
INDENTURE OF TRUST

Between

CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA,
as Issuer

and

[TRUSTEE],
as Trustee

Dated as of December 1, 2019

Securing

\$60,006,000
City and County of San Francisco, California
Multifamily Tax-Exempt Mortgage-Backed Bonds
(M. TEBS) (Eastern Park Apartments)
2019 SERIES J

\$24,834,000
City and County of San Francisco, California
Multifamily Housing Revenue Bonds
(Eastern Park Apartments)
2019 SERIES K

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INDENTURE OF TRUST

This INDENTURE OF TRUST, is made and entered into as of December 1, 2019, by and between the **CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA** (together with its successors and assigns, the “Issuer”), a municipal corporation and chartered city and county duly organized and validly existing under its City Charter and the Constitution and the laws of the State of California, and **[TRUSTEE]**, a national banking association, duly organized and existing under the laws of the United States of America and authorized to accept and execute trusts of the character herein set forth, including such entity’s successors or any other corporation or association resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee at any time serving as successor trustee hereunder (the “Trustee”);

WITNESSETH:

Certain of the capitalized terms and words used in these Recitals, and in the following Granting Clauses and Agreements, are defined in Section 1.01 of this Indenture.

WHEREAS, pursuant to Section 9.107 of the Charter of the Issuer, and Article 1 of Chapter 43 of the Administrative Code of the City and County of San Francisco Municipal Code and, to the extent applicable, Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code (collectively, the “Act”), the Issuer is authorized to issue one or more series of its revenue bonds and to lend the proceeds thereof to finance the construction, rehabilitation and equipping of residential rental housing facilities to provide housing for persons of low and very low income; and

WHEREAS, in order to provide the funds necessary for the acquisition, rehabilitation and equipping of the Project, the Issuer has, pursuant to the Act, authorized the issuance of its Multifamily Tax-Exempt Mortgage-Backed Bonds (M. TEBS) (Eastern Park Apartments), 2019 Series J in the principal amount of \$60,006,000 (the “Series J Bonds”) and its Multifamily Housing Revenue Bonds (Eastern Park Apartments), 2019 Series K, in the aggregate principal amount of \$24,834,000 (the “Series K Bonds,” and together with the Series J Bonds, individually or collectively as context may dictate, the “Bonds”); and

WHEREAS, the provision of the Bond Loans (as hereinafter defined), are authorized by the Act and will accomplish a valid public purpose of the Issuer, and the Issuer has determined that it is in the public interest to issue the Bonds for the purpose of providing funding necessary for the Project; and

WHEREAS, pursuant to the Financing Agreement dated as of the date hereof (the “Financing Agreement”) among the Issuer, the Trustee and Eastern Park Apartments, LP (the “Borrower”), the Issuer will use the proceeds of the Bonds to make two loans to the Borrower, each evidenced by a promissory note (collectively, the “Bond Loan Notes”), to finance the acquisition, rehabilitation and equipping of the Project; and

WHEREAS, to assist in the financing of the Project, the Borrower will cause Eligible Funds (as hereinafter defined) to be periodically delivered to the Trustee for deposit into the Collateral Fund (as hereinafter defined) as security for (i) the Series J Bonds prior to the MBS

Delivery Date (as hereinafter defined) and (ii) the Series K Bonds prior to the Initial Mandatory Tender Date (as hereinafter defined); and

WHEREAS, pursuant to the Financing Agreement, the Borrower has agreed, among other things, to (a) make payments on the Bond Loan Notes, (b) make payments on the Mortgage Note (as hereinafter defined), and (c) pay all required fees associated with the Bonds and the Permanent Loan (as hereinafter defined); and

WHEREAS, to assist in financing the Project, at the direction of the Borrower, amounts on deposit in the Collateral Fund and, to the extent amounts in the Collateral Fund are insufficient, amounts in the Bond Proceeds Fund, will be used on the MBS Delivery Date to acquire the MBS (as hereinafter defined), which will be backed by a mortgage loan (the “Permanent Loan”) from Bellwether Enterprise Real Estate Capital, LLC (the “Permanent Lender”) to the Borrower as evidenced by a multifamily note (the “Mortgage Note”); and

WHEREAS, the MBS is to be held in trust by the Trustee and pledged under the terms of this Indenture to secure payment of the Series J Bonds; and

WHEREAS, the Issuer has authorized the execution of this Indenture in order to secure the payment of the principal of, premium, if any, and interest on the Bonds and the observance of the covenants and conditions herein contained; and

WHEREAS, the Issuer has determined that all things necessary to make the Bonds, when executed and delivered by the Issuer and authenticated by the Trustee and issued as provided in this Indenture, the valid, binding and legal obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid assignment and pledge of the Trust Estate (as hereinafter defined) and other amounts pledged to the payment of the principal of, premium, if any, and interest on the Bonds and a valid and binding agreement for the uses and purposes herein set forth, have been duly taken, and the creation, execution and delivery of this Indenture and the creation, execution and delivery of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS INDENTURE OF TRUST WITNESSETH:

The Issuer, in order to secure the payment of the principal of, the premium, if any, and the interest on all Bonds at any time issued and outstanding under this Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the purchase and acceptance of the Bonds by the owners thereof, and for other valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, warrant, convey, confirm, assign, transfer in trust, grant a security interest in, pledge and set over unto the Trustee, the property of the Issuer, real and personal, hereinafter described, for the benefit of the Bondholders, subject only to the provisions hereof permitting the application thereof for or to the purposes and on the terms and conditions set forth herein (said property being herein sometimes referred to as the “Trust Estate”):

GRANTING CLAUSES

I.

All right, title and interest of the Issuer in and to the Series J Bond Loan Note and Series K Bond Loan Note (each, other than the Reserved Rights of the Issuer) including all payments and proceeds with respect thereto or replacement thereof;

II.

All right, title and interest of the Issuer in and to amounts on deposit in the Bond Proceeds Fund to be funded at closing in an amount equal to the principal amount of the Bonds;

III.

All amounts on deposit in the Collateral Fund and the Revenue Fund;

IV.

Solely with respect to the Series J Bonds, the MBS, if issued by Fannie Mae and acquired by the Trustee, and all MBS Revenues;

V.

All right, title and interest of the Issuer now owned or hereafter acquired in, to and under the Financing Agreement and the Regulatory Agreement, except Reserved Rights, as hereinafter defined; and

VI.

All other property which by the express provisions of this Indenture is required to be subject to the lien hereof, and any additional property that, from time to time, by delivery or by writing of any kind, may be subjected to the lien hereof, by the Issuer or by anyone on its behalf, and the Trustee is hereby authorized to receive the same at any time as additional security hereunder; *provided, however*, that the Trust Estate shall not include amounts on deposit in the Rebate Fund, the Costs of Issuance Fund, [the Borrower Equity Fund] and the Administration Fund;

TO HAVE AND TO HOLD all and singular with all privileges and appurtenances hereby given, granted, bargained, sold, conveyed, assigned, pledged, mortgaged and transferred or agreed or intended so to be, whether now owned or hereafter acquired, including any and all additional property that by virtue of any provision hereof or of any indenture supplemental hereto shall hereafter become subject to this Indenture and to the trusts hereby created, unto the Trustee and its successors in trust and assigns forever;

IN TRUST, NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of the registered owners from time to time of any of the Bonds authenticated and delivered under this Indenture and issued by the Issuer and

Outstanding, without preference, priority or distinction as to lien, or otherwise of any one Bond over any other Bond by reason of priority in the issue, sale or negotiation thereof, or of any other cause, and for the benefit of Fannie Mae as herein provided;

PROVIDED, HOWEVER, that if the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of, premium, if any, and interest on the Bonds due or to become due thereon, at the times and in the manner mentioned in the Bonds according to the true intent and meaning thereof, or shall provide, as permitted hereby, for the payment thereof by depositing with the Trustee the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay, cause to be paid or make provision for payment to the Trustee of all sums of money due or to become due in accordance with the terms and provisions hereof, then upon such final payment this Indenture and the rights hereby granted shall cease, determine and be void; otherwise this Indenture shall remain in full force and effect;

AND IT IS HEREBY COVENANTED that all of the Bonds shall be issued, authenticated and delivered, and that the Trust Estate shall be held by the Trustee, subject to the further covenants, conditions, uses and trusts hereinafter set forth, and the Issuer agrees and covenants with the Trustee and with the registered owners from time to time of the Bonds, as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Indenture and of any indenture supplemental hereto, have the following meanings:

“Act” has the meaning given to such term in the Recitals hereto.

“Actual/360” means a computation of interest accrual on the basis of a three hundred sixty (360) day year and the actual number of calendar days during the applicable month, calculated by multiplying the unpaid principal balance of the Bonds by the Pass-Through Rate, dividing the product by three hundred sixty (360), and multiplying the quotient obtained by the actual number of days elapsed in the applicable month.

“Administration Fund” means the Fund created and so designated in Section 5.02 hereof.

“Attesting Officer” means such officer or official of the Issuer who in accordance with the Resolution, is authorized to certify official acts and records of the Issuer.

