provider if no Event of Default has occurred and is then continuing under Section 6.01(b) hereof) to the Issuer from the Trustee or the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding at such time specifying such default and requiring the same to be remedied; provided that if such default cannot be cured within such thirty (30) day period through the exercise of diligence and the Issuer commences the required cure within such thirty (30) day period and continues the cure with diligence and the Issuer reasonably anticipates that the default could be cured within sixty (60) days, the Issuer shall have sixty (60) days following receipt of such notice to effect the cure.

The Trustee and the Issuer agree that, notwithstanding the provisions hereof, no default under the terms of this Indenture shall be construed as resulting in a default under the Bond Mortgage Note, the Bond Mortgage or any other Bond Mortgage Loan Document, unless such event also constitutes an event of default thereunder.

The Trustee will immediately notify the Issuer, the Servicer, the Credit Facility Provider and the Construction Lender after a Responsible Officer obtains actual knowledge of the occurrence of an Event of Default or obtains actual knowledge of the occurrence of an event which would become an Event of Default with the passage of time or the giving of notice or both.

Section 6.02. Acceleration; Other Remedies Upon Event of Default.

(a) Upon the occurrence of an Event of Default under Section 6.01(b) hereof, the Trustee shall, upon the written request of the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding and receipt of indemnity satisfactory to it, by notice in writing delivered to the Issuer, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and interest shall continue to accrue thereon until such amounts are paid.

(b) Upon the occurrence of an Event of Default (other than an Event of Default under

Section 6.01(b) hereof), the Trustee shall, but only upon receipt from the Credit Facility Provider of a notice directing such acceleration (which notice may be given in the sole discretion of the Credit Facility Provider and only with the consent of the Construction Lender), by notice in writing delivered to the Issuer, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable and, upon the Credit Facility Provider having honored a properly presented and conforming draw under the Credit Facility to pay such amounts, interest on the Bonds shall cease to accrue, anything contained in this Indenture or in the Bonds to the contrary notwithstanding.

The payment on the Bonds resulting from a declaration of acceleration on the Bonds as the result of an Event of Default occurring under Section 6.01(a) or 6.01(c) hereof shall be made from the Credit Facility.

If at any time after the Bonds shall have been so declared due and payable, and before any judgment or decree for the payment of the money due shall have been obtained or entered, the Issuer, the Borrower, the Credit Facility Provider or the Construction Lender, as applicable, shall pay to or deposit with the Trustee a sum sufficient to pay all principal of the Bonds then due (other than solely by reason of such declaration) and all unpaid installments of interest (if any) upon all the Bonds then due, with interest at the rate borne by the Bonds on such overdue principal and (to the extent legally enforceable) on such overdue installments of interest, and the reasonable fees and expenses of the Trustee (including its counsel) shall have been made good or cured or adequate provision shall have been made therefor, and all outstanding amounts then due and unpaid under the Reimbursement Agreement (including, without limitation, with respect to the Credit Facility Provider all outstanding amounts owed to the Credit Facility Provider and all fees owed to the Credit Facility Provider) (collectively, the **"Cure Amount"**) shall have been paid in full, and all other defaults hereunder shall have been made good or cured or waived in writing by the Credit Facility Provider (or, if an Event of Default under Section 6.01(b) hereof has occurred and is then continuing, by the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding), then and in every case, the Trustee on behalf of the Holders of all the Outstanding Bonds shall rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default, nor shall it impair or exhaust any right or power consequent thereon. Notwithstanding the foregoing provisions of this paragraph, in the event the Cure Amount is derived in whole or in part from a draw on the Credit Facility, any such rescission or annulment of such declaration of acceleration shall not occur without the written consent of the Credit Facility Provider. The right of the Construction Lender to deposit sums with the Trustee as set forth above shall not be construed to mean that the Construction Phase Credit Facility directly secures or otherwise enhances the Bonds or runs to the benefit of any party other than the Credit Facility Provider.

Upon the occurrence and during the continuance of an Event of Default, the Trustee in its own name and as trustee of an express trust, on behalf and for the benefit and protection of the Holders of all Bonds with respect to which such an Event of Default has occurred and of the Credit Facility Provider (if no Event of Default has occurred and is continuing under Section 6.01(b) hereof), may also proceed to protect and enforce any rights of the Trustee and, to the full extent that the Holders of such Bonds themselves might do, the rights of such Bondholders under the laws of the State or under this Indenture by such of the following remedies as the Trustee shall deem most effectual to protect and enforce such rights; provided that, so long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, the Trustee may undertake any such remedy only upon the receipt of the prior written consent of the Credit Facility Provider (which consent may be given in the sole discretion of the

Credit Facility Provider) and the Construction Lender:

- (i) by mandamus or other suit, action or proceeding at law or in equity, to enforce the payment of the principal of, premium, if any, or interest on the Bonds then Outstanding and to require the Issuer or the Credit Facility Provider to carry out any covenants or agreements with or for the benefit of the Bondholders and to perform its duties under the Act, this Indenture, the Financing Agreement, the Tax Regulatory Agreement or the Credit Facility (as applicable) to the extent permitted under the applicable provisions thereof;
- (ii) by pursuing any available remedies under the Financing Agreement, the Tax Regulatory Agreement, the Credit Facility or any other Bond Financing Document;
- (iii) by realizing or causing to be realized through sale or otherwise upon the security pledged hereunder; and
- (iv) by action or suit in equity enjoin any acts or things that may be unlawful or in violation of the rights of the Holders of the Bonds and execute any other papers and documents and do and perform any and all such acts and things as may be necessary or advisable in the opinion of the Trustee in order to have the respective claims of the Bondholders against the Issuer allowed in any bankruptcy or other proceeding.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Bondholders 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, the Credit Facility Provider or the Bondholders hereunder or under the Financing Agreement, the Tax Regulatory Agreement, the Credit Facility, the Reimbursement Agreement or any other Bond Financing Document, as applicable, 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 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, the Credit Facility Provider or the Bondholders, shall extend to or shall affect any subsequent default or event of default or shall impair any rights or remedies consequent thereto.

In all events the rights of the Trustee to exercise remedies under this Indenture upon the occurrence of an Event of Default shall be subject to the provisions of the Intercreditor Agreement.

Section 6.03. Rights of Bondholders. If an Event of Default under Section 6.01(b) hereof shall have occurred and is then continuing, and if requested in writing so to do by the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding with respect to which there is a default, and if indemnified to its satisfaction, the Trustee shall exercise one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel or a committee of Responsible Officers, shall deem to be in the best interest of the affected Bondholders. If an Event of Default under Section 6.01(b) hereof shall have occurred and is then continuing, the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding with respect to which an Event of Default has occurred shall have the right at any time, subject to the provisions of Section 6.08 hereof, by an instrument in writing executed and delivered to the Trustee, to direct the time, method and place

of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Indenture.

Section 6.04. Waiver by Issuer. Upon the occurrence of an Event of Default, to the extent that such right may then lawfully be waived, neither the Issuer nor anyone claiming through or under it shall set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereinafter in force, in order to prevent or hinder the enforcement of this Indenture; and the Issuer, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws and all right of appraisal and redemption to which it may be entitled under the laws of the State and the United States of America.

Section 6.05. Application of Money After Default. All money (other than amounts drawn from the Credit Facility under Section 6.02 hereof) collected by the Trustee at any time pursuant to this Article shall, except to the extent, if any, otherwise directed by a court of competent jurisdiction, be credited by the Trustee to the General Account of the Revenue Fund. Such money so credited to the General Account of the Revenue Fund and all other money from time to time credited to the General Account of the Revenue Fund shall at all times be held, transferred, withdrawn and applied as prescribed by the provisions of Article IV hereof and this Section 6.05.

In the event that at any time the money credited to the Revenue Fund, the Bond Fund and the Redemption Fund available for the payment of interest or principal then due with respect to the Bonds shall be insufficient for such payment, such money (other than money held for the payment or redemption of particular Bonds as provided in Section 4.09 hereof and amounts drawn from the Credit Facility under Section 6.02 hereof) shall be applied as follows and in the following order of priority:

(a) For payment of all amounts due to the Trustee incurred in performance of its duties under this Indenture, including, without limitation, the payment of all reasonable fees and expenses of the Trustee incurred in exercising any remedies under this Indenture.

(b) So long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, first for the payment to the Credit Facility Provider of all amounts then due and unpaid under the Reimbursement Agreement (including with respect to Freddie Mac all Freddie Mac Credit Enhancement Fees and Freddie Mac Reimbursement Amounts) and second, prior to the Conversion Date, for the payment to the Construction Lender of all amounts then due and unpaid under the Construction Loan Agreement and the Construction Phase Credit Reimbursement Agreement.

(c) Unless the principal of all Bonds shall have become or have been declared due and payable:

FIRST: to the payment to the Persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available is not sufficient to pay in full any installment, then to the payment thereof ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or preference; and

SECOND: to the payment to the Persons entitled thereto of the unpaid principal of and premium, if any (which payment of premium shall not be restricted to Eligible Funds), on any Bonds which shall have become due, whether at maturity or by call for redemption, in the order in which they became due and payable, and, if the amount available is not sufficient to pay in full all the principal of and premium, if any, on the Bonds so due on any date, then to the payment of principal ratably, according to the amounts due on such date, to the Persons entitled thereto, without any discrimination or preference, and then to the payment of any premium due on the Bonds, ratably, according to the amounts due on such date, to the Persons entitled thereto, without any discrimination or preference.

(d) If the principal of all of the Bonds shall have become or have been declared due and payable, to the payment of the principal of, premium, if any (which payment of premium shall not be restricted to Eligible Funds), and interest then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due, respectively, for principal, premium and interest, to the Persons entitled thereto without any discrimination or preference except as to any differences in the respective rates of interest specified in the Bonds.

(e) If an Event of Default has occurred and is then continuing under Section 6.01(b) hereof, for the payment to the Credit Facility Provider of all amounts then due and unpaid under the Reimbursement Agreement to the date of such Event of Default.

Section 6.06. Rights of the Credit Facility Provider. If an Event of Default under Section 6.01(a) or Section 6.01(c) hereof shall have occurred and so long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, upon receipt of the written direction of the Credit Facility Provider (which direction may be given in the sole discretion of the Credit Facility Provider), the Trustee shall be obligated to exercise any right or power conferred by this Article in the manner set forth in such written direction of the Credit Facility Provider. If such written direction expressly states that the Trustee may exercise one or more of the rights and powers conferred in this Article as the Trustee shall deem to be in the interest of the Bondholders and the Credit Facility Provider, the Trustee, being advised by counsel or a committee of Responsible Officers, shall exercise one or more of such rights and powers as the Trustee, being advised by counsel or a committee of Responsible Officers, shall deem to be in the best interests of the Bondholders and the Credit Facility Provider; provided, however, that in any event, so long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, the Trustee may not undertake any action to realize, through sale or otherwise, upon the Bond Mortgage Loan without the express written direction of the Credit Facility Provider. So long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, in the case of an Event of Default under Section 6.01(a) or Section 6.01(c) hereof, the Credit Facility Provider shall have the right, by an instrument in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Indenture.