“Authorized Borrower Representative” means any person who, at any time and from time to time, is designated as the Borrower’s authorized representative by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by or on behalf of any authorized general partner of the Borrower if the Borrower is a general or limited partnership, by any authorized general partner of the Borrower if the Borrower is a limited liability company, or by any authorized officer of the Borrower if the

Borrower is a corporation, which certificate may designate an alternate or alternates. The Trustee may conclusively presume that a person designated in a written certificate filed with it as an Authorized Borrower Representative is an Authorized Borrower Representative until such time as the Borrower files with it (with a copy to the Issuer) a written certificate revoking such person's authority to act in such capacity. The initial Authorized Borrower Representative is _____.

“Authorized Denomination” means (a) with respect to the Series J Bonds, \$1,000 or any integral multiple of \$1.00 in excess thereof, and (b) with respect to the Series K Bonds, \$5,000, or any integral multiple of \$5,000 in excess thereof.

“Authorized Officer” means the Mayor of the City or the Director or the Housing Development Director of the Mayor's Office of Housing and Community Development, or any person or persons designated to act on behalf of the Issuer by a certificate filed with the Borrower and the Trustee containing the specimen signatures of such person or persons and signed on behalf of the Issuer by the Mayor of the City or the Director or the Housing Development Director of the Mayor's Office of Housing and Community Development.

“Bankruptcy Code” means the Federal Bankruptcy Code, Title 11 of the United States Code, as amended and supplemented from time to time.

“Beneficial Owner” means the purchaser of a beneficial interest in the Bonds.

“Bond” or “Bonds” means, individually or collectively as context may dictate, the Series J Bonds and the Series K Bonds.

“Bond Counsel” means (i) Norton Rose Fulbright US LLP, (ii) Curls Bartling P.C., or (iii) any attorney or other firm of attorneys of nationally recognized standing in the field of municipal finance law whose opinions are generally accepted by purchasers of tax-exempt obligations and who is acceptable to the Issuer.

“Bond Dated Date” means the Closing Date.

“Bond Loans” means the loan of the proceeds of the Bonds to the Borrower in accordance with the Financing Agreement and the Bond Loan Notes prior to the Conversion Date, and after the Conversion Date, the Permanent Loan and the MBS.

“Bond Loan Notes” means, collectively, the Series J Bond Loan Note and the Series K Bond Loan Note.

“Bond Maturity Date” means (a) with respect to the Series J Bonds, July 1, 2039, subject to final payment of principal with respect to the MBS on July 25, 2039, or the following Business Day if such day is not a Business Day, which will be passed through to the Bondholders on the Final Payment Date, and (b) with respect to the Series K Bonds, July 1, 2023.

“Bond Proceeds Fund” means the Fund of that name established by Section 5.02 hereof.

“Bond Purchase Agreement” means the Bond Purchase Agreement, dated _____, 2019, among the Underwriter, the Issuer and the Borrower.

“Bond Register” means the registration books of the Issuer maintained by the Trustee as provided in this Indenture on which registration and transfer of the Bonds is to be recorded.

“Bond Registrar” has the meaning given to such term in Section 2.08 hereof.

“Bondholder” or “holder” or “owner” of any Bond or any similar term shall mean the person in whose name any Bond is registered.

“Book-Entry Bonds” means the Bonds for which a Depository or its Nominee is the Bondholder.

“Borrower” has the meaning given to such term in the Recitals hereto.

[“Borrower Equity Fund” means the Borrower Equity Fund established by Section 5.02 hereof.]

“Business Day” means any day other than a Saturday or Sunday, a day when the fiscal agent or paying agent for the MBS is closed, a day when the Federal Reserve Bank of New York is closed, or a day when the Federal Reserve Bank is closed in a district where a securities account is located if the related withdrawal is being made from that securities account, and, with respect to the Bonds, any such day that is also a day on which the Trustee is open for business.

“Cash Flow Projection” means cash flow projections prepared by an independent firm of certified public accountants, a financial advisory firm, the Underwriter, a law firm or other independent third party qualified and experienced in the preparation of cash flow projections for structured finance transactions similar to the Bonds acceptable to the Issuer, establishing that (a) the amounts on deposit with the Trustee in the Bond Proceeds Fund, the Collateral Fund and the Revenue Fund, (b) projected investment income to accrue on amounts on deposit in the Bond Proceeds Fund, the Collateral Fund and the Revenue Fund during the applicable period and (c) any additional Eligible Funds delivered to the Trustee by or on behalf of the Borrower are sufficient to pay, as applicable, (i) amounts due and payable on the Bonds on each Payment Date, (ii) the MBS Purchase Price on the MBS Delivery Date, (iii) the costs of any proposed remarketing of the Series K Bonds, as provided in Section 3.07 hereof, or (iv) the optional redemption of the Bonds as provided in Section 3.01(g) hereof, including in the event that the Trustee intends to sell or otherwise dispose of Eligible Investments prior to maturity at a price below par, as described in Section 5.16 hereof. The cost and expense of obtaining such Cash Flow Projections shall be the sole responsibility of the Borrower.

“Closing Date” means December ____, 2019.

“Code” means the United States Internal Revenue Code of 1986, as amended, and the Regulations thereunder, or any successor statute, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the Treasury Department or Internal Revenue Service of the United States.

“Collateral Fund” means the Fund created and so designated in Section 5.02 hereof.

“Construction Lender” means JPMorgan Chase Bank, N.A.

“Construction Loan” means the loan made from the Construction Lender to the Borrower in the original principal amount of \$84,840,000.

“Construction Loan Documents” means the documents executed and delivered in connection with the Construction Loan, including, without limitation, the promissory note and mortgage evidencing the Construction Loan.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement dated as of December 1, 2019 between the Borrower and the Dissemination Agent, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Conversion Date” has the meaning set forth for such term in the Fannie Mae Forward Commitment and as set forth in a notice of the occurrence thereof delivered by the Permanent Lender to the Trustee.

“Costs of Issuance” means costs to the extent incurred in connection with, and allocable to, the issuance of the Bonds within the meaning of Section 147(g) of the Code. For example, “issuance costs” include the following costs, but only to the extent incurred in connection with, and allocable to, the borrowing: Underwriter’s fee; counsel fees; financial advisory fees; fees paid to an organization to evaluate the credit quality of an issue; trustee fees; paying agent fees; registrar, certification and authentication fees; accounting fees; printing costs for bonds and offering documents; public approval process costs; engineering and feasibility study costs; guarantee fees, other than qualified guarantees; and similar costs.

“Costs of Issuance Deposit” means the amount deposited on the Closing Date into the Costs of Issuance Fund.

“Costs of Issuance Fund” means the Fund created and so designated in Section 5.02 hereof.

“Counsel’s Opinion,” “Opinion of Counsel,” or “Opinion” means a written opinion, including opinions supplemental thereto, signed by an attorney or firm of attorneys (who may be counsel for the Issuer, the Borrower or Fannie Mae).

“Depository” means, initially, DTC and any replacement securities depository appointed under this Indenture.

“Dissemination Agent” means _____, or any successor, as Dissemination Agent under the Continuing Disclosure Agreement.

“Dissemination Agent Fee” means the fee payable to the Dissemination Agent as compensation for its services and the reimbursement to the Dissemination Agent of its expenses in performing its obligations under the Continuing Disclosure Agreement, which shall be payable by the Borrower and not from funds pledged to the benefit of the Trust Estate.

“DTC” means The Depository Trust Company, New York, New York.

“Electronic Means” means a facsimile transmission or any other electronic means of communication approved in writing by Fannie Mae.

“Eligible Funds” means:

- (a) the proceeds of the Bonds or any other amounts received by the Trustee from the Underwriter;
- (b) the proceeds of the Permanent Loan;
- (c) moneys drawn on a letter of credit provided to the Trustee for the benefit of the Borrower;
- (d) any amounts received by the Trustee representing advances to the Borrower (or an affiliate) of funds from other third parties representing loans or grants of money earmarked for the Project, including but not limited to proceeds of the Construction Loan;
- (e) remarketing proceeds of the Series K Bonds (including any additional amount paid to the Trustee as the purchase and or remarketing price thereof by the Remarketing Agent) received from the Remarketing Agent or any purchaser of the Series K Bonds;
- (f) any other amounts for which the Trustee has received an Opinion of Counsel (which the Trustee may conclusively rely upon) to the effect that the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code (or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court) or be avoidable as preferential payments under Section 547 of the Bankruptcy Code should the Borrower become a debtor in proceedings commenced under the Bankruptcy Code;
- (g) any payments held by the Trustee for a continuous period of 123 days, *provided* that no act of bankruptcy with respect to the Borrower has occurred during such period; and
- (h) investment income derived from the investment of the money described in (a) through (g) above.

“Eligible Investments” means any of the following investments which at the time are legal investments for moneys of the Issuer which are then proposed to be invested therein and each of which investments must mature or be guaranteed to be able to be tendered at a price of par at such time or times as to enable timely disbursements to be made from the fund in which such investment is held or allocated in accordance with the terms of this Indenture:

- (a) Government Obligations; and
- (b) to the extent permitted herein, shares or units in any money market mutual fund rated “AAAm” by S&P (or if S&P is not the Rating Agency or 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 and receives reasonable compensation therefor) registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of direct obligations of the government of the United States of America.

Eligible Investments deposited to the Series K Bond Proceeds Fund Account and the Series K Collateral Fund Account shall not include any investment with a final maturity or any agreement with a term ending later than the earlier of the following for the Series K Bonds: (i) the Mandatory Tender Date in effect at the time of investment, (ii) the Bond Maturity Date, or (iii) the Optional Redemption Date (except obligations that provide for the optional or mandatory tender, at par, by the holder of such obligations at any time). Eligible Investments deposited to the Series J Bond Proceeds Fund Account and the Series J Collateral Fund Account shall not include any investment with a final maturity or any agreement with a term ending later than the earlier of the following for the Series J Bonds: (i) the current MBS Delivery Date Deadline in effect at the time of investment, or (ii) the Bond Maturity Date (except obligations that provide for the optional or mandatory tender, at par, by the holder of such obligations at any time).

“Event of Default” means any occurrence or event specified in Section 8.01 hereof.

“Extension Deposit” means the deposit of Eligible Funds (a) with respect to the Series J Bonds, as described in Sections 3.04 and 5.05(b) hereof, and (b) with respect to the Series K Bonds, the amount due, if any, to provide adequate additional funds for the payment of principal and interest due with respect to the Series K Bonds during a Remarketing Period in connection with the change or extension of the Mandatory Tender Date pursuant to Section 3.07 hereof, and which shall be determined by a Cash Flow Projection.

“Fannie Mae” means Fannie Mae, a corporation organized and existing under the Federal National Mortgage Association Charter Act, 12 U. S. C., § 1716 et seq., and its successors.

“Fannie Mae Certificate” means a guaranteed mortgage pass-through Fannie Mae mortgage backed security issued by Fannie Mae in book-entry form, recorded in the name of the Trustee or its nominee, guaranteed as to timely payment of principal of and interest by Fannie Mae, and backed by the Permanent Loan.

“Fannie Mae Forward Commitment” means the Fannie Mae Forward Commitment, dated as of _____, 2019, entered into between the Permanent Lender and Fannie Mae, as the same may be amended from time to time.

“Final Payment Date” means the first Business Day after the final payment with respect to the MBS (July 26, 2039 or if such date is not a Business Day the following Business Day).

“Financing Agreement” has the meaning given to such term in the Recitals hereof.

“Financing Documents” means this Indenture, the Financing Agreement, the Regulatory Agreement, the Tax Certificate, the Bond Loan Notes and the Bond Purchase Agreement.

“Fund” or “Account” or “Subaccount” means a fund, account or subaccount created by or pursuant to this Indenture.

“General Partner” means _____, a California not-for-profit corporation, its successors and assigns.

“Government Obligations” means direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury), and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by the United States of America.

“Guaranty” means the Fee Guaranty and Environmental Indemnity Agreement dated as of the same date as this Indenture, in favor of the Issuer and the Trustee.

“Indenture” means this Indenture of Trust as it may from time to time be amended, modified or supplemented by Supplemental Indentures.

“Initial Mandatory Tender Date” means January 1, 2023.

“Initial Remarketing Date” means the Initial Mandatory Tender Date, but only if the conditions for remarketing the Bonds on such date, as provided in Section 3.07 hereof, are satisfied.

“Initial Series K Bond Rate” means ____%.

“Initial Termination Date” means January 1, 2023

“Interest Period” means with respect to the Series K Bonds, initially, the period from the Closing Date to but not including January 1, 2020, and thereafter, the period commencing on each succeeding Series K Bond Payment Date and ending on the day preceding the next Series K Bond Payment Date.

“Investor Limited Partner” means Wincopin Circle LLLP, a Maryland limited liability limited partnership, its successors and/or assigns.

“Issuer” has the meaning set forth for that term in the Recitals above.

“Issuer Documents” means, collectively, this Indenture, the Financing Agreement, the Regulatory Agreement and the Tax Certificate.

“Issuer Fee” means [to come]

“Lender” means, prior to the Conversion Date, the Construction Lender, and after the Conversion Date, the Permanent Lender.

“Mandatory Redemption Date” means any date on which the Bonds are subject to mandatory redemption pursuant to Section 3.01 hereof, as such date may be extended pursuant to Section 3.04 hereof.

“Mandatory Tender Date” means (a) the Initial Mandatory Tender Date and (b) if the Series K Bonds Outstanding on such date or on any subsequent Mandatory Tender Date are remarketed pursuant to Section 3.05 for a Remarketing Period that does not extend to the final maturity of the Series K Bonds, the day after the last day of the Remarketing Period.

“MBS” shall mean the Fannie Mae Certificate identified in Section 4.01 hereof that is pledged by the Issuer to the Trustee pursuant to this Indenture.

“MBS Dated Date” means the 1st day of the month in which the MBS is delivered.

“MBS Delivery Date” means the date on which the Trustee receives the MBS backed by the Permanent Loan, which shall occur not later than the MBS Delivery Date Deadline.

“MBS Delivery Date Deadline” means March 1, 2023, or, if such day is not a Business Day, the following Business Day, as such date may be extended pursuant to Section 3.04 hereof.

“MBS Factor” means the applicable factor posted by Fannie Mae on the MBS from time to time as the Permanent Loan amortizes.

“MBS Purchase Price” means the principal amount outstanding on the Permanent Loan as of the MBS Delivery Date plus accrued interest on the MBS from the MBS Dated Date to the MBS Delivery Date at the Pass-Through Rate.

“MBS Revenues” means all payments made under and pursuant to the MBS.

“Moody’s” means Moody’s Investors Service, Inc., a Delaware corporation, and its successors and assigns, or if it is dissolved or no longer assigns credit ratings, then any other nationally recognized statistical rating agency, designated by Fannie Mae, that assigns credit ratings.

“Mortgage” means the Multifamily Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing together with all riders and exhibits, securing the Permanent Loan. [Add provisions as required for City Mortgage/Deed of Trust]

“Mortgage Note” means the instrument [amending and restating] the Construction Loan note and evidencing the obligation to repay the Permanent Loan, dated the Conversion Date, if such Permanent Loan is originated.

“Multifamily Loan and Security Agreement” means the Multifamily Loan and Security Agreement, executed by the Borrower and dated the Conversion Date, if such agreement is entered into.

“Nominee” means the nominee of the Depository, which may be the Depository, as determined from time to time pursuant hereto.

“Officer’s Certificate” means a certificate signed by an Authorized Officer or, if such certificate pertains to official action taken by the Issuer or official records of the Issuer, by an Attesting Officer.

“Optional Redemption Date” means any date the Series K Bonds are subject to optional redemption pursuant to Section 3.01(g) hereof.

“Outstanding” means, when used with respect to the Bonds and as of any date, all Bonds theretofore authenticated and delivered under this Indenture except:

(a) any Bond cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) any Bond for the payment or redemption of which either (i) moneys equal to the principal amount or Redemption Price thereof, as the case may be, with interest to the date of maturity or redemption date, or (ii) specified types of Eligible Investments or moneys in the amounts, of the maturities and otherwise as described and required under the provisions of Sections 3.01 and 3.03, shall have theretofore been deposited with the Trustee in trust (whether upon or prior to maturity or the redemption date of such Bond) and, except in the case of a Bond to be paid at maturity, as to which a redemption notice shall have been given or provided for in accordance with Section 3.02, and

(c) any Bond in lieu of or in exchange for which another Bond shall have been authenticated and delivered pursuant to this Indenture.

“Participant” means a member of, or a participant in, the Depository.

“Partnership Agreement” means the First Amended and Restated Agreement of Limited Partnership of the Borrower, dated as of _____, and any Supplements hereto.

“Pass-Through Rate” means ____% per annum.

“Payment Date” means the Series J Bond Payment Date and the Series K Bond Payment Date, as applicable.

“Permanent Lender” has the meaning given to such term in the Recitals hereto.

“Permanent Loan” means the interest-bearing loan for multifamily housing relating to the Bonds, if originated on the Conversion Date, which is evidenced by the Mortgage Note and secured by the Mortgage and the Multifamily Loan and Security Agreement.

“Permanent Loan Amortization Schedule” means the mortgage loan amortization schedule delivered to the Trustee on the Closing Date and attached as Exhibit C hereto, as may be subsequently modified by the Permanent Lender on the Conversion Date.

“Permanent Loan Documents” means, collectively, the [Financing Agreement], Mortgage Note, the Mortgage, the Multifamily Loan and Security Agreement, and all other documents, agreements and instruments delivered on the Conversion Date and evidencing, securing or otherwise relating to the Permanent Loan, as each such document, agreement or instrument may be amended, supplemented or restated from time to time. The Regulatory Agreement [is] [and the Financing Agreement are] not a Permanent Loan Document and is not secured by the Mortgage.