Section 6.07. Remedies Vested in Trustee. All rights of action, including the right to file proof of claims, under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other

proceedings relating thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds, and any recovery or judgment shall be for the mutual benefit as provided herein of all of the Holders of the Outstanding Bonds.

Section 6.08. Remedies of Bondholders. No Holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default shall have occurred of which the Trustee shall have been notified as provided herein; (b) such default shall have become an Event of Default under Section 6.01(b) hereof; (c) the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding with respect to which there is such an Event of Default shall have made written request to the Trustee and shall have offered reasonable opportunity to the Trustee either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (d) such Holders shall have offered to the Trustee indemnity as provided in this Indenture; and (e) the Trustee shall within sixty (60) days thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding; it being understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture or the rights of any other Holders of Bonds or to obtain priority or preference over any other Holders or to enforce any right under this Indenture, except in the manner herein provided with respect to the equal and ratable benefit of all Holders of Bonds with respect to which there is a default. Nothing contained in this Indenture shall, however, affect or impair the right of any Bondholder to enforce the payment of the principal of, the premium, if any, and interest on any Bond at the maturity thereof or the obligation of the Issuer to pay the principal of, premium, if any, and interest on the Bonds issued hereunder to the respective holders thereof, at the time, in the place, from the sources and in the manner expressed herein and in said Bonds.

Section 6.09. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry 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 Trustee, the Credit Facility Provider, the Borrower and the Bondholders shall be restored to their former positions and rights hereunder with respect to the Trust Estate herein conveyed, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 6.10. Waivers of Events of Default. So long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, the Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of, premium, if any, and interest on the Bonds only upon the written direction of the Credit Facility Provider. If there shall have occurred and is then continuing an Event of Default under Section 6.01(b) hereof, the Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of, premium, if any, and interest on the Bonds upon the written request of the Holders of 100% of the Bonds then Outstanding with respect to which there is a default; provided, however, that there shall not be waived (a) any Event of Default in the payment of the principal of any Bonds (other than Purchased Bonds) at the date of maturity specified therein, or upon proceedings for mandatory redemption of any Bonds (other than Purchased Bonds), (b) any default in the payment when due of the interest or premium on any such Bonds (other than Purchased Bonds), unless prior to such waiver or rescission all arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds in respect of which such default shall have occurred on overdue

installments of interest or all arrears of payments of principal or premium, if any, when due (whether at the stated maturity thereof or upon proceedings for mandatory redemption) as the case may be, and all expenses of the Trustee in connection with such default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Trustee, the Credit Facility Provider and the Bondholders shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereto.

Section 6.11. Notice to Bondholders if Default Occurs. Upon the occurrence of an Event of Default, or if an event occurs which could lead to an Event of Default with the passage of time and of which the Trustee is required to take notice pursuant to Section 7.02(l) hereof, the Trustee shall, within thirty (30) days, give written notice thereof by first class mail to the registered Owners of all Bonds then Outstanding. Notwithstanding the foregoing, except in the case of an Event of Default with respect to the payment of principal of or premium, if any, and interest on the Bonds, the Trustee shall be protected in withholding such notice if and so long as the board of directors of the Trustee, the executive committee, or a trust committee of directors or officers of the Trustee in good faith determines that the withholding of such notice is in the best interests of the Holders of the Bonds.

ARTICLE VII

CONCERNING THE TRUSTEE

Section 7.01. Standard of Care. The Trustee, prior to an Event of Default as defined in Section 6.01 hereof and after the curing or waiver of all such events which may have occurred, shall perform such duties and only such duties as are specifically set forth in this Indenture. The Trustee, during the existence of any such Event of Default (which shall not have been cured or waived), shall exercise such rights and powers vested in it by this Indenture and use the same degree of care and skill in its exercise as a prudent Person would exercise or use under similar circumstances in the conduct of such Person's own affairs.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its breach of trust, own negligence or willful misconduct, except that:

(a) prior to an Event of Default hereunder, and after the curing or waiver of all such Events of Default which may have occurred:

(i) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except with regard to the performance of such duties and obligations as are specifically set forth in this Indenture; and

(ii) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Trustee by the Person or Persons authorized to furnish the same;

(b) at all times, regardless of whether or not any such Event of Default shall exist:

(i) the Trustee shall not be liable for any error of judgment made in good faith by an officer or employee of the Trustee except for willful misconduct or negligence by the officer or employee of the Trustee as the case may be; and

(ii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Credit Facility Provider or the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding (or such lesser or greater percentage as is specifically required or permitted by this Indenture) relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

Section 7.02. Reliance Upon Documents. Except as otherwise provided in Section 7.01 hereof:

(a) the Trustee may rely upon the authenticity or truth of the statements and the correctness of the opinions expressed in, and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, notarial seal, stamp, acknowledgment, verification, request, consent, order, bond, or other paper or document of the proper party or

parties, including any facsimile transmission or Electronic Notice as permitted hereunder or under the Financing Agreement;

(b) any notice, request, direction, election, order or demand of the Issuer mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Issuer by an Authorized Officer of the Issuer (unless other evidence in respect thereof be herein specifically prescribed), and any resolution of the Issuer may be evidenced to the Trustee by a copy of such resolution duly certified by an Authorized Officer of the Issuer;

(c) any notice, request, certificate, statement, requisition, direction, election, order or demand of the Borrower mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Borrower by any Authorized Officer of the Borrower (unless other evidence in respect thereof be herein specifically prescribed), and any resolution or certification of the Borrower may be evidenced to the Trustee by a copy of such resolution duly certified by a secretary or other authorized representative of the Borrower;

(d) any notice, request, certificate, statement, requisition, direction, election, order or demand of the Servicer mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Servicer by an Authorized Officer of the Servicer (unless other evidence in respect thereof be herein specifically prescribed);

(e) any notice, request, direction, election, order or demand of the Credit Facility Provider mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Credit Facility Provider by any Authorized Officer of the Credit Facility Provider (unless other evidence in respect thereof be herein specifically prescribed) and any notice, request, direction, election, order or demand of the Construction Lender mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Construction Lender by any Authorized Officer of the Construction Lender (unless other evidence in respect thereof be herein specifically prescribed);

(f) [Intentionally Omitted];

(g) [Intentionally Omitted];

(h) in the administration of the trusts of this Indenture, the Trustee may execute any of the trusts or powers hereby granted directly or through its agents, receivers or attorneys, and the Trustee may consult with counsel (who may be counsel for the Issuer, the Servicer or the Credit Facility Provider) and the opinion or advice of such counsel shall be full and complete authorization and protection in respect of any action taken or permitted by it hereunder in good faith and in accordance with the opinion of such counsel;

(i) whenever in the administration of the trusts of this Indenture, the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or permitting any action hereunder, such matters (unless other evidence in respect thereof be herein specifically prescribed), may in the absence of negligence or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by a certificate of an officer or authorized agent of the Issuer or the Borrower and such certificate shall in the absence of bad faith on the part of the Trustee be full warrant to the Trustee for any action taken or permitted by it under the provisions of this Indenture, but in its discretion the Trustee may in lieu thereof accept other evidence of such matter or may require such further or additional evidence as it may deem reasonable;

(j) the recitals herein and in the Bonds (except the Trustee's certificate of authentication thereon) shall be taken as the statements of the Issuer and the Borrower and shall not be considered as made by or imposing any obligation or liability upon the Trustee. The Trustee makes no representations as to the value or condition of the Trust Estate or any part thereof, or as to the title of the Issuer or the Borrower to the Trust Estate, or as to the security of this Indenture, or of the Bonds issued hereunder, and the Trustee shall incur no liability or responsibility in respect of any of such matters;

(k) the Trustee shall not be personally liable for debts contracted or liability for damages incurred in the management or operation of the Trust Estate except for its own willful misconduct or negligence; and every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 7.02(k);

(l) the Trustee shall not be required to ascertain or inquire as to the performance or observance of any of the covenants or agreements (except to the extent they obligate the Trustee) herein or in any contracts or securities assigned or conveyed to or pledged with the Trustee hereunder, except Events of Default that are evident under Section 6.01(a) or 6.01(b) hereof. The Trustee shall not be required to take notice or be deemed to have notice or actual knowledge of any default or Event of Default specified in Section 6.01 hereof (except defaults under Section 6.01(a) or 6.01(b) hereof) unless the Trustee shall receive from the Issuer, the Credit Facility Provider or the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding written notice stating that a default or Event of Default has occurred and specifying the same, and in the absence of such notice the Trustee may conclusively assume that there is no such default. Every provision contained in this Indenture or related instruments or in any such contract or security wherein the duty of the Trustee depends on the occurrence and continuance of such default shall be subject to the provisions of this Section 7.02(l);

(m) the Trustee shall be under no duty to confirm or verify any financial or other statements or reports or certificates furnished pursuant to any provisions hereof, except to the extent such statement or reports are furnished by or under the direction of the Trustee, and shall be under no other duty in respect of the same except to retain the same in its files and permit the inspection of the same at reasonable times by the Holder of any Bond; and

(n) the Trustee shall be under no obligation to exercise those rights or powers vested in it by this Indenture, other than such rights and powers which it shall be obliged to exercise in the ordinary course of its trusteeship under the terms and provisions of this Indenture and as required by law, at the request or direction of any of the Bondholders pursuant to Sections 6.03 and 6.08 hereof, unless such Bondholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in the compliance with such request or direction.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.

The Trustee is authorized and directed to execute in its capacity as Trustee the Financing Agreement, the Tax Regulatory Agreement and the Intercreditor Agreement and shall have no responsibility or liability with respect to any information, statement or recital in any

offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

The Trustee or any of its affiliates may act as advisor or sponsor with respect to any Qualified Investments.

The Trustee agrees to accept and act upon facsimile transmission or Electronic Notice of written instructions and/or directions pursuant to this Indenture.

Any resolution, certification, notice, request, direction, election, order or demand delivered to the Trustee pursuant to this Section 7.02 shall remain in effect until the Trustee receives written notice to the contrary from the party that delivered such instrument accompanied by revised information for such party.

The Trustee shall have no responsibility for the value of any collateral or with respect to the perfection or priority of any security interest in any collateral except as otherwise provided in Section 7.17 hereof.

Section 7.03. Use of Proceeds. The Trustee shall not be accountable for the use or application of any of the Bonds authenticated or delivered hereunder or of the proceeds of the Bonds except as provided herein.

Section 7.04. Trustee May Hold Bonds. The Trustee and its officers and directors may acquire and hold, or become pledgees of Bonds and otherwise may deal with the Issuer and the Borrower in the same manner and to the same extent and with like effect as though it were not Trustee hereunder.

Section 7.05. Trust Imposed. All money received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which it was received.