[“Project” means the acquisition, rehabilitation, installation and equipping of a ___ unit multifamily rental housing facility project to be occupied by persons of low, middle or moderate income and related personal property and equipment, currently known as the Eastern Park Apartments and located in San Francisco, California.]

“Project Costs” means the following costs of the Project:

(a) Costs incurred directly or indirectly for or in connection with the acquisition (including the acquisition of a fee simple interest), construction, rehabilitation, improvement and equipping of the Project, including costs incurred in respect of the Project for preliminary planning and studies; architectural, legal, engineering, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work and insurance.

(b) Premiums attributable to any surety bonds and insurance required to be taken out and maintained during the construction period with respect to the Project.

(c) Taxes, assessments and other governmental charges in respect of the Project that may become due and payable during the construction period.

(d) Costs incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Project.

(e) Subject to the limitations set forth in the Tax Certificate, Costs of Issuance, including, financial, legal, accounting, cash flow verification, printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including, without limitation, the fees and expenses of the Trustee properly incurred under the Indenture that may become due and payable during the construction period.

(f) Any other costs, expenses, fees and charges properly chargeable to the cost of acquisition, construction, rehabilitation, improvement and equipping of the Project.

(g) Payment of interest on the Bonds during the construction period.

“Rating Agency” means Moody’s, S&P or any other nationally recognized securities rating agency rating the Bonds, or such rating agency’s successors or assigns.

“Rebate Amount” means, with respect to the Bonds, the amount of rebatable arbitrage as computed in accordance with the Code.

“Rebate Analyst” means a certified public accountant, financial analyst or attorney, or any firm of the foregoing, or a financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and retained by the Borrower to make the computations and give the directions required pursuant to the Tax Certificate.

“Rebate Fund” means the Fund created and so designated in Section 5.02 hereof.

“Record Date” means (a) with respect to the Series J Bonds, the close of business on the last day of the calendar month prior to the calendar month in which a payment occurs, and (b) with respect to the Series K Bonds, the fifteenth (15th) Business Day preceding each Series K Bond Payment Date.

“Redemption Price” means the amount required to be delivered to pay principal of, interest on, and redemption premium, if any, in connection with a redemption of the Bonds in accordance with the provisions of Article III hereof.

“Regulations” means the Income Tax Regulations promulgated or proposed under the Code by the Department of the Treasury, as the same may hereafter be amended, including without limitation regulations promulgated by the Department of the Treasury to implement the requirements of Section 148 of the Code.

“Regulatory Agreement” means the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of even date herewith, by and between the Issuer and the Borrower, as the same may be amended, modified or supplemented from time to time.

“Remarketing Agent” means, initially, RBC Capital Markets, LLC, and thereafter any successor Remarketing Agent (which meets the requirements of Section 9.15 hereof) that may be appointed by the Borrower.

“Remarketing Agent’s Fee” means the fee of the Remarketing Agent for its remarketing services. The Remarketing Agent’s Fee shall be payable by the Borrower, and not from funds pledged to the benefit of the Trust Estate.

“Remarketing Agreement” means the Remarketing Agreement, dated as of December 1, 2019, by and between the Borrower and the Remarketing Agent, as amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

“Remarketing Date” means the Initial Remarketing Date and, if the Series K Bonds Outstanding on such date or on any subsequent Remarketing Date are remarketed pursuant to Section 3.07 for a Remarketing Period that does not extend to the final maturity of the Series K Bonds, the day after the last day of the Remarketing Period.

“Remarketing Expense Account” means the Remarketing Expense Account within the Costs of Issuance Fund created in Section 5.02 hereof.

“Remarketing Expenses” means the costs and expenses, other than those set forth in Section 4.02 of the Financing Agreement, incurred by the Trustee and its counsel, the Issuer and its Counsel, Bond Counsel, the Remarketing Agent and its counsel and the Dissemination Agent in connection with the remarketing of the Series K Bonds, including bond printing and registration costs, costs of funds advanced by the Remarketing Agent, registration and filing fees, the cost of any Cash Flow Projections or other verification reports, rating agency fees and other costs and expenses incurred in connection with or properly attributable to the remarketing of Series K Bonds as certified to the Trustee by the Remarketing Agent in writing.

“Remarketing Notice Parties” means the Borrower, the Issuer, the Trustee, the Remarketing Agent, the Investor Limited Partner and the Lender.

“Remarketing Period” means the period beginning on a Remarketing Date and ending on the last day of the term for which Series K Bonds are remarketed pursuant to Section 3.07 or the final Bond Maturity Date of the Series K Bonds, as applicable.

“Remarketing Proceeds Account” means the Remarketing Proceeds Account of the Revenue Fund created in Section 5.02 hereof.

“Remarketing Rate” means the interest rate or rates established pursuant to Section 3.07(c) and borne by the Series K Bonds then Outstanding from and including each Remarketing Date to, but not including, the next succeeding Remarketing Date or the final Bond Maturity Date of the Series K Bonds, as applicable.

“Representation Letter” has the meaning given to such term in Section 2.12 hereof.

“Requisition” means a requisition in the form attached as an exhibit to the Financing Agreement executed by an Authorized Borrower Representative, countersigned by the Issuer Servicer and approved by the Construction Lender and/or the Permanent Lender, as applicable, on which the Trustee may conclusively rely.

“Reserved Rights” means (a) all rights which the Issuer and its officers, officials, directors, agents and employees may have under this Indenture, the Financing Agreement and the Regulatory Agreement to indemnification by the Borrower and by any other persons and to payments for expenses incurred by the Issuer itself, or its officers, officials, directors, agents or employees; (b) the right of the Issuer to give and receive notices, reports, certifications, or other information hereunder, under the Financing Agreement and under the Regulatory Agreement; (c) the right of the Issuer to be named additional insured on insurance policies as provided in Section 2.01(x) of the Financing Agreement; (d) the right of the Issuer to receive its fees and expenses; (e) the Issuer’s approval and consent rights; (f) the rights of the Issuer with respect to inspections; (g) the rights of the Issuer with respect to operating statements and proposed budgets; (h) the notice, approval, removal and enforcement rights of the Issuer relating to the General Partner; (i) the rights of the Issuer with respect to publicity and signage; (j) the notification, indemnification and enforcement rights of the Issuer in the Financing Agreement; (k) the rights of the Issuer with respect to limited liability; (l) all rights of the Issuer to notice and approval; (m) all rights of the Issuer to enforce the covenants and agreements and to take action for the breach of any representation or warranty of the Borrower pertaining in any manner or way, directly or indirectly, to the requirements of the Act or any requirements imposed by the Issuer with respect to the Project, or necessary to assure that interest on the Bonds is excluded from gross income for federal income tax purposes, as are set forth in any of the Financing Documents, including any certificate or agreement executed by the Borrower; (n) all rights of the Issuer in connection with any amendment to or modification of any of this Indenture, the Financing Agreement, or the Regulatory Agreement; (o) all rights of the Issuer under the Guaranty dated as of the same date as this Indenture; and (p) all enforcement rights with respect to the foregoing. All of these Reserved Rights of the Issuer are reserved to the Issuer and are not being assigned by the Issuer to the Trustee.

“Resolution” means Resolution No. ____ adopted by the Board of Supervisors of the Issuer on _____ and approved by the Mayor of the Issuer on _____, authorizing, among other things, the execution and delivery by the Issuer of the Issuer Documents and the Bonds and the performance of its obligations thereunder.

“Revenue Fund” means the Fund created and so designated in Section 5.02 hereof.

“Series J Bond Proceeds Fund Account” means the Series J Account of the Bond Proceeds Fund created pursuant to Section 5.02 hereof.

“Series J Bonds” means the Issuer’s Multifamily Tax-Exempt Mortgage-Backed Bonds (M. TEBS) (Eastern Park Apartments), 2019 Series J in the aggregate principal amount of \$60,006,000 authorized under, secured by and issued pursuant to this Indenture.

“Series J Bond Loan Note” means, with respect to the Series J Bonds, the promissory note dated the Closing Date from the Borrower to the Issuer and assigned by the Issuer to the Trustee on the Closing Date, in substantially the form attached as an exhibit to the Financing Agreement, together with any amendments, supplements or modifications thereto.

“Series J Bond Payment Date” means (i) the 26th day of the month following the month in which the Closing Date occurs and the 26th day of each month thereafter, or the next succeeding Business Day if such 26th day is not a Business Day, until and including the 26th day of the month in which the MBS Delivery Date occurs and (ii) commencing in the first month immediately following the month in which the MBS Delivery Date occurs, the Business Day immediately after the date of receipt by the Trustee of a payment received on the MBS. The payment of interest on a Series J Bond Payment Date shall relate to the interest accrued during the preceding calendar month, provided that with respect to a redemption pursuant to Sections 3.01(b) and 3.01(c) hereof, the interest shall include interest accruing from the first day of the month in which the last Payment Date occurred to the date of redemption. There shall be no further accrual of interest on the Series J Bonds from the Bond Maturity Date to the Final Payment Date.

“Series J Collateral Fund Account” means the Series J Account of the Collateral Fund created pursuant to Section 5.02 hereof.

“Series J Negative Arbitrage Account” means the Series J Negative Arbitrage Account created pursuant to Section 5.02 hereof.

“Series J Negative Arbitrage Deposit” means Eligible Funds in the amount of \$_____ to be deposited on the Closing Date into the Series J Negative Arbitrage Account and as otherwise set forth in Section 5.04 hereof.

“Series J Revenue Fund Account” means the Series J Account of the Revenue Fund created pursuant to Section 5.02 hereof.

“Series K Bond Proceeds Fund Account” means the Series K Account of the Bond Proceeds Fund created pursuant to Section 5.02 hereof.

“Series K Bonds” means the Issuer’s Multifamily Housing Revenue Bonds (Eastern Park Apartments), 2019 Series K in the aggregate principal amount of \$24,834,000 authorized under, secured by and issued pursuant to this Indenture.

“Series K Bond Loan Note” means, with respect to the Series K Bonds, the promissory note dated the Closing Date from the Borrower to the Issuer and assigned by the Issuer to the Trustee on the Closing Date, in substantially the form attached as an exhibit to the Financing Agreement, together with any amendments, supplements or modifications thereto.

“Series K Bond Payment Date” means (i) January 1 and July 1 of each year, beginning on July 1, 2020, (ii) each Mandatory Redemption Date described in Section 3.01(f) hereof, (iii) each Mandatory Tender Date, (iv) the Bond Maturity Date and (v) the date of acceleration of the Series K Bonds.

“Series K Collateral Fund Account” means the Series K Account of the Collateral Fund created pursuant to Section 5.02 hereof.

“Series K Negative Arbitrage Account” means the Series K Negative Arbitrage Account created pursuant to Section 5.02 hereof.

“Series K Negative Arbitrage Deposit” means Eligible Funds in the amount of \$_____ to be deposited on the Closing Date into the Series K Negative Arbitrage Account and as otherwise set forth in Section 5.04 hereof.

“Series K Revenue Fund Account” means the Series K Account of the Revenue Fund created pursuant to Section 5.02 hereof.

“S&P” means S&P Global Ratings, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer with the approval of the Borrower.

“Substitute Depository” means a securities depository appointed as successor to DTC hereunder.

“Supplemental Indenture” means any indenture hereafter duly authorized and entered into between the Issuer and the Trustee amending or supplementing this Indenture in accordance with the provisions hereof.

“Tax Certificate” means collectively, as applicable, the Issuer’s Certificate as to Arbitrage, the Borrower’s Proceeds Certificate and the Arbitrage Rebate Agreement executed by the Issuer and the Borrower, as amended, supplemented or otherwise modified from time to time.

“Termination Date” means (i) initially, the Initial Termination Date, and (ii) if the Borrower exercises its extension option, July 1, 2023, in accordance with the Fannie Mae Forward Commitment and as set forth in a notice of the occurrence of such extension delivered by the Lender to the Trustee, subject to such additional extensions which have not been considered or agreed upon but may nevertheless be granted in the sole discretion of Fannie Mae.

“Trust Estate” means all the property, rights, moneys, securities and other amounts pledged and assigned to the Trustee pursuant to the Granting Clauses hereof.

“Trustee” has the meaning given to such term in the Recitals hereto.

“Trustee Fee” means the Trustee’s initial fee and expenses of \$_____ plus the fees of its counsel in the amount of \$_____ payable on the Closing Date, together with the annual administrative fees and expenses of the Trustee in an amount equal to \$_____ per year

payable in advance semi-annually commencing on the Closing Date and thereafter in advance each _____ 1 and _____ 1, which represents an annual fee of \$_____, plus an annual out of pocket fee of \$_____.

“Underwriter” means RBC Capital Markets, LLC.

Section 1.02. Rules of Construction.

(a) The singular form of any word used herein, including the terms defined in Section 1.01, shall include the plural, and vice versa, unless the context otherwise requires. The use herein of a pronoun of any gender shall include the correlative words of other genders.

(b) Except as otherwise stated herein, all references herein to “Articles,” “Sections” and other subdivisions hereof are to the corresponding Articles, Sections or subdivisions of this Indenture as originally executed; and the words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

(c) The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not limit or otherwise affect the meaning, construction or effect of this Indenture or describe the scope or intent of any provisions hereof.

(d) 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.

(e) Every “request,” “order,” “demand,” “application,” “appointment,” “notice,” “statement,” “certificate,” “consent” or similar action hereunder by any party shall, unless the form thereof is specifically provided, be in writing signed by a duly authorized representative of such party with a duly authorized signature.

(f) The parties hereto acknowledge that each such party and their respective counsel have participated in the drafting and revision of this Indenture and the Financing Agreement. Accordingly, the parties agree that any rule of construction which disfavors the drafting party shall not apply in the interpretation of this Indenture or the Financing Agreement or any amendment or supplement or exhibit hereto or thereto.

(g) Whenever Fannie Mae is required to give its consent or approval to any matter, whether stated as “consent,” “written consent,” “prior written consent,” “approval,” “written approval,” “prior written approval” or otherwise, the giving of such consent or approval by Fannie Mae shall be in its sole and complete discretion.

(h) Whenever Fannie Mae shall have any right or option to exercise any discretion, to determine any matter, to accept any presentation or to approve or consent to any matter, such exercise, determination, acceptance, approval or consent shall, without exception, be in Fannie Mae’s sole and absolute discretion.

ARTICLE II

THE BONDS

Section 2.01. Authorization of Bonds. Bonds of the Issuer, to be entitled Multifamily Tax-Exempt Mortgage-Backed Bonds (M. TEBS) (Eastern Park Apartments), 2019 Series J are hereby authorized to be issued in an aggregate principal amount of \$60,006,000 and Multifamily Housing Revenue Bonds (Eastern Park Apartments), 2019 Series K are hereby authorized to be issued in an aggregate principal amount of \$24,834,000 and shall be issued subject to the terms, conditions and limitations established in this Indenture as hereinafter provided. The Bonds may be executed by or on behalf of the Issuer, authenticated by the Trustee and delivered or caused to be delivered by the Trustee to the original purchasers thereof upon compliance with the requirements set forth in this Indenture.

Section 2.02. Terms of Bonds.

(a) The Series J Bonds shall be dated as of the Bond Dated Date, shall bear interest at the Pass-Through Rate, payable on each Series J Bond Payment Date, and shall mature (subject to prior redemption as herein set forth) on the Bond Maturity Date. Interest on the Series J Bonds shall be calculated on the basis of a year of Actual/360. Except as otherwise provided in Sections 3.01(b) and 3.01(c) hereof, the payment of interest on a Series J Bond Payment Date shall be in an amount equal to the interest accrued during the preceding calendar month. There shall be no further accrual of interest on the Series J Bonds during the period from the Bond Maturity Date to the Final Payment Date. Notwithstanding anything herein to the contrary, on and after the MBS Delivery Date, the principal, interest and premium, if any, payable on the Series J Bonds will be equal to and for the same periods as interest, principal and premium, if any, received on the MBS, and will be paid one Business Day following receipt by the Trustee of payment pursuant to the MBS.

(b) The Series K Bonds shall be dated as of the Bond Dated Date, shall bear interest, payable on each Series K Bond Payment Date, from the date of issuance to but not including the Initial Mandatory Tender Date at a rate per annum equal to the Initial Series K Bond Rate and thereafter shall bear interest at the Remarketing Rate for each subsequent Remarketing Period, and shall mature (subject to prior redemption as set forth herein) on the Bond Maturity Date. The payment of interest on a Series K Bond Payment Date shall be in an amount equal to the interest accrued during the Interest Period ending on the day preceding such Series K Bond Payment Date. Interest on the Series K Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

(c) The Bonds shall be issued as registered bonds without coupons in Authorized Denominations. The Bonds shall be lettered "RA" and "RB," respectively and shall be numbered separately from "1" consecutively upwards. The Bonds shall be issued initially as Book-Entry Bonds.

(d) On each Payment Date, payment of the principal of and interest or premium, if any, on any Bond shall be made to the person appearing on the Bond Register as the registered owner thereof on the applicable Record Date. The principal of and the interest on the Bonds shall be

payable in coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts of the United States of America. Unless the Bonds are Book-Entry Bonds, the principal of the Bonds shall be payable to the registered owners thereof upon presentation (except in connection with a redemption of Bonds pursuant to Section 3.01(b) hereof) at the designated corporate trust office of the Trustee or its successors. Unless the Bonds are Book-Entry Bonds, payments of interest on the Bonds and redemption of the Bonds pursuant to Section 3.01(b) hereof shall be paid by check or draft mailed to the registered owner thereof at such owner's address as it appears on the registration books maintained by the Trustee on the applicable Record Date or at such other address as is furnished to the Trustee in writing by such owner. The Trustee shall cause CUSIP number identification with appropriate dollar amounts for each CUSIP number to accompany all payments of interest, principal or Redemption Price made to such owners, whether such payment is made by check or wire transfer. All payments of principal of and interest on Book-Entry Bonds shall be made and given at the times and in the manner set out in the Representation Letter, as more fully specified in Sections 2.11 and 2.12 hereof.