Section 7.06. Compensation of Trustee. The Trustee shall be entitled to its Ordinary Trustee's Fees and Expenses in connection with the services rendered by it in the execution of the trusts hereby created and in the exercise and performance of any of the powers and duties of the Trustee hereunder or under any Bond Financing Document to the extent money is available therefor, in accordance with Section 4.06 hereof, exclusive of Extraordinary Services. The Trustee shall be entitled to Extraordinary Trustee's Fees and Expenses in connection with any Extraordinary Services performed consistent with the duties hereunder or under any of the Bond Financing Documents; provided the Trustee shall not incur any Extraordinary Trustee's Fees and Expenses without the consent of the Credit Facility Provider (except that no consent shall be required if an Event of Default under Section 6.01(b) hereof has occurred and is continuing) and the Construction Lender. If any property, other than cash, shall at any time be held by the Trustee subject to this Indenture, or any supplemental indenture, as security for the Bonds, the Trustee, if and to the extent authorized by a receivership, bankruptcy, or other court of competent jurisdiction or by the instrument subjecting such property to the provisions of this Indenture as such security for the Bonds, shall be entitled to make advances for the purpose of preserving such property or of discharging tax liens or other liens or encumbrances thereon. Payment to the Trustee for its services and reimbursement to the Trustee for its expenses, disbursements, liabilities and advances, shall be limited to the sources described in the Financing Agreement and in Sections 4.06, 4.11 and 6.05 hereof. Proceeds of draws on the Credit Facility shall not be used to pay or reimburse the Trustee for any such amounts. The Issuer shall have no liability for Trustee's fees, costs or expenses. Subject to the provisions of

Section 7.09 hereof, the Trustee agrees that it shall continue to perform its duties hereunder (including, but not limited to, its duties as Paying Agent and Bond Registrar) and under the Bond Financing Documents even in the event that money designated for payment of its fees shall be insufficient for such purposes or in the event that the Borrower fails to pay the Ordinary Trustee's Fees and Expenses or, if applicable, the Extraordinary Trustee's Fees and Expenses as required by the Financing Agreement.

The Borrower shall indemnify and hold harmless the Trustee and its officers, directors, officials, employees, agents, receivers, attorneys, accountants, advisors, consultants and servants, past, present or future, from and against (a) any and all claims by or on behalf of any person arising from any cause whatsoever in connection with this Indenture or transactions contemplated hereby, the Project, or the issuance, offering or sale of the Bonds; (b) any and all claims arising from any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Project, or the issuance, offering or sale of the Bonds; and (c) all costs, counsel fees, expenses or liabilities incurred in connection with any such claim or proceeding brought thereon; except that the Borrower shall not be required to indemnify any person for damages caused by the gross negligence, willful misconduct or unlawful acts of such person or which arise from events occurring after the Borrower ceases to own the Project. In the event that any action or proceeding is brought or claim made against the Trustee, or any of its officers, directors, officials, employees, agents, receivers, attorneys, accountants, advisors, consultants or servants, with respect to which indemnity may be sought hereunder, the Borrower, upon written notice thereof from the indemnified party, shall assume the investigation and defense thereof, including the employment of counsel and the payment of all expenses. The indemnified party shall have the right to approve a settlement to which it is a party and to employ separate counsel in any such action or proceedings and to participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel. The provisions of this Section 7.06 shall survive the termination of this Indenture.

Section 7.07. Qualifications of Trustee. There shall at all times be a Trustee hereunder which shall be an association or a corporation organized and doing business under the laws of the United States of America or any state thereof, authorized under such laws to exercise corporate trust powers. Any successor Trustee shall have a combined capital and surplus of at least \$50,000,000 (or shall be a wholly-owned subsidiary of an association or corporation that has such combined capital and surplus), and be subject to supervision or examination by federal or state authority, or shall have been appointed by a court of competent jurisdiction pursuant to Section 7.09 hereof. If such association or corporation publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority referred to above, then for the purposes of this Section 7.07, the combined capital and surplus of such association or corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 7.07 and another association or corporation is eligible, the Trustee shall resign immediately in the manner and with the effect specified in Section 7.09 hereof.

Section 7.08. Merger of Trustee. Any association or corporation into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any association or corporation resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party shall, ipso facto, be and become successor Trustee hereunder and vested with all the title to the whole property or Trust Estate and all the trusts, powers,

discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding, and shall also be and become successor Trustee in respect of the beneficial interest of the Trustee in the Bond Mortgage Loan.

Section 7.09. Resignation by the Trustee. The Trustee may at any time resign from the trusts hereby created by giving written notice to the Issuer, the Borrower, the Credit Facility Provider and the Construction Lender, and by giving notice by certified mail or overnight delivery service to each Holder of the Bonds then Outstanding. Such notice to the Issuer, the Borrower, the Credit Facility Provider and the Construction Lender may be served personally or sent by certified mail or overnight delivery service. The resignation of the Trustee shall not be effective until a successor Trustee has been appointed as provided herein and such successor Trustee shall have agreed in writing to be bound by the duties and obligations of the Trustee hereunder and under the Intercreditor Agreement.

Section 7.10. Removal of the Trustee. The Trustee may be removed at any time, either with or without cause, with the consent of the Credit Facility Provider (which consent of the Credit Facility Provider shall not be unreasonably withheld) and the Construction Lender (which consent of the Construction Lender shall not be unreasonably withheld), by a written instrument signed by the Issuer and delivered to the Trustee and the Borrower, and if an Event of Default shall have occurred and be continuing, other than an Event of Default under Section 6.01(b) hereof, by a written instrument signed by the Credit Facility Provider and delivered to the Trustee, the Issuer, the Borrower and the Construction Lender. The Trustee may also be removed, if an Event of Default under Section 6.01(b) hereof shall have occurred and be continuing, by a written instrument or concurrent instruments signed by the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding and delivered to the Trustee, the Issuer, the Borrower, the Credit Facility Provider and the Construction Lender. The Trustee may also be removed by the Credit Facility Provider following notice to the Issuer and after a thirty (30) day period during which the Issuer may attempt to cause the Trustee to discharge its duties in a manner acceptable to Credit Facility Provider, and in each case written notice of such removal shall be given to the Servicer, the Borrower and to each registered Owner of Bonds then Outstanding as shown on the Bond Registrar. Any such removal shall take effect on the day specified in such written instrument(s), but the Trustee shall not be discharged from the trusts hereby created until a successor Trustee has been appointed and has accepted such appointment and has agreed in writing to be bound by the duties and obligations of the Trustee hereunder and under the Intercreditor Agreement.

Section 7.11. Appointment of Successor Trustee.

(a) In case at any time the Trustee shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or shall be adjudged a bankrupt or insolvent, or if a receiver of the Trustee or of its property shall be appointed, or if a public supervisory office shall take charge or control of the Trustee or of its property or affairs, a vacancy shall forthwith and ipso facto be created in the office of such Trustee hereunder, and the Issuer, with the written consent of the Credit Facility Provider and the Construction Lender, shall promptly appoint a successor Trustee. Any such appointment shall be made by a written instrument executed by an Authorized Officer of the Issuer.

(b) If, in a proper case, no appointment of a successor Trustee shall be made

pursuant to subsection (a) of this Section 7.11 within sixty (60) days following delivery of all required notices of resignation given pursuant to Section 7.09 hereof or of removal of the Trustee pursuant to Section 7.10 hereof, the retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. The court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Section 7.12. Concerning Any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer a written instrument accepting such appointment hereunder, accepting assignment of the beneficial interest in the Bond Mortgage, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the Trust Estate and the rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the Issuer, the Borrower or the Credit Facility Provider, or of its successor, and upon payment of all amounts due such predecessor, including but not limited to fees and expenses of counsel, execute and deliver such instruments as may be appropriate to transfer to such successor Trustee all the Trust Estate and the rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities, including, but not limited to, the existing Credit Facility, and money held by it as Trustee hereunder to its successor. Should any instrument in writing from the Issuer be required by a successor Trustee for more fully and certainly vesting in such successor the Trust Estate and all rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed and/or recorded by the successor Trustee in each recording office where this Indenture shall have been filed and/or recorded. Each successor Trustee shall mail notice by first class mail, postage prepaid, at least once within 30 days of such appointment, to the Owners of all Bonds Outstanding at their addresses on the Bond Register.

Section 7.13. Successor Trustee as Trustee, Paying Agent and Bond Registrar. In the event of a change in the office of Trustee, the predecessor Trustee which shall have resigned or shall have been removed shall cease to be trustee and paying agent on the Bonds and Bond Registrar, and the successor Trustee shall become such Trustee, Paying Agent and Bond Registrar.

Section 7.14. Appointment of Co-Trustee or Separate Trustee. It is the intent of the Issuer and the Trustee that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in case of litigation under or connected with this Indenture, the Financing Agreement or any of the other Bond Financing Documents, and, in particular, in case of the enforcement of any remedies on default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein or therein granted to the Trustee or hold title to the properties in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee, with the consent of the Issuer, appoint an additional individual or institution as a co-trustee or separate trustee.

In the event that the Trustee appoints an additional individual or institution as a co-trustee or separate trustee, in the event of the incapacity or lack of authority of the Trustee, by reason of any present or future law of any jurisdiction, to exercise any of the rights, powers,

trusts and remedies granted to the Trustee herein or to hold title to the Trust Estate or to take any other action that may be necessary or desirable in connection therewith, each and every remedy, power, right, obligation, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be imposed upon, exercised by or vested in or conveyed to the Trustee with respect thereto shall be imposed upon, exercisable by and vest in such separate trustee or co-trustee, but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights, trusts and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them, subject to the remaining provisions of this Section 7.14. Such co-trustee or separate trustee shall deliver an instrument in writing acknowledging and accepting its appointment hereunder to the Issuer and the Trustee.

Should any instrument in writing from the Issuer be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer, the Trustee and the Borrower. If the Issuer shall fail to deliver the same within thirty (30) days of such request, the Trustee is hereby appointed attorney-in-fact for the Issuer to execute, acknowledge and deliver such instruments in the Issuer's name and stead. In case any co-trustee or separate trustee, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such co-trustee or separate trustee.

Every co-trustee or separate trustee shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms, namely:

(a) The Bonds shall be authenticated and delivered, and all rights, powers, trusts, duties and obligations by this Indenture conferred upon the Trustee in respect of the custody, control or management of money, papers, securities and other personal property shall be exercised solely by the Trustee;

(b) all rights, powers, trusts, duties and obligations conferred or imposed upon the Trustee shall be conferred or imposed upon or exercised or performed by the Trustee, or by the Trustee and such co-trustee, or separate trustee jointly, as shall be provided in the instrument appointing such co-trustee or separate trustee, 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 separate trustee;

(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 shall 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 Issuer evidenced by a certified resolution may accept the resignation of or remove any co-trustee or separate trustee appointed under this Section 7.14 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 upon the request of the Trustee, the Issuer 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 7.14;

(f) no Trustee or co-trustee hereunder shall be personally liable by reason of any act or omission of any other Trustee hereunder;

(g) any demand, request, direction, appointment, removal, notice, consent, waiver or other action in writing executed by the Bondholders and delivered to the Trustee shall be deemed to have been delivered to each such co-trustee or separate trustee; and

(h) any money, papers, 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.

The total compensation of the Trustee and any co-trustee or separate trustee shall be as, and may not exceed the amount, provided in Section 7.06 hereof.

Section 7.15. Notice of Certain Events. The Trustee shall give written notice to the Issuer, the Servicer, the Credit Facility Provider and the Construction Lender of any failure by the Borrower to comply with the terms of the Tax Regulatory Agreement or any Market Risk Event of which a Responsible Officer has actual knowledge.

Section 7.16. Record of Freddie Mac Credit Enhancement Payments and Freddie Mac Reimbursement Amounts. The Trustee shall maintain records of all Freddie Mac Credit Enhancement Payments received by it from Freddie Mac under the Credit Enhancement Agreement and of all Freddie Mac Reimbursement Amounts paid by the Trustee to Freddie Mac or known by the Trustee to be due to Freddie Mac but unpaid from time to time. The Trustee hereby agrees, upon receipt of a written request from Freddie Mac, to cooperate with Freddie Mac and the Servicer in connection with the reconciliation of the Trustee's records maintained pursuant to this Section 7.16 and any similar records maintained by Freddie Mac or the Servicer.

Section 7.17. Filing of Financing Statements. The Trustee shall, at the expense of the Borrower, file or record or cause to be filed or recorded all UCC continuation statements for the purpose of continuing without lapse the effectiveness of those financing statements which have been filed on or approximately on the Delivery Date in connection with the security for the Bonds pursuant to the authority of the UCC. Upon the filing of any such continuation statement the Trustee shall immediately notify the Issuer, the Borrower, the Credit Facility Provider and the Servicer that the same has been done. If direction is given by the Servicer or the Credit Facility Provider, the Trustee shall file all continuation statements in accordance with such directions.

Section 7.18. USA Patriot Act Requirements of the Trustee. To help the government of the United States of America 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 may request documentation to verify such Person's formation and existence as a legal entity. The Trustee may also request financial

statements, licenses, identification and authorization documents from individuals claiming authority to represent such Person or other relevant documentation.

ARTICLE VIII

SUPPLEMENTAL INDENTURES AND AMENDMENTS OF CERTAIN DOCUMENTS

Section 8.01. Supplemental Indentures Not Requiring Consent of Bondholders.

The Issuer and the Trustee may from time to time and at any time, without the consent of, or notice to, any of the Bondholders, but with the prior written consent of the Credit Facility Provider and the Construction Lender, enter into an indenture or indentures supplemental to this Indenture for any one or more of the following purposes:

(a) to cure any formal defect, omission, inconsistency or ambiguity herein in a manner not materially adverse to the Holder of any Bond to be Outstanding after the effective date of the change;

(b) to grant to or confer upon the Trustee for the benefit of the Holders of the Bonds any additional rights, remedies, powers or authority that may lawfully be granted or conferred and that are not contrary to or inconsistent with this Indenture or the rights of the Trustee hereunder as theretofore in effect;

(c) to subject to the lien and pledge of this Indenture additional revenues, properties or collateral;

(d) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under any state blue sky laws;

(e) to make such additions, deletions or modifications as may be, in the opinion of Bond Counsel delivered to the Issuer, the Trustee and the Credit Facility Provider, necessary to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds;

(f) to modify, amend or supplement this Indenture as required by the Rating Agency to obtain or maintain a rating or ratings for the Bonds, except no change may be made that will materially adversely affect the interests of the Holders of the Bonds to be Outstanding after the effective date of the change;

(g) [Intentionally Omitted];

(h) [Intentionally Omitted];

(i) to implement or modify any secondary market disclosure requirements; and

(j) to modify, amend or supplement this Indenture in any other respect which is not materially adverse to the Holders of the Bonds to be Outstanding after the effective date of the change and which does not involve a change described in Section 8.02 hereof.

Section 8.02. Supplemental Indentures Requiring Consent of Bondholders. With the prior written consent of the Credit Facility Provider and the Construction Lender, the Holders

of more than 51% of the aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, to consent to and approve the execution by the Issuer and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture; provided, however, that nothing in this Section 8.02 contained shall permit, or be construed as permitting, (a) an extension of the time for payment of, or an extension of the stated maturity or reduction in the principal amount or reduction in the rate of interest on or extension of the time of payment, of interest on, or reduction of any premium payable on the redemption of, any Bonds, or a reduction in the Borrower's obligation on the Bond Mortgage Note, without the consent of the Holders of all of the Bonds then Outstanding, (b) the creation of any lien prior to or on a parity with the lien of this Indenture, (c) a reduction in the aforesaid percentage of the principal amount of Bonds which is required in connection with the giving of consent to any such supplemental indenture, without the consent of the Holders of all of the Bonds then Outstanding, (d) the modification of the rights, duties or immunities of the Trustee, without the written consent of the Trustee, (e) a privilege or priority of any Bond over any other Bonds, or (f) any action that results in the interest on the Bonds becoming included in gross income for federal income tax purposes.

If at any time the Issuer shall request the Trustee to enter into any such supplemental indenture for any of the purposes of this Section 8.02, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed, postage prepaid, to all registered Bondholders and to the Credit Facility Provider and the Construction Lender. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection by all Bondholders.

Thirty (30) days after the date of the mailing of such notice, the Issuer and the Trustee may enter into such supplemental indenture substantially in the form described in such notice, but only if there shall have first been or is simultaneously delivered to the Trustee the required consents, in writing, of the Credit Facility Provider, the Construction Lender and the Holders of not less than the percentage of Bonds required by this Section 8.02. If the Holders of not less than the percentage of Bonds required by this Section 8.02 shall have consented to and approved the execution and delivery of a supplemental indenture as provided herein, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section 8.02 permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith. The Trustee may rely upon an opinion of counsel as conclusive evidence that execution and delivery of a supplemental indenture has been effected in compliance with the provisions of this Article

Anything in this Article VIII to the contrary notwithstanding, unless the Borrower shall then be in default of any of its obligations under the Financing Agreement, the Reimbursement Agreement, the Tax Regulatory Agreement, the Bond Mortgage Note, the Bond Mortgage or the Reimbursement Mortgage, a supplemental indenture under this Article which affects any rights of the Borrower shall not become effective unless and until the Borrower shall have expressly consented in writing to the execution and delivery of such supplemental indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such supplemental indenture to be mailed by certified or registered mail to the Borrower or the

Borrower's attorney at least fifteen (15) days prior to the proposed date of execution and delivery of any supplemental indenture.

Notwithstanding any other provision of this Indenture, the Issuer and the Trustee may consent to any supplemental indenture upon receipt of the consent of the Credit Facility Provider, the Construction Lender, the Holders of all Bonds then Outstanding and, as applicable, the Borrower.

Section 8.03. Amendments to Financing Agreement Not Requiring Consent of Bondholders. The Trustee shall, without the consent of, or notice to, the Bondholders, but with the consent of the Borrower and the Credit Facility Provider and the Construction Lender, consent to any amendment, change or modification of the Financing Agreement as follows:

(a) as may be required by the provisions of the Credit Facility, the Financing Agreement or this Indenture;

(b) to cure any formal defect, omission, inconsistency or ambiguity in the Financing Agreement in a manner not materially adverse to the Holder of any Bond to be Outstanding after the effective date of the change;

(c) to make such additions, deletions or modifications as may be necessary, in the opinion of Bond Counsel delivered to the Issuer, the Trustee and the Credit Facility Provider, to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds;

(d) to modify, amend or supplement the Financing Agreement as required by the Rating Agency to obtain or maintain a rating or ratings for the Bonds, except no change may be made that will materially adversely affect the interests of the Holders of the Bonds to be Outstanding after the effective date of the change;

(e) [Intentionally Omitted];

(f) [Intentionally Omitted]; or

(g) to modify, amend or supplement the Financing Agreement in any other respect which is not materially adverse to the Trustee or Holders of the Bonds to be Outstanding after the effective date of the change and which does not involve a change described in Section 8.04 hereof.

Section 8.04. Amendments to Financing Agreement Requiring Consent of Bondholders. Except for the amendments, changes or modifications of the Financing Agreement as provided in Section 8.03 hereof, neither the Issuer nor the Trustee shall consent to any other amendment, change or modification of the Financing Agreement without the consent of the Credit Facility Provider, the Construction Lender and the Borrower and without the giving of notice and the written approval or consent of the Holders of at least 51% of the aggregate principal amount of the Bonds then Outstanding given and procured in accordance with the procedure set forth in Section 8.02 hereof; provided, however, that nothing contained in this Section 8.04 shall permit, or be construed as permitting, any amendment, change or modification of the Borrower's obligation to make the payments required under the Financing Agreement without the consent of the Holders of all of the Bonds then Outstanding. If at any time the Issuer and the Borrower shall request the consent of the Trustee to any such proposed

amendment, change or modification of the Financing Agreement, the Trustee shall cause notice of such proposed amendment, change or modification to be given in the same manner as provided in Section 8.02 hereof. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the Principal Office of the Trustee for inspection by Bondholders.

Section 8.05. Amendments to the Credit Facility. The Trustee may, without the consent of, or notice to, any of the Bondholders enter into any amendment, change or modification of the Credit Facility (a) as may be required by the provisions of the Credit Facility, (b) to cure any formal defect, omission, inconsistency or ambiguity in the Credit Facility, (c) in a manner which is not prejudicial to the interests of the Bondholders as determined by the Trustee being advised by counsel, a committee of Responsible Officers or by a written confirmation from the Rating Agency of the then existing rating on the Bonds, or (d) as required by the Rating Agency to maintain the then current rating on the Bonds.

Section 8.06. Opinion of Bond Counsel Required. No supplement or amendment to the Financing Agreement or this Indenture, as described in this Article VIII, shall be effective until the Issuer, the Trustee and the Credit Facility Provider shall have received an opinion of Bond Counsel to the effect that such supplement or amendment is authorized or permitted by this Indenture and, upon execution and delivery thereof, will be valid and binding upon the Issuer in accordance with its terms and will not cause interest on the Bonds to be includable in gross income of the Holders thereof for federal income tax purposes. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it as conclusive evidence that (i) any proposed supplemental indenture or amendment permitted by this Article VIII complies with the provisions of this Indenture, (ii) it is proper for the Trustee to join in the execution of that supplemental indenture or amendment under the provisions of this Article VIII, and (iii) if applicable, such proposed supplemental indenture or amendment is not materially adverse to the interests of the Bondholders.

ARTICLE IX

SATISFACTION AND DISCHARGE OF INDENTURE

Section 9.01. Discharge of Lien. If the Issuer shall pay or cause to be paid to the Holders of the Bonds the principal, interest and premium, if any, to become due thereon at the times and in the manner stipulated therein and herein, in any one or more of the following ways:

(a) by the payment of the principal of (including redemption premium, if any) and interest on all Bonds outstanding; or

(b) by the deposit or credit to the account of the Trustee, in trust, of money or securities in the necessary amount (as provided in Section 9.04 hereof) to pay the principal, redemption price and interest to the date established for redemption whether by redemption or otherwise; or

(c) by the delivery to the Trustee, for cancellation by it, of all Bonds Outstanding;

and shall have paid all amounts due and owing to the Credit Facility Provider hereunder and under the Credit Facility and the Reimbursement Agreement, including but not limited to the Freddie Mac Reimbursement Amount and the Freddie Mac Credit Enhancement Fee, and shall have paid all fees and expenses of and any other amounts due to the Trustee, the Servicer, the Dissemination Agent, the Rebate Analyst, the Construction Lender and the Paying Agent, and if the Issuer shall keep, perform and observe all and singular the covenants and promises in the Bonds and in this Indenture expressed as to be kept, performed and observed by it or on its part, then these presents and the estates and rights hereby granted shall cease, determine and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture and execute and deliver to the Issuer such instruments in writing as shall be requisite to satisfy the lien hereof, and reconvey to the Issuer the estate hereby conveyed, and assign and deliver to the Issuer any interest in property at the time subject to the lien of this Indenture which may then be in its possession, except amounts held by the Trustee for the payment of principal of, interest and premium, if any, on the Bonds, the payment of any amounts owed to the United States of America pursuant to Section 4.12 hereof or the payment of any amounts payable to the Credit Facility Provider or the Construction Lender.