(e) The Bonds shall be subject to redemption prior to maturity as provided in Article III hereof.

(f) The date of authentication of each Bond shall be the date such Bond is registered.

Section 2.03. Execution; Limited Obligation. The Bonds shall be signed by, or bear the facsimile or manual signature of, an Authorized Officer of the Issuer, and attested to by the manual or facsimile signature of an Authorized Officer of the Trustee. In case any one or more of the officers of the Issuer who shall have signed any of the Bonds or whose signature appears on any of the Bonds shall cease to be such officer before the Bonds so signed shall have been actually authenticated or delivered or caused to be delivered by the Trustee or issued by the Issuer, such Bonds may, nevertheless, be authenticated and issued and, upon such authentication, delivery and issue, shall be as binding upon the Issuer as if the persons who signed such Bonds or whose signatures appear on any of the Bonds had not ceased to hold such offices until such delivery. Any Bond may be signed on behalf of the Issuer by such persons as at the actual time of execution of the Bonds shall be duly authorized or hold the proper office in the Issuer, although at the date of issuance and delivery of the Bonds such persons may not have been so authorized or have held such office.

THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE AND OTHER FUNDS AND MONEYS PLEDGED AND ASSIGNED UNDER THE INDENTURE. NEITHER THE ISSUER, THE STATE OF CALIFORNIA (THE "STATE"), NOR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER, TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE) NOR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS SET FORTH IN THE INDENTURE, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT, OR TAXING POWER OF, OR A LOAN OF THE CREDIT OF, OR A MORAL

OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

THE OBLIGATIONS OF THE ISSUER ON THIS BOND ARE EXPRESSLY LIMITED TO AND ARE PAYABLE SOLELY FROM (I) THE PAYMENTS MADE BY THE BORROWER PURSUANT TO THE FINANCING AGREEMENT AND THE BOND LOAN NOTES, AND THE SECURITY THEREFOR PROVIDED BY THE MBS AND THE MORTGAGE AND ANY OTHER COLLATERAL SECURITY FROM TIME TO TIME HELD BY THE TRUSTEE, AND (II) ANY ADDITIONAL SECURITY PROVIDED IN THE INDENTURE. The foregoing statement of limitation shall appear on the face of each Bond.

Section 2.04. Authentication. The Bonds shall each bear thereon a certificate of authentication, substantially in the forms set forth in Exhibit A-1 and Exhibit A-2 hereto, as applicable, and executed by the Trustee. Only Bonds which bear thereon such executed certificate of authentication shall be entitled to any right or benefit under this Indenture, and no Bond shall be valid for any purpose under this Indenture until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of authentication upon any Bond shall be conclusive evidence that the Bond so authenticated has been duly issued under this Indenture and that the holder thereof is entitled to the benefits of this Indenture. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Trustee, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds issued hereunder. The certificate of authentication on all Bonds delivered by the Trustee hereunder shall be dated the date of its authentication.

Section 2.05. Form of Bonds. The form of the Bonds issued pursuant to this Indenture shall be in substantially the form set forth in Exhibit A-1 and Exhibit A-2 hereto, as applicable with such variations, omissions or insertions as are permitted by this Indenture.

Section 2.06. Delivery of Bonds. After 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 the Underwriter as directed by the Issuer in writing.

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

- (a) an executed copy of the Resolution duly certified by an Authorized Officer;
- (b) executed counterparts of this Indenture, the Financing Agreement, the Regulatory Agreement, the Tax Certificate and the original, fully executed Bond Loan Notes;
- (c) an opinion of Bond Counsel or counsel to the Issuer in either case delivered to the Trustee, dated the Closing Date, stating that the Issuer has duly adopted the Resolution and has duly executed and delivered this Indenture and that this Indenture and the Bonds each constitute a valid and binding limited obligation of the Issuer, subject to any applicable bankruptcy, insolvency, reorganization, moratorium and other laws for the relief of debtors;

(d) an opinion of Bond Counsel addressed to the Trustee, dated the Closing Date, to the effect that, subject to any exceptions or qualifications stated therein, the interest on the Bonds is excludable from gross income for federal income tax purposes under existing laws;

(e) a request and authorization to the Trustee by the Issuer to authenticate and deliver the Bonds to or at the direction of the Underwriter upon payment to the Trustee, for the account of the Issuer, of a sum specified in such request and authorization. The proceeds of such payment shall be paid over to the Trustee and deposited in the various Funds and Accounts pursuant to, and as specified in, Article V hereof;

(f) evidence from the Rating Agency that the Bonds have been rated AA+ by S&P; and

(g) executed counterparts of the Construction Loan Documents.

Upon receipt of these documents, the Trustee shall authenticate and deliver the Bonds to or upon the order of the Underwriter but only upon payment to the Trustee of the purchase price of the Bonds, together with accrued interest thereon, if any.

Section 2.07. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the Issuer, at the expense of the owner of such Bond shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be cancelled by it and delivered to, or upon the order of, the Issuer. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence shall be satisfactory to it and indemnity satisfactory to the Trustee shall be given, the Issuer, at the expense of the owner of such Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor. The Trustee may require payment of a sum not exceeding the actual cost of preparing each new Bond authenticated and delivered under this Section and of the expenses which may be incurred by the Issuer and the Trustee in the premises. Any Bond authenticated and delivered under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Issuer whether or not the Bond so alleged to be lost, destroyed or stolen shall be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds secured by this Indenture. If any such Bond shall have matured, or is about to mature, instead of issuing a new Bond the Trustee may pay the same without surrender thereof upon receipt of the aforementioned indemnity.

Section 2.08. Registration, Transfer and Exchange of Bonds; Persons Treated as Owners. The Issuer shall cause books for the registration, transfer and exchange of the Bonds as provided in this Indenture to be kept by the Trustee, which is hereby constituted and appointed the bond registrar with respect to the Bonds (the "Bond Registrar"). At reasonable times and under reasonable regulations established by the Trustee, said books may be inspected and copied by the Issuer or by owners (or a designated representative thereof) of a majority in aggregate principal amount of the Bonds then Outstanding.

The registration of each Bond is transferable by the registered owner thereof in person or by its attorney duly authorized in writing at the designated corporate trust office of the Trustee. Upon surrender for registration of transfer of any Bond at such office, the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Bond of the same maturity or maturities and Authorized Denomination for the same aggregate principal amount. Bonds to be exchanged shall be surrendered at said designated corporate trust office of the Trustee, and the Trustee shall authenticate and deliver in exchange therefore a Bond of equal aggregate principal amount of the same maturity, same series and Authorized Denomination.

All Bonds presented for registration of transfer, exchange or payment (if so required by the Issuer or the Trustee) shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and with guaranty of signature satisfactory to the Trustee, duly executed by the registered owner or by its duly authorized attorney.

The Issuer, the Bond Registrar and the Trustee shall not be required (i) to issue, register the transfer of or exchange any Bonds during a period beginning at the Trustee's opening of business on the applicable Record Date and ending at the Trustee's close of business on the applicable Payment Date; or (ii) to register the transfer of or exchange any Bond selected, called or being called for redemption as provided herein. No charge shall be made to any Bondholder for the privilege of registration of transfer as herein provided, but any Bondholder requesting any such registration of transfer shall pay any tax or governmental charge required to be paid therefor.

New Bonds delivered upon any registration of transfer or exchange shall be valid obligations of the Issuer, evidencing the same debt as the Bonds surrendered, shall be secured by this Indenture and shall be entitled to all of the security and benefits hereof to the same extent as the Bonds surrendered.

The person in whose name any Bond is registered shall be deemed the owner thereof by the Issuer and the Trustee, and any notice to the contrary shall not be binding upon the Issuer or the Trustee. Notwithstanding anything herein to the contrary, to the extent the Bonds are Book-Entry Bonds, the provisions of Section 2.11 shall govern the exchange and registration of Bonds.

Section 2.09. Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Trustee for cancellation pursuant to this Indenture, upon payment of the principal amount and interest represented thereby, for replacement pursuant to Section 2.07 or for transfer or exchange pursuant to Section 2.16, such Bond shall be canceled and destroyed by the Trustee and, upon written request of the Issuer, counterparts of a certificate of destruction evidencing such destruction shall be furnished by the Trustee to the Issuer.

Section 2.10. Pledge Effected by Indenture. All amounts held in any Fund or Account under this Indenture are hereby ratably pledged to secure the payment of the principal of and the interest on the Bonds, subject only to the provisions of this Indenture permitting the application thereof for other purposes. Additionally, following the MBS Delivery Date, the MBS held pursuant to this Indenture, all amounts that may be received under a Fannie Mae trust agreement, all rights of the Issuer or the Trustee under a Fannie Mae trust agreement and the MBS Revenues are hereby exclusively and ratably pledged to secure the payment of the principal of and the interest on the Series J Bonds, subject only to the provisions of this Indenture permitting the application

thereof for other purposes. Each of the foregoing pledges shall be valid and binding and immediately effective, upon its being made or granted, without any physical delivery, filing, recording or further act, and shall be valid and binding as against, and superior to any claims of all others having claims of any kind against the Issuer or any other person, irrespective of whether such other parties have notice of the pledge.