Any Outstanding Bond shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section 9.01 if, under circumstances which do not cause interest on the Bonds to become includable in the Holders' gross income for purposes of federal income taxation, the following conditions shall have been fulfilled: (a) in case such Bond is to be redeemed on any date prior to its maturity, the Trustee shall have given to the Bondholder irrevocable notice of redemption of such Bond on said date; (b) there shall be on deposit with the Trustee, pursuant to Section 9.04 hereof, either money or direct obligations of the United States of America in an amount, together with anticipated earnings thereon (but not including any reinvestment of such earnings), which will be sufficient to pay, when due, the principal or redemption price, if applicable, and interest due and to become due on such Bond on the redemption date or maturity date thereof, as the case may be; (c) in the case of Bonds which do not mature or will not be redeemed within 60 days of such deposit, the Trustee shall have received a verification report of a firm of certified public accountants reasonably acceptable to the Trustee as to the adequacy of the amounts so deposited to fully pay the Bonds deemed to be paid; (d) the

Trustee shall have received an opinion of nationally recognized bankruptcy counsel, if required by subpart (e) of the definition of “Eligible Funds” herein, to the effect that such money constitutes Eligible Funds; and (e) the Trustee shall have received an opinion of Bond Counsel to the effect that the defeasance of the Bonds is in accordance with the provisions of the Indenture and that such defeasance will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

The Trustee shall in no event cause the Bonds to be optionally redeemed from money deposited pursuant to this Article IX unless the requirements of Article III have been met with respect to such redemption, including the requirements of Sections 3.01(a)(iii) and 3.01(a)(iv) hereof.

Section 9.02. Construction Lender. If prior to the Conversion Date the Bonds have been defeased as described in Section 9.03 hereof, and the Trustee shall receive a written statement from the Construction Lender stating that money is owed to the Construction Lender on account of the Bonds and/or the Bond Mortgage Loan, whether with respect to the Construction Loan or the Construction Phase Credit Facility, as applicable, any other Construction Loan Document or otherwise in connection with the Bonds or the Bond Mortgage Loan, the Trustee shall, upon receipt of written notification from Freddie Mac that all amounts due and owing to Freddie Mac under the Reimbursement Agreement and the Reimbursement Mortgage have been paid in full, prior to cancellation and discharge of this Indenture and prior to any reconveyance, assignment and delivery to the Borrower of the Trust Estate or any part of it, pay over, assign and deliver to the Construction Lender so much of (and not to exceed) the Trust Estate as shall be necessary to fully pay, satisfy and discharge all amounts due and owing to the Construction Lender in respect of the Bonds and the Bond Mortgage Loan, whether with respect to the Construction Loan Documents or otherwise in connection with the Bonds or the Bond Mortgage Loan, as determined by the Construction Lender, in its sole and absolute discretion.

Section 9.03. Discharge of Liability on Bonds. Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 9.01 above) to pay or redeem Outstanding Bonds (whether upon or prior to their maturity or the redemption date of such Bonds) provided that, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article III provided or provision satisfactory to the Trustee shall have been made for the giving of such notice, all liability of the Issuer in respect of such Bonds shall cease, terminate and be completely discharged, except only that thereafter the holders thereof shall be entitled to payment by the Issuer, and the Issuer shall remain liable for such payment, but only out of the money or securities deposited with the Trustee as aforesaid for their payment, subject, however, to the provisions of Section 9.04 hereof.

Section 9.04. Payment of Bonds After Discharge of Indenture. Notwithstanding any provisions of this Indenture, and subject to applicable unclaimed property laws of the State, any money deposited with the Trustee or any paying agent in trust for the payment of the principal of, interest or premium on the Bonds remaining unclaimed for two (2) years after the payment thereof, to the extent permitted by applicable law, shall be paid to the Borrower, whereupon all liability of the Issuer and the Trustee with respect to such money shall cease, and the holders of the Bonds shall thereafter look solely to the Borrower for payment of any amounts then due. All money held by the Trustee and subject to this Section shall be held uninvested and without liability for interest thereon.

Section 9.05. Deposit of Money or Securities with Trustee. Whenever in this Indenture it is provided or permitted that there be deposited with or credited to the account of or held in trust by the Trustee money or securities in the necessary amount to pay or redeem any Bonds, the money or securities so to be deposited or held shall be Eligible Funds (or Government Obligations purchased with Eligible Funds) consisting of:

(a) lawful money of the United States of America in an amount equal to the principal amount of such Bonds and all unpaid interest thereon to maturity, except that, in the case of Bonds which are to be redeemed prior to maturity and in respect of which there shall have been furnished to the Trustee proof satisfactory to it that notice of such redemption on a specified redemption date has been duly given or provision satisfactory to the Trustee shall be made for such notice, the amount so to be deposited or held shall be the principal amount of such Bonds and interest thereon to the redemption date, together with the redemption premium, if any; or

(b) noncallable and nonprepayable direct obligations of the United States of America or noncallable and nonprepayable obligations which as to principal and interest constitute full faith and credit obligations of the United States of America, in such amounts and maturing at such times that the proceeds of said obligations received upon their respective maturities and interest payment dates, without further reinvestment, will provide funds sufficient, in the opinion of a nationally recognized firm of certified public accountants, to pay the principal, premium, if any, and interest to maturity, or to the redemption date, as the case may be, with respect to all of the Bonds to be paid or redeemed, as such principal, premium and interest become due; provided that the Trustee shall have been irrevocably instructed by the Issuer to apply the proceeds of said obligations to the payment of said principal, premium, if any, and interest with respect to such Bonds.

ARTICLE X
INTENTIONALLY OMITTED

ARTICLE XI

MISCELLANEOUS

Section 11.01. Consents and Other Instruments of Bondholders. Any consent, request, direction, approval, waiver, objection, appointment or other instrument required by this Indenture to be signed and executed by the Bondholders may be signed and executed in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such instrument, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken under such instrument, namely:

(a) the fact and date of the execution by any Person of any such instrument may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the Person signing such instrument acknowledged the execution thereof. Where such execution is by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such affidavit or certificate shall also constitute sufficient proof of such authority;

(b) the ownership of registered Bonds shall be proved by the Bond Register;
and

(c) any request, consent or vote of the Holder of any Bond shall bind every future Holder of the same Bond and the Holder of every Bond issued in exchange therefor or in lieu thereof, in respect of anything done or permitted to be done by the Trustee or the Issuer in pursuance of such request, consent or vote.

Section 11.02. Servicing the Bond Mortgage Loan. There shall be engaged at all times that Freddie Mac is the Credit Facility Provider an eligible servicing institution designated by Freddie Mac as the Servicer (which may be Freddie Mac if Freddie Mac elects to service the Bond Mortgage Loan) to service the Bond Mortgage Loan pursuant to the Guide.

Section 11.03. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed 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 Credit Facility Provider, the Construction Lender, the Servicer, the Borrower and the Holders of the Bonds, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions hereof.

Section 11.04. Construction of Conflicts; Severability. Notwithstanding anything provided herein, or in any of the documents referred to herein, in the event that any contracts or other documents executed by the Borrower or any other arrangements agreed to by the Borrower in order to finance or refinance the Project with the proceeds of the Bonds, the interest on which is excluded from gross income for federal income tax purposes under Section 103(a) of the Code are inconsistent with the Bond Mortgage Loan Documents, then the Bond Mortgage Loan Documents shall be controlling in all respects. If any provision of this Indenture shall be held or deemed to be, or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it

conflicts with any other provision or provisions hereof or any constitution, statute, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

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

Section 11.05. Notices.

(a) Any provision of this Indenture relating to the mailing of notice or other communication to Bondholders shall be deemed fully complied with if such notice or other communication is mailed, by first class mail, postage prepaid, or overnight delivery service, to each registered Owner of any Bonds then Outstanding at the address of such registered Owner as it appears on the Bond Register. Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the Person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the Issuer, the Trustee, the Credit Facility Provider, the Construction Lender, the Borrower or the Servicer shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth below or as may be required or permitted by this Indenture by Electronic Notice or by a facsimile transmission for which a confirmation of receipt has been delivered. The Issuer, the Trustee, the Credit Facility Provider, the Construction Lender, the Borrower or the Servicer may, by notice given as provided in this paragraph, designate any further or different address to which subsequent notices or other communication shall be sent.

The Issuer: Finance Department
City of San José
200 East Santa Clara Street, 13th Floor Tower
San José, California 95113-1905
Attention: Debt Management
Email: debt.management@sanjoseca.gov
Telephone: (408) 535-7010
Telecopier: (408) 292-6482

with a copy to: Housing Department
City of San José
200 East Santa Clara Street, 12th Floor Tower
San José, California 95113-1905
(which copy shall not constitute notice to Issuer)
Attention: Administrative Officer
Telephone: (408) 535-8235
Facsimile: (408) 998-3183

with a copy to: Office of the City Attorney
City of San José
200 East Santa Clara Street, 16th Floor Tower
San José, California 95113-1905
(which copy shall not constitute notice to Issuer)
Telephone: (408) 535-1900
Facsimile: (408) 998-3131

The Trustee: Wells Fargo Bank, National Association
707 Wilshire Boulevard, 17th Floor
MAC: E2818-176
Los Angeles, California 90017
Attention: Dania Samai
Email: danial.d.samai@wellsfargo.com
Telephone: (213) 614-3328
Telecopier: (213) 614-3355

The Borrower: Taylor Oaks Apartments Investors, L.P.
c/o For the Future Housing Inc.
1660 Dell Avenue
Campbell, California 95008
Attention: _____
Telephone: (408) 374-1553
Telecopier: (408) 374-3667

With a copy to: Taylor Oaks Apartments Investors, L.P.
c/o Pacific Housing Inc.
2115 J Street
Sacramento, California 95816
Attention: _____
Telephone: (916) 638-5200
Telecopier: (916) 325-8624

With a copy to: Churchill Stateside Group
1150 Cleveland Street, Suite 150
Clearwater, Florida 33755
(which copy shall not constitute notice to the Borrower)
Attention: _____
Telephone: (727) 461-2200
Telecopier: (427) 461-6047

With a copy to: Cox, Castle & Nicholson LLP
555 California Street, 10th Floor
San Francisco, California 94104-1513
(which copy shall not constitute notice to the Borrower)
Attention: Steve Ryan
Telephone: (415) 535-1900
Telecopier: (415) 392-4250

Credit Facility Provider: Federal Home Loan Mortgage Corporation
8100 Jones Branch Drive, MS B2E
McLean, Virginia 22102
Attention: Multifamily Operations - Loan Accounting
Email: mfla_trustees@freddiemac.com
Trustee Hotline: (703) 714-4177

with a copy to: Federal Home Loan Mortgage Corporation
8200 Jones Branch Drive, MS 210
McLean, Virginia 22102
Attention: Managing Associate General Counsel –
Multifamily Legal Division
Email: Timothy_ONeill@freddiemac.com
Facsimile: (703) 903-2885
Telephone: (703) 903-2000

with a copy to: Federal Home Loan Mortgage Corporation
8100 Jones Branch Drive, MS B4F
McLean, Virginia 22102
Attention: Director of Multifamily Loan Servicing
Facsimile: (703) 714-3003
Telephone: (703) 903-2000

The Servicer: Citibank, N.A.
c/o Berkadia Commercial Mortgage LLC
118 Welsh Road
P.O. Box 809
Horsham, Pennsylvania 19044
Attention: Servicing – Account Manager
Telephone: (215) 328-3866
Facsimile: (215) 328-3478

with a copy to: Citibank, N.A.
Citi Community Capital
Municipal Securities Division
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/Asset Manager
Telephone: (805) 557-0930

and a copy to: Robinson & Cole LLP
885 Third Avenue, 28th Floor
New York, New York 10022
Telephone: (212) 451-2900
Facsimile: (212) 451-2999
Attention: Andrew Kramer, Esq.

Construction Phase
Credit Facility Provider: Citibank, N.A.
c/o Citi Community Capital
Middle Office
390 Greenwich Street, 2nd Floor
New York, New York 10013
Attention: Desk Head
Loan # [____]
Facsimile: (212) 723-8939

with a copy to: Citibank, N.A.
Citi Community Capital
Municipal Securities Division
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/Asset Management
Loan # [____]
Facsimile: (805) 557-0924

With a copy of any
default notices also
being sent to: Citigroup Inc.
Citi Community Capital
Municipal Securities Division
388 Greenwich Street
New York, NY 10013
Attention: General Counsel's Office
Loan # [____]

Rating Agency: [Standard & Poor's Ratings Services
38th Floor
55 Water Street
New York, NY 10041-0003
Attention: Public Finance Surveillance

Or

Moody's Investor Services, Inc.
[STREET]
[CITY, STATE ZIP]
Attention: _____]

A duplicate copy of each notice or other communication given hereunder by any party to the Servicer shall also be given to the Credit Facility Provider and by any party to the Credit Facility Provider to the Servicer.

The Trustee agrees to accept and act upon facsimile transmission or Electronic Notice of written instructions and/or directions pursuant to this Indenture.

(b) The Trustee shall provide to the Credit Facility Provider and the Construction Lender (i) prompt notice of the occurrence of any Event of Default pursuant to Section 6.01

hereof and (ii) any written information or other written communication received by the Trustee hereunder within ten (10) Business Days of receiving a written request from the Credit Facility Provider and the Construction Lender for any such information or other communication. The Trustee shall provide to the Rating Agency any information requested by the Rating Agency needed to maintain the rating on the Bonds.

(c) The Trustee shall provide to the Rating Agency, at the address specified in subsection (a) of this Section 11.05, notice of (i) any change in Trustee hereunder, (ii) any material amendment to any of the Bond Financing Documents, (iii) any substitution, termination, expiration or extension of the Credit Facility, and (iv) any acceleration or redemption in whole or defeasance of the Bonds.

Section 11.06. Credit Facility Provider. Following the release of the Credit Enhancement Agreement by the Trustee pursuant to the terms of this Indenture and the provision of an Alternate Credit Facility, all notices to be provided Freddie Mac and/or the Servicer hereunder shall be provided to the Alternate Credit Facility Provider and payments to be made to Freddie Mac or the Servicer from the Administration Fund shall be paid to the Alternate Credit Facility Provider.

Section 11.07. Trustee as Paying Agent and Bond Registrar. The Trustee is hereby designated and agrees to act as Paying Agent and Bond Registrar for and in respect to the Bonds. When acting in either such capacity, the Trustee will receive the same rights, protections and indemnifications afforded to the Trustee hereunder.

Section 11.08. Payments Due on Non-Business Days. In any case where a date of payment with respect to any Bonds shall be a day other than a Business Day, then such payment need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such date, and no interest shall accrue for the period after such date provided that payment is made on such next succeeding Business Day.

Section 11.09. 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 11.10. Laws Governing Indenture and Administration of Trust. The effect and meanings of this Indenture and the rights of all parties hereunder shall be governed by, and construed according to, the laws of the State without regard to conflicts of laws principles.

Section 11.11. No Recourse. No recourse under or upon any obligation, covenant or agreement contained in this Indenture or in any Bond shall be had against any member, officer, commissioner, director or employee (past, present or future) of the Issuer, either directly or through the Issuer or its governing body or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the Holder of any Bond issued hereunder, or otherwise, of any sum that may be due and unpaid by the Issuer or its governing body upon any such Bond. Any and all personal liability of every nature whether at common law or in equity or by statute or by constitution or otherwise of any such member, officer, commissioner, director or employee, as such, to respond by reason of any act of omission on his/her part or otherwise, for the payment for or to the Holder of any Bond issued hereunder or otherwise of any sum that may remain due and unpaid upon any Bond hereby secured is, by the acceptance hereof, expressly waived and released as a condition of and in consideration for the execution of this Indenture and the issuance of the Bonds.

Section 11.12. Successors and Assigns. All the covenants and representations contained in this Indenture by or on behalf of the parties hereto shall bind and inure to the benefit of their successors and assigns, whether so expressed or not.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Issuer and the Trustee have caused this Trust Indenture to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

CITY OF SAN JOSE, as Issuer

By: _____
Julia H. Cooper,
Assistant Director of Finance

ATTEST:

By: _____
City Clerk

Approved as to form:

By: _____
Chief Deputy City Attorney

Heaver's Signature Page to Taylor Oaks Apartments Indenture

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee

By: _____
Name:
Title:

[Trustee's Signature Page to Taylor Oaks Apartments Indenture]

EXHIBIT A

FORM OF BOND

UNITED STATES OF AMERICA
STATE OF CALIFORNIA
CITY OF SAN JOSE
MULTIFAMILY HOUSING REVENUE BONDS
(TAYLOR OAKS APARTMENTS), SERIES 2011[A-1][A-2]

NO. R-

\$(PAR AMOUNT)

NOTICE: Unless this bond certificate is presented by an authorized representative of The Depository Trust Company to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owners hereof, Cede & Co., has an interest herein.

INTEREST RATE:

MATURITY DATE:

DELIVERY DATE:

CUSIP NO.:

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: [PAR AMOUNT] AND NO/100 DOLLARS

City of San José (the “**Issuer**”), a municipal corporation and chartered city of the State of California (the “**State**”), for value received, hereby promises (but solely from the sources and in the manner provided for in the hereinafter defined Indenture) to pay to the registered owner identified above, or registered assigns, on the maturity date set forth above, unless previously called for redemption, the principal sum as set forth above, together with interest thereon at the rate provided in the Indenture (as defined below) from the Interest Payment Date (as defined below) next preceding the date of authentication of this Bond to which interest has been paid or duly provided for, unless the date of authentication is an Interest Payment Date to which interest has been paid or duly provided for, in which case from the date of authentication of this Bond, or unless no interest has been paid or duly provided for on this Bond, in which case from the Delivery Date identified above, until the principal amount hereof shall have been fully paid, at the rate per annum identified above, payable on **[confirm]** (a) April 1 and October 1 of each year, commencing [April 1, 2012], (b) the maturity date identified above, and (c) the date of redemption of this Bond (each, an “**Interest Payment Date**”), computed on the basis of a 360-day year consisting of twelve 30-day months, as provided in the Indenture. Notwithstanding the foregoing, if this Bond is authenticated after a Record Date and before the following Interest Payment Date, this Bond shall bear interest from such Interest Payment Date; provided,

however, that if there shall be a default in the payment of interest due on such Interest Payment Date, then this Bond shall bear interest from the next preceding Interest Payment Date to which interest has been paid or duly provided for, or, if no interest has been paid or duly provided for on this Bond, from the Delivery Date. Payment of principal, premium, if any, and interest on this Bond are payable in lawful money of the United States of America. Payment of principal of this Bond, premium, if any, and interest on this Bond will be made by check mailed on the Interest Payment Date to the registered owner of this Bond as such address shall appear on the registration books for the Bonds on the 15th day of the month preceding each Interest Payment Date (a "**Record Date**"). Upon written request of a registered owner of at least \$1,000,000 aggregate principal amount of the Bonds received by Wells Fargo Bank, National Association, as trustee (together with any successor trustee appointed in accordance with the terms of the hereinafter defined Indenture, the "**Trustee**"), at least five (5) Business Days prior to a Record Date, all payments of principal, premium, if any, and interest will be paid by wire transfer of immediately available funds to an account designated by such owner, less any reasonable wire transfer fees imposed by the Trustee. All capitalized terms not defined herein shall have the meaning set forth in the Trust Indenture dated as of September 1, 2011, by and between the Issuer and the Trustee (the "**Indenture**").

THE BONDS ARE NOT A DEBT OF THE UNITED STATES OF AMERICA, OR ANY AGENCY OF THE UNITED STATES OF AMERICA, OR THE FEDERAL HOME LOAN MORTGAGE CORPORATION ("**FREDDIE MAC**"), AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA OR BY FREDDIE MAC. PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS IS NOT GUARANTEED BY FREDDIE MAC. THE OBLIGATIONS OF FREDDIE MAC UNDER THE CREDIT ENHANCEMENT AGREEMENT (AS HEREINAFTER DEFINED) ARE OBLIGATIONS SOLELY OF FREDDIE MAC AND ARE NOT BACKED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA.

THE BONDS AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE EXCLUSIVELY FROM REVENUES AND RECEIPTS UNDER THE INDENTURE. THE BONDS DO NOT CONSTITUTE A DEBT OF THE ISSUER, OR OF THE STATE OF CALIFORNIA, OR OF ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL PROVISION OR STATUTORY LIMITATION AND SHALL NEVER CONSTITUTE NOR GIVE RISE TO A PECUNIARY LIABILITY OF THE ISSUER, OR OF THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF. THE BONDS SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF OR A CHARGE AGAINST THE GENERAL CREDIT OF THE ISSUER, BUT SHALL BE A SPECIAL, LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM THE SOURCES DESCRIBED IN THE INDENTURE, BUT NOT OTHERWISE.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM OR INTEREST ON THIS BOND AGAINST ANY PAST, PRESENT OR FUTURE OFFICER, BOARD MEMBER, EMPLOYEE OR AGENT OF THE ISSUER, OR OF ANY SUCCESSOR TO THE ISSUER, AS SUCH, EITHER DIRECTLY OR THROUGH THE ISSUER OR ANY SUCCESSOR TO THE ISSUER, UNDER ANY RULE OF LAW OR EQUITY, STATUTE OR CONSTITUTION OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, AND ALL SUCH LIABILITY OF ANY SUCH OFFICERS, BOARD MEMBERS, EMPLOYEES OR AGENTS, AS SUCH, IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF, AND CONSIDERATION FOR, THE EXECUTION AND ISSUANCE OF THIS BOND.