Section 2.11. Book-Entry System; Limited Obligation. The Bonds shall be initially issued in the form of a separate single fully registered Bond (which may be typewritten) for each maturity and each series of the Bonds. Upon initial execution, authentication and delivery, the ownership of each such global Bond shall be registered in the Bond Register in the name of the Nominee as nominee of the Depository. Except as provided in Section 2.13, all of the Outstanding Bonds shall be registered in the Bond Register kept by the Trustee in the name of the Nominee and the Bonds may be transferred, in whole but not in part, only to the Depository, to a Substitute Depository or to another nominee of the Depository or of a Substitute Depository. Each global Bond shall bear a legend substantially to the following effect: “UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AS DEFINED IN THE INDENTURE OF TRUST) TO THE TRUSTEE FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.”

With respect to Bonds registered in the Bond Register in the name of the Nominee, the Issuer and the Trustee shall have no responsibility or obligation to any Participant or to any person on behalf of which such a Participant holds a beneficial interest in the Bonds. Without limiting the immediately preceding sentence, the Issuer and the Trustee shall have no responsibility or obligation with respect to (a) the accuracy of the records of the Depository, the Nominee or any Participant with respect to any beneficial ownership interest in the Bonds, (b) the delivery to any Participant, Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Bonds, including any redemption notice with respect to the Bonds, including any redemption notice following a failure to purchase the MBS, (c) the selection by the Depository and the Participants of the beneficial interests in the Bonds to be redeemed in part in accordance with the operational arrangements of DTC and as set forth in Section 3.02(b), or (d) the payment to any Participant, Beneficial Owner or any other person, other than the Depository, of any amount with respect to principal of, premium, if any, or interest on the Bonds. The Issuer and the Trustee may treat and consider the person in whose name each Bond is registered in the Bond Register as the holder and absolute owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on such Bond, for the purpose of giving redemption notices pursuant to Section 3.02 and other notices with respect to such Bond, and for all other purposes whatsoever, including, without limitation, registering transfers with respect to the Bonds.

The Trustee shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Bondholders, as shown in the Bond Register kept by the Trustee,

or their respective attorneys duly authorized in writing, and all such payments shall be valid hereunder with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than a Bondholder, as shown in the Bond Register, shall receive a Bond evidencing the obligation to make payments of principal of, premium, if any, and interest pursuant to this Indenture. Upon delivery by the Depository to the Trustee and the Issuer of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, and subject to the provisions herein with respect to Record Dates, the word Nominee in this Indenture shall refer to such new nominee of the Depository.

The Issuer and the Trustee will recognize the Depository or its nominee as the Bondholder of Book-Entry Bonds for all purposes, including receipt of payments, notices and voting, *provided* the Trustee may recognize votes by or on behalf of Beneficial Owners as if such votes were made by the Bondholders of a related portion of the Bonds when such votes are received in compliance with an omnibus proxy of the Depository or otherwise pursuant to the rules of the Depository or the provisions of the Representation Letter or other comparable evidence delivered to the Trustee by the Bondholders.

SO LONG AS A BOOK-ENTRY SYSTEM OF EVIDENCE OF TRANSFER OR OWNERSHIP OF ALL THE BONDS IS MAINTAINED IN ACCORDANCE HEREWITH, THE PROVISIONS OF THIS INDENTURE RELATING TO THE DELIVERY OF PHYSICAL BONDS SHALL BE DEEMED TO GIVE FULL EFFECT TO SUCH BOOK-ENTRY SYSTEM AND ALL DELIVERIES OF ANY SUCH BONDS SHALL BE MADE PURSUANT TO THE DELIVERY ORDER PROCEDURES OF DTC, AS IN EFFECT FROM TIME TO TIME.

Section 2.12. Representation Letter. In order to qualify the Bonds for the Depository's book-entry system, if necessary, any Authorized Officer is hereby authorized to execute, countersign and deliver on behalf of the Issuer to such Depository a letter from the Issuer in substantially the Depository's standard form representing such matters as shall be necessary to so qualify the Bonds (the "Representation Letter"). The Representation Letter includes such letter as it may be amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor. The execution by the Issuer and delivery of the Representation Letter shall not in any way limit the provisions of Section 2.11 or in any other way impose upon the Issuer any obligation whatsoever with respect to persons having beneficial interests in the Bonds other than the registered owners, as shown in the Bond Register kept by the Trustee. In addition to the execution and delivery of the Representation Letter, any Authorized Officer is hereby authorized to take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

The terms and provisions of the Representation Letter shall govern in the event of any inconsistency between the provisions of this Indenture and the Representation Letter. The Representation Letter may be amended without Bondholder consent.

Section 2.13. Transfers Outside Book-Entry System. If at any time the Issuer determines that continuation of the book-entry system through DTC (or a successor securities Depository) is not in the best interest of the owners of the Bonds, if at any time the Depository notifies the Issuer and the Trustee that it is unwilling or unable to continue as Depository with respect to the Bonds

or if at any time the Depository shall no longer be registered or in good standing under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation and a Substitute Depository is not appointed by the Issuer within 90 days after the Issuer and the Trustee receive notice or become aware of such condition, as the case may be, the provisions of Section 2.11 shall no longer be applicable and the Issuer shall execute and the Trustee shall authenticate and deliver bonds representing the Bonds as provided below. In addition, the Issuer may determine at any time that the Bonds shall no longer be represented by global certificates and that the provisions of Section 2.11 shall no longer apply to the Bonds. In any such event, the Issuer shall execute and the Trustee shall authenticate and deliver certificates representing the Bonds as provided below. Bonds issued in exchange for global certificates pursuant to this Section shall be registered in such names and delivered in such authorized denominations as the Depository, pursuant to instructions from the Participants or otherwise, shall instruct the Issuer and the Trustee. The Trustee shall deliver such certificates representing the Bonds to the persons in whose names such Bonds are so registered.

If the Issuer determines to replace the Depository with another qualified securities depository, the Issuer shall prepare or cause to be prepared a new fully registered global certificate for each of the maturities of each type of Bond, registered in the name of such successor or substitute securities depository or its nominee, or make such other arrangements as are acceptable to the Issuer, the Trustee and such securities depository and not inconsistent with the terms of this Indenture.

Section 2.14. Payments and Notices to the Nominee. Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of the Nominee, all payments with respect to principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the Representation Letter or as otherwise instructed by the Depository, with duplicate information transmitted to Bloomberg at its notice address set forth herein.

Section 2.15. Initial Depository and Nominee. The initial Depository under this Indenture shall be DTC. The initial Nominee shall be Cede & Co., as nominee of DTC.

Section 2.16. Optional Exchange of Bonds for MBS. Following delivery of the MBS to the Trustee, a Beneficial Owner of Series J Bonds may file with the Trustee a written request, in the form attached hereto as “Exhibit B – FORM OF NOTICE OF REQUEST TO EXCHANGE” or such other form as may be approved by the Trustee (the “Request Notice”), to exchange Series J Bonds for a like principal amount of the MBS, *provided*, that (i) the MBS will be, when delivered, in a face amount equal to \$1,000.00 or a multiple of \$1.00 in excess thereof, and (ii) the Project is complete and placed in service by the Borrower as evidenced by a certificate of occupancy for the Project delivered by the Borrower to the Trustee accompanied by a letter signed by an Authorized Borrower Representative confirming that the Project is placed in service for purposes of Section 42 of the Code. The Request Notice must be delivered to the Trustee at least six (6) Business Days prior to the Exchange Date (as defined in the Request Notice).

Upon receipt of a Request Notice, the Trustee shall immediately provide a copy to the Issuer and the Permanent Lender. The Issuer shall then have up to five (5) Business Days, in its sole discretion, to provide written direction to the Trustee to either (i) deliver to the Beneficial

Owner of the Series J Bonds its proportionate interest in the MBS based upon such Beneficial Owner's proportionate interest in the Series J Bond or (ii) redeem the Beneficial Owner's Series J Bonds for an amount equal to the Cash Value (as defined in this section) as of the Exchange Date. Any failure of the Issuer to provide direction within the period set forth in the prior sentence shall be deemed a direction to deliver the MBS in lieu of redeeming the Series J Bonds. Immediately upon receiving the Issuer's direction, the Trustee shall notify such Beneficial Owner of the Issuer's direction. Upon receipt of any Series J Bonds from the requesting Beneficial Owner, the Trustee will promptly cancel the Series J Bonds being exchanged or redeemed, which will not be reissued.