This Bond is one of a duly authorized issue of bonds of the Issuer known as its City of San José Multifamily Housing Revenue Bonds (Taylor Oaks Apartments), Series 2011[A-1][A-2], issued in the original aggregate principal amount of [\$(SERIES A-1 PAR AMOUNT)/(SERIES A-2 PAR AMOUNT)] (the “**Bonds**”) under and pursuant to the Constitution and the laws of the State, particularly Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State (the “**Act**”), and a bond resolution adopted by the Issuer on August. The Bonds are special, limited obligations of the Issuer payable solely from and secured by the Trust Estate pledged therefor pursuant to the Indenture. The Bonds are being issued in conjunction and on parity with an authorized series of Bonds of the Issuer designated City of San José Multifamily Housing Revenue Bonds (Taylor Oaks Apartments), Series 2011[A-1][A-2] and issued in the aggregate principal amount of [\$(SERIES A-1 PAR AMOUNT)/(SERIES A-2 PAR AMOUNT)] (the “**Series [A-2/A-1] Bonds**”). The Bonds and the Series [A-2/A-1] Bonds are issued to provide funds to the Issuer to make a loan (the “**Bond Mortgage Loan**”) to Taylor Oaks Apartment Investors L.P., California limited partnership (the “**Borrower**”), pursuant to a Financing Agreement, dated as of September 1, 2011 (the “**Financing Agreement**”), among the Issuer, the Trustee and the Borrower, to finance the acquisition and rehabilitation of a multifamily rental housing development known as Taylor Oaks Apartments located in the City of San José. The Borrower’s obligation to repay the Bond Mortgage Loan is evidenced by a Bond Mortgage Note dated September [], 2011 (the “**Bond Mortgage Note**”).

The Bonds are issuable as fully registered bonds in Authorized Denominations of \$5,000 or integral multiples thereof.

To secure its obligation to make payments on the Bond Mortgage Note in accordance with its terms, the Borrower has caused to be delivered to the Issuer a First Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of September [], 2011 (the “**Bond Mortgage**”) and a direct pay Credit Enhancement Agreement dated as of September 1, 2011 (the “**Credit Enhancement Agreement**”) between Freddie Mac and the Trustee. Under the Credit Enhancement Agreement, Freddie Mac has agreed to make advances to the Trustee (against proper draw requests made by the Trustee thereunder) in the amounts necessary to pay principal of and interest due under the Bond Mortgage Loan. The Issuer has assigned its interest in the Bond Mortgage Note and the Bond Mortgage (except for certain Unassigned Rights) to the Trustee and Freddie Mac, as the respective interests of the Trustee and Freddie Mac may appear, under and subject to the terms and conditions of that certain Intercreditor Agreement dated as of September 1, 2011, among the Issuer, the Trustee, the Construction Lender and Freddie Mac.

Reference is hereby made to the Indenture and all indentures supplemental thereto for a description of the Trust Estate under the Indenture, the nature and extent of the security, the terms and conditions upon which the Bonds are issued and secured and the rights of the holders thereof, to all of the provisions of which Indenture the registered Owner of this Bond, by acceptance hereof, assents and agrees. This Bond is equally and ratably secured under the Indenture with all other Bonds issued thereunder.

The Bonds are subject to optional and mandatory redemption or purchase in lieu of redemption in accordance with the provisions of the Indenture.

In the event of a redemption of less than all of the Bonds, the Bonds shall be selected by lot. Bonds shall only be redeemed in Authorized Denominations.

Unless notice of redemption is not required under this Bond and the terms of the

Indenture, notice of redemption of this Bond shall be given by first class mail, postage prepaid, to the registered owner hereof at the address of such owner shown on the registration books maintained by the Trustee, as bond registrar. All such notices shall be given not less than ten (10) days (not less than thirty (30) days in the case of optional or mandatory sinking fund redemptions) nor more than sixty (60) days prior to the date fixed for redemption. Notice shall also be sent by certified mail, overnight delivery service or other secure means, postage prepaid, to the Credit Facility Provider and to certain information services as described in the Indenture. Failure to give notice by mailing to the registered owner of any Bond designated for redemption shall not affect the validity of the proceedings for the redemption of any other Bond if notice shall have been mailed as herein provided. The Trustee may provide a conditional notice of redemption upon the direction of the Credit Facility Provider or the Borrower (with the prior written consent of the Credit Facility Provider).

The owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

Modifications or alterations of the Indenture or of any indenture supplemental thereto may be made only to the extent and in the circumstances permitted by the Indenture.

This Bond is transferable by the registered owner hereof in Person or by such owner's attorney duly authorized in writing at the principal corporate trust office of the Trustee, 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 transfer, a new registered Bond or Bonds of the same series, maturity and interest rate and of authorized denomination or denominations for the same aggregate principal amount will be issued to the transferee in exchange therefore. The Bonds are issuable only as fully registered Bonds without coupons.

The Issuer and the Trustee may deem and treat the registered holder hereof as the absolute owner hereof 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 Trustee shall be affected by any notice to the contrary.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until this Bond shall have been authenticated by the certificate of the Trustee endorsed hereon.

In the event of a conflict between the terms of this Bond and the Indenture, the terms of the Indenture shall control.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in the time, form and manner as required by law; that payment in full for this Bond has been received; and that this Bond and the issue of which it forms a part does not exceed or violate any constitutional or statutory limitation.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be duly executed by the manual or facsimile signature of its Assistant Director of Finance and attested by the manual or facsimile signature of its City Clerk.

CITY OF SAN JOSÉ

By: _____
Julia H. Cooper,
Assistant Director of Finance

ATTEST:

By: _____
City Clerk

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds issued under the provisions of and described in the within-mentioned Indenture.

Date of Authentication: _____

WELLS FARGO BANK, NATIONAL
ASSOCIATION

By: _____
Authorized Signer

FORM OF ASSIGNMENT

For value received, the undersigned do(es) hereby sell, assign and transfer unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within Bond and do(es) hereby irrevocably constitute and appoint

_____, attorney,
to transfer the same on the registration books of the Bondowner Representative, with full power
of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a
eligible guarantor.

NOTICE: The signature on this assignment must
correspond with the name(s) as written on
the face of the within Bond in every
particular without alteration or enlargement
or any change whatsoever.

EXHIBIT B
INTENTIONALLY OMITTED

EXHIBIT C

FORM OF PURCHASER'S LETTER

[To be prepared on letterhead of Purchaser]

[Date]

Debt Management Finance
City of San José
200 East Santa Clara Street
San José, California 95113-1905

Wells Fargo Bank, National Association
707 Wilshire Boulevard, 17th Floor
MAC: E2818-176
Los Angeles, California 90017

Re: CITY OF SAN JOSE MULTIFAMILY HOUSING REVENUE BONDS (TAYLOR OAKS APARTMENTS), SERIES 2011A-1 AND CITY OF SAN JOSE MULTIFAMILY HOUSING REVENUE BONDS (TAYLOR OAKS APARTMENTS), SERIES 2011A-2

Ladies and Gentlemen:

The undersigned (the "**Purchaser**") hereby acknowledges receipt as transferee, from the previous owner thereof, of the above-referenced bonds (the "**Bonds**") in fully registered form and in the aggregate principal amount of \$_____, constituting all of the Bonds currently outstanding. The Bonds have been checked, inspected and approved by the Purchaser.

The undersigned acknowledges that the Bonds were issued for the purpose of making a loan to assist in financing a multifamily rental housing development known as Taylor Oaks Apartments located in San José, California (the "**Project**"), as more particularly described in that certain Financing Agreement dated as of September 1, 2011, as may be amended and supplemented from time to time (the "**Financing Agreement**"), by and among the City of San José (the "**Issuer**"), Taylor Oaks Apartments Investors, L.P., a limited partnership duly organized and existing under the laws of the State of California (the "**Borrower**"), and Wells Fargo Bank, National Association (the "**Trustee**"). The undersigned further acknowledges that the Bonds are secured by a certain Trust Indenture dated as of September 1, 2011, as amended and supplemented (the "**Indenture**"), between the Issuer and the Trustee, which creates a security interest in loan repayments made pursuant to the Financing Agreement for the benefit of the holders and Owners of the Bonds, and by a first lien priority First Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing with respect to the Project (the "**Bond Mortgage**"), which creates a security interest in the Project, subject to permitted encumbrances, as provided therein. Terms not otherwise defined herein shall have the meanings assigned thereto in the Indenture.

In connection with the sale of the Bonds to the Purchaser, the Purchaser hereby makes the following representations upon which you may rely:

1. The Purchaser hereby certifies that it is (a) a bank as defined in Section 3(a)(2) of the Securities Act of 1933, as amended, (the “Act”) or a bank holding company or a wholly-owned subsidiary of a bank holding company, or a savings and loan association or other institution as defined in Section 3(a)(5)(a) of that act whether acting in its individual or fiduciary capacity; or (b) a broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended; or (c) an insurance company as defined in Section 2(13) of that act; or (d) an investment company registered under the Investment Company Act of 1940 or a business development company as defined in Section 2(a)(48) of that act; or (e) a Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958; or (f) a plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivision for the benefit of its employees, if investment decisions are made by a plan fiduciary which is a bank, savings and loan association, insurance company, or registered investment advisor and the plan establishes fiduciary principles the same as or similar to those contained in Sections 404-407 of Title I of the Employee Retirement Income Security Act of 1974; or (g) an employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if investment decisions are made by a plan fiduciary, as defined in Section 3(21) of such act, which is either a bank, savings and loan association, insurance company, or registered investment advisor, or if the employee benefit plan has total assets in excess of \$5,000,000, or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors or (h) an “accredited investor” as defined in Rule 501 of Regulation D of the Act, as amended.

2. The Bonds are being acquired by the Purchaser for its own account and for investment and not with a view to, or for resale in connection with, any public distribution of the Bonds. The Purchaser understands that it may need to bear the risks of this investment for an indefinite time, since any sale prior to maturity may not be possible due to unmarketability of the Bonds.

3. The Purchaser understands that the Bonds have not been registered under the Act.

4. The Purchaser acknowledges that it is familiar with the conditions, financial and otherwise, of the Borrower and understands that the Borrower has no significant assets other than the Project. To the extent deemed appropriate in making its investment decision, the Purchaser has discussed the Borrower’s financial condition and the Borrower’s current and proposed business activities with the Borrower. The Purchaser further acknowledges that it has such knowledge and experience in business matters that it is fully capable of evaluating the merits and risks of this investment and it is able to bear the economic risk of the investment. The Bonds are a security of the kind the Purchaser wishes to purchase and hold for investment, and the nature and amount of the Bonds are consistent with the Purchaser’s investment program. The Purchaser has been furnished such information and such documents as the Purchaser deems necessary to make a decision to purchase the Bonds, including copies or forms of the Indenture, the Financing Agreement, the Bond Mortgage and the Tax Regulatory Agreement (as defined in the Indenture), and certain other documents relating to the Bonds and the Project, all of which documents the Purchaser has reviewed. Specifically, but without limitation, the Purchaser has reviewed information about the Project and the property manager for the Project, if any, as well as information about the investment risks relating to the Bonds, and the Purchaser understands that the Bonds involve a high 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 REVENUES DERIVED FROM THE PROJECT AND THAT THE BONDS ARE NOT ENTITLED TO THE BENEFIT OF ANY CREDIT FACILITY AND NOT RATED BY THE RATING AGENCY. The Purchaser has made such inquiry with respect to all of the foregoing as it believed to be desirable for its purposes.