Cash Value = original face amount of the MBS x MBS Factor x (1 + Redemption Premium (R) + (Initial Offering Premium (I) x MBS Factor)) – an amount equal to the principal to be received by such Beneficial Owner on the next Payment Date (if the date of redemption occurs between the Record Date and such Payment Date)

Where R = 5% if the exchange occurs during the first five years from the Closing Date;

= 4% during the sixth year;

= 3% during the seventh year;

= 2% during the eighth year;

= 1% during the ninth year; and

= 0% thereafter

and I = initial offering price of the Series J Bonds - 100%

In the event that the Issuer elects to deliver the Beneficial Owner's proportionate interest in the MBS in lieu of redeeming the Series J Bonds, after validating the exchange request, the Trustee shall transfer and deliver to such requesting Beneficial Owner, the Trustee's beneficial ownership interest in the Beneficial Owner's proportional interest in the MBS on the date specified in the Request Notice promptly following (i) delivery to the Trustee (via DTC withdrawal or Deposit/Withdrawal At Custodian ("DWAC")) of the Series J Bonds being exchanged and (ii) payment by the requesting Beneficial Owner of the Trustee's exchange fee (\$1,000 as of the date of this Indenture) with respect to such Series J Bonds. Such Beneficial Owner's proportionate interest in the MBS will be (1) in book-entry form and (2) transferred in accordance with current market practices, including the applicable provisions of the SIFMA's *Uniform Practices for the Clearance and Settlement of Mortgage-Backed Securities and Other Related Securities*. The proportional interest in the MBS delivered in such an exchange will not be exchangeable for Series J Bonds. If the Exchange Date is subsequent to a Record Date and prior to a corresponding Payment Date for the Series J Bonds, the Trustee shall wire the applicable principal and interest payments on the exchanged Series J Bonds from the Series J Revenue Account to the Beneficial Owner using the wire transfer instructions set forth on the Request Notice.

In the event that the Issuer elects to redeem Series J Bonds in lieu of an exchange with the MBS, the Beneficial Owner shall arrange with its securities dealer (and/or DTC participant) to deliver such Series J Bonds to the Trustee (via DTC withdrawal or DWAC) on or before such

redemption date. Once such delivery has been verified and approved by the Trustee, the Trustee shall transfer a like principal amount of the MBS to or upon the order of the Issuer in exchange for an amount equal to the Cash Value plus interest accrued but unpaid on the MBS (less any interest to be received by the Beneficial Owner on the next Payment Date if the redemption occurs between the Record Date and such Payment Date) and apply the proceeds of such transfer to the payment of the Redemption Price of the Series J Bonds on the Payment Date by wiring such amount to the Beneficial Owner at its wire transfer instructions set forth on the Request Notice.

None of Fannie Mae, the Trustee or the Issuer shall have any liability to the Beneficial Owner arising from (i) any exchange or redemption of Series J Bonds effected hereby or (ii) any of the costs or expenses hereof. Interest on such MBS is not excludable from gross income for federal income tax purposes. Bondholders should consult their own tax advisors concerning that and other tax consequences of any exchange of a Series J Bond for the MBS.

ARTICLE III

REDEMPTION, MANDATORY TENDER AND REMARKETING OF BONDS

Section 3.01. Terms of Redemption. The Bonds shall be subject to redemption prior to the stated maturity thereof only as set forth in this Section.

(a) Series J Bonds - Mandatory Redemption Prior to MBS Delivery Date. Prior to the first day of the first month following the MBS Delivery Date, the Series J Bonds are subject to mandatory redemption in part on any Payment Date in an amount equal to the amount due on the first day of the month in which such Payment Date occurs as shown in the Permanent Loan Amortization Schedule, payable with respect to principal first, from money on deposit in the Series J Account of the Collateral Fund and second, from money on deposit in the Bond Proceeds Fund and with respect to interest, from money on deposit in the Series J Account of the Revenue Fund.

(b) Series J Bonds - Mandatory Redemption Upon Failure to Convert by the Termination Date or Failure to Purchase the MBS. The Series J Bonds are subject to mandatory redemption in whole five (5) calendar days after the MBS Delivery Date Deadline (as such date may be extended hereunder pursuant to Section 3.04) at a Redemption Price equal to 100% of the Outstanding principal amount thereof, plus interest accrued but unpaid from the first day of the month in which the last Payment Date occurred to such redemption date, if (i) the Conversion Date has not occurred on or prior to the Termination Date or (ii) the MBS Delivery Date has not occurred on or prior to the MBS Delivery Date Deadline, as such dates may be extended, payable with respect to principal, interest and premium, if any, first, from money on deposit in the Series J Revenue Fund Account of the Revenue Fund, second, from money on deposit in the Series J Account of the Collateral Fund, and third, from money on deposit in the Series J Bond Proceeds Account of the Bond Proceeds Fund.

(c) Series J Bonds - Mandatory Redemption on the MBS Delivery Date. The Series J Bonds are subject to mandatory redemption in part on the MBS Delivery Date at a Redemption Price equal to 100% of the principal amount of the Series J Bonds to be redeemed, plus interest accrued but unpaid from the first day of the month in which the last Payment Date occurred to the MBS Delivery Date, in an amount equal to the difference between (i) the principal amount of the

MBS purchased on the MBS Delivery Date and (ii) the aggregate principal amount of the Series J Bonds Outstanding as of the first day of the month in which the MBS Delivery Date occurred, payable with respect to principal, interest and premium, if any, first, from money on deposit in the Series J Revenue Fund Account of the Revenue Fund, second, from money on deposit in the Series J Account of the Collateral Fund, and third, from money on deposit in the Series J Bond Proceeds Account of the Bond Proceeds Fund.

(d) Series J Bonds - Mandatory Redemption Following the MBS Delivery Date. Following the MBS Delivery Date, the Series J Bonds are subject to mandatory redemption in part in an amount equal to, and one Business Day after the date on which, each principal payment or prepayment is received pursuant to the MBS at a Redemption Price equal to 100% of the principal amount received pursuant to the MBS, plus interest and premium, if any, received pursuant to the MBS.

(e) Series J Bonds - Mandatory Redemption in Lieu of Exchange. The Series J Bonds are subject to mandatory redemption in part in the event the Issuer elects pursuant to Section 2.16 to redeem a Beneficial Owner's Series J Bonds for an amount equal to the Cash Value in lieu of delivering to the Beneficial Owner of the Series J Bonds its proportionate interest in the MBS based upon its proportionate interest in the Series J Bonds. Any such redemption shall be made in the amounts, from the sources and in accordance with the provisions of this Indenture.

(f) Series K Bonds - Mandatory Redemption for Failure to Remarket. The Series K Bonds are subject to mandatory redemption in whole at a redemption price of 100% of the Outstanding principal amount thereof, plus accrued interest to the redemption date, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has previously elected not to cause the remarketing of the Bonds; (ii) the conditions to remarketing set forth in Section 3.07(b) or Section 3.07(d) have not been met by the dates and times set forth therein; or (iii) the proceeds of a remarketing on deposit in the Remarketing Proceeds Account at 11:00 a.m. Local Time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Series K Bonds on such Mandatory Tender Date. Series K Bonds subject to redemption in accordance with this paragraph shall be redeemed from (i) amounts on deposit in the Series K Collateral Fund Account, (ii) amounts on deposit in the Series K Negative Arbitrage Account and the Series K Revenue Fund Account of the Revenue Fund, (iii) amounts on deposit in the Series K Bond Proceeds Fund Account, and (iv) any other Eligible Funds available or made available for such purpose at the written direction of the Borrower.

(g) Series K Bonds - Optional Redemption. The Series K Bonds are not subject to optional redemption prior to the Initial Mandatory Tender Date. After the Initial Remarketing Date, the Borrower, in consultation with the Remarketing Agent, may establish an optional redemption date with respect to any subsequent Remarketing Period and, thereafter, the Series K Bonds are subject to optional redemption in whole or in part by the Issuer at the written direction of the Borrower (with written notice to the Trustee at least 30 days prior to the proposed redemption date specifying the principal amount of the Bonds to be redeemed and delivery of a Cash Flow Projection) on or after the applicable redemption date at a redemption price of 100% of the principal amount of such Series K Bonds to be redeemed plus accrued interest to the applicable redemption date.

Section 3.02. Notice of Redemption.

(a) Anytime the Bonds are subject to redemption in whole or in part pursuant to Section 3.01 hereof (except redemptions pursuant to Sections 3.01(a) or (d) hereof, for which no notice of redemption shall be required), the Trustee, in accordance with the provisions of this Indenture, shall give at least twenty (20) Business Days' notice, in the name of the Issuer, of the redemption of the Series J Bonds and at least twenty (20) but not more than thirty (30) Business Days' notice, in the name of the Issuer, of the redemption of the Series K Bonds, which notice shall specify the following: (i) the maturity and principal amounts of the Bonds to be redeemed; (ii) the CUSIP number, if any, of the Bonds to be redeemed; (iii) the date of such notice; (iv) the issuance date for such Bonds; (v) the interest rate on the Bonds to be redeemed; (vi) the redemption date; (vii) any conditions to the occurrence of the redemption; (viii) the place or places where amounts due upon such redemption will be payable; (ix) the Redemption Price; (x) the Trustee's name, address and phone number; and (xi) that on the redemption date, the Redemption Price shall be paid. Notice delivered as required in this Section 3.02(a) with respect to a redemption pursuant to Section 3.01(b) hereof may be