5. The Purchaser has received from the Issuer no formal or informal offering or disclosure document relating to the Bonds and has concluded that the receipt of one prior to the purchase of the Bonds is not required. It is acknowledged that no written information has been provided by the Issuer, and that any written information furnished by any other party to the transaction does not purport to fully disclose all information pertinent to the Bonds.

6. Except as disclosed to the Issuer, the Purchaser is not now and has never been controlled by, or under common control with, the Borrower. Except as disclosed to the Issuer, the Borrower has never been and is not now controlled by the Purchaser. THE PURCHASER HAS ENTERED INTO NO ARRANGEMENTS WITH THE BORROWER OR WITH ANY AFFILIATE OF THE BORROWER IN CONNECTION WITH THE BONDS, OTHER THAN AS DISCLOSED TO THE ISSUER. The Purchaser hereby agrees to deliver to the Issuer a copy of any agreement between the Purchaser and the Borrower or any affiliate of the Borrower relating to the Bonds. [THIS PARAGRAPH TO BE DELETED IN THE EVENT OF PURCHASE OF BONDS BY BORROWER OR AN AFFILIATE OF BORROWER.]

7. 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.

8. In entering into this transaction the Purchaser has not relied upon any representations or opinions made by the Issuer relating to the legal consequences or other aspects of the transactions, 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 refinancing, operation or management thereof), or any other matter pertaining to the merits or risks of the transaction, or the adequacy of any collateral pledged to the Trustee to secure repayment of the Bonds.

9. The Purchaser understands that the Bonds are not secured by any pledge of any money received or to be received from taxation by the State of California or any political subdivision or taxing district thereof, including, without limitation, the Issuer; 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 Issuer, the State of California or any political subdivision thereof for the payment of principal, premium, if any, 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.

10. The Purchaser has been informed that the Bonds (i) have not been and will not be registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any jurisdiction, (ii) will not be listed on any stock or other securities exchange, and (iii) will carry no rating from any rating service.

11. The Purchaser has obtained, from representatives of the Borrower and others, all information regarding the Bonds which it has deemed relevant. The Purchaser has asked of the

Borrower and all other relevant parties all the questions to which the Purchaser desired answers, and has had those questions satisfactorily answered. Neither the Borrower nor the Issuer nor any other relevant party has refused to disclose any information that the Purchaser deems necessary or appropriate to its decision to purchase the Bonds.

12. Although the Purchaser does not intend at this time to dispose of the Bonds, the Purchaser acknowledges that it has the right to sell and transfer the Bonds, subject to the following requirements:

(a) The Purchaser may not dispose of the Bonds to a person or entity other than as described in Section 1 without the prior written consent of the Issuer;

(b) The Purchaser will not sell or otherwise transfer the Bonds unless such transfer will not result in the transferee owning less than all of the Bonds, except with the prior written approval of the Issuer;

(c) Prior to any transfer of the Bonds, the Purchaser shall deliver to the Issuer and the Trustee a certificate identifying any and all documents that have been executed by the Purchaser and the Borrower or any affiliate of the Borrower with respect to the Bonds; and

(d) The Purchaser will not sell or otherwise transfer the Bonds without requiring the transferee to deliver to the Issuer and to the Trustee an investor's letter to the same effect as this Purchaser's Letter, including this paragraph 12, with no revisions except as may be approved in writing by the Issuer.

[PURCHASER]

By: _____
Name: _____
Title: _____

EXHIBIT D

**COSTS OF ISSUANCE REQUISITION
(Cost of Issuance Fund)**

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee

Re: \$[SERIES A-1 PAR AMOUNT] CITY OF SAN JOSE MULTIFAMILY HOUSING REVENUE BONDS (TAYLOR OAKS APARTMENTS), SERIES 2011A-1 AND \$[SERIES A-2 PAR AMOUNT] CITY OF SAN JOSE MULTIFAMILY HOUSING REVENUE BONDS (TAYLOR OAKS APARTMENTS), SERIES 2011A-2

Trustee:

You are requested to disburse funds from the Cost of Issuance Fund pursuant to Section 4.13 of the Indenture in the amount(s), to the person(s) and for the purpose(s) set forth in this requisition (the "**Requisition**"). The terms used in this requisition shall have the meaning given to those terms in the Trust Indenture (the "**Indenture**"), dated as of September 1, 2011 by and between the City of San José and Wells Fargo Bank, National Association, as trustee, securing the above referenced Bonds.

REQUISITION NO.:

PAYMENT DUE TO:

AMOUNT TO BE DISBURSED: \$

The undersigned, on behalf of Taylor Oaks Apartments Investors, L.P., a limited partnership duly organized and existing under the laws of the State of California (the "**Borrower**"), certifies that:

(a) the expenditures for which money is requisitioned by this Requisition represent proper charges against the Cost of Issuance Fund, have not been included in any previous requisition and are set forth in the Schedule attached to this Requisition, with invoices attached for any sums for which reimbursement is requested; and

(b) the money requisitioned is not greater than those necessary to meet obligations due and payable or to reimburse the applicable party for funds actually advanced for Costs of Issuance.

Attached to this Requisition is a Schedule, together with copies of invoices or bills of sale covering all items for which payment is being requested.

Date of Requisition: _____

TAYLOR OAKS APARTMENTS INVESTORS, L.P.
a California limited partnership

By: FTF Taylor Oaks, LLC,
a California limited liability company,
its Co-General Partner

By: _____
Robert Putnam,
Managing Member

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Mark A. Wiese,
President

EXHIBIT E

**BOND MORTGAGE LOAN FUND REQUISITION
(Bond Mortgage Loan Fund)**

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee

Re: \$[SERIES A-1 PAR AMOUNT] CITY OF SAN JOSE MULTIFAMILY HOUSING REVENUE BONDS (TAYLOR OAKS APARTMENTS), SERIES 2011A-1 AND \$[SERIES A-2 PAR AMOUNT] CITY OF SAN JOSE MULTIFAMILY HOUSING REVENUE BONDS (TAYLOR OAKS APARTMENTS), SERIES 2011A-2

You are requested to disburse funds from the Bond Mortgage Loan Fund pursuant to Section 4.02 of the Indenture in the amount(s), to the person(s) and for the purpose(s) set forth in this requisition (the "**Requisition**"). The terms used in this requisition shall have the meaning given to those terms in the Trust Indenture (the "**Indenture**"), dated as of September 1, 2011 by and between the City of San José and Wells Fargo Bank, National Association, as trustee, securing the above referenced Bonds.

REQUISITION NO.:

PAYMENT DUE TO:

AMOUNT(S) TO BE DISBURSED: \$_____ from the Project Account

\$_____ from the Borrower Equity Account

The undersigned Borrower hereby represents and warrants that the following information and certifications provided in connection with this Requisition are true and correct as of the date hereof and authorizes the Construction Lender to submit this Requisition to Bond Trustee on behalf of Borrower:

1. Purposes for which disbursement is requested are specified in the **attached Schedule**.

2. Party or parties to whom the disbursements shall be made are specified in the **attached Schedule** (may be the undersigned in the case of reimbursement for advances and payments made or cost incurred for work done by the undersigned); provided, that no reimbursement shall be made for advances and payments made prior to _____, 20____).

3. The undersigned certifies that:

(a) the conditions precedent to disbursement set forth in the Construction Loan Documents have been satisfied;

(b) the disbursement requested pursuant to this Requisition will be used solely to pay a cost or costs allowable under the Indenture and the Construction Loan Documents;

(c) none of the items for which disbursement is requested pursuant to this Requisition has formed the basis for any disbursement previously made from the Bond Mortgage Loan Fund and all such items have been properly recorded in Borrower's books and are set forth on the Schedule attached hereto, along with paid invoices attached for any sum for which reimbursement is requested and invoices or bills of sales for all other items;

(d) all labor and materials for which disbursements have been requested have been incorporated into the Project in accordance with reasonable and standard building practices, the Construction Loan Documents and all Applicable Legal Requirements (as defined in the Construction Loan Documents);

(e) the materials, supplies and equipment furnished or installed for the Improvements are not subject to any lien or security interest or that the funds to be disbursed pursuant to this Requisition are to be used to satisfy any such lien or security interest;

(f) the amount remaining in the Bond Mortgage Loan Fund, together with expected investment income on the Bond Mortgage Loan Fund, in addition to those funds identified in the Construction Loan Agreement that remain available to the Borrower for the payment of Costs of the Project, will, after payment of the amount requested by this Requisition, be sufficient to pay the costs of completing the Project substantially in accordance with the construction/rehabilitation contracts, plans and specifications and building permits therefor, if any, currently in effect;

(g) all of the funds being requisitioned are being used in compliance with all tax covenants set forth in the Indenture, the Financing Agreement and the Tax Certificate, including that none of the proceeds of the Bonds (including investment earnings thereon) will be used to provide an airplane, a skybox or any other private luxury box, any facility primarily used for gambling, health club facility or any store the principal business of which is the sale of alcoholic beverages for consumption off premises;

(h) with respect to amounts from the Project Account of the Bond Mortgage Loan Fund, not less than 95% of the sum of:

(A) the amounts requisitioned by this Requisition; plus

(B) all amounts previously requisitioned and disbursed from the Project Account of the Bond Mortgage Loan Fund;

have been or will be applied by Borrower to pay the Costs of the Project;

(i) Borrower is not in default (and the funding of this Requisition will not cause Borrower to be in default) under the Financing Agreement, any Bond Mortgage Loan Document or any Construction Loan Document to which it is a party and nothing has occurred to the knowledge of Borrower that would prevent the performance of its obligations under such documents;

(j) no amounts being requisitioned hereby will be used to pay, or reimburse,

any Costs of Issuance incurred in connection with the issuance of the Bonds or pay debt service with respect to the Bond Mortgage Loan;

(l) funds deposited with Borrower for further disbursement to third parties shall be paid to such third parties by check dated the date of such deposit and Borrower reasonably expects such funds will be disbursed from its account within five Business Days of such deposit; and

(m) the Construction Loan (or, if applicable, Construction Phase Credit Facility has been issued and delivered to Freddie Mac and) is in full force and effect in accordance with the terms and conditions of the Construction Phase Financing Agreement.

[Following items may not required for Initial Disbursement]

4. Estimated costs of completing the uncompleted construction/rehabilitation of the Project as of the date of this Requisition: _____.

5. Percent of the construction/rehabilitation of the Project completed as of the date this request: _____%

IN WITNESS WHEREOF, the undersigned has executed this Requisition as of the day and date first above written.

Date: _____

TAYLOR OAKS APARTMENTS INVESTORS, L.P.
a California limited partnership

By: FTF Taylor Oaks, LLC,
a California limited liability company,
its Co-General Partner

By: _____
Robert Putnam,
Managing Member

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Mark A. Wiese,
President

CONSENTED TO BY CITIBANK, N.A., as
Construction Lender

By: _____
Name:
Title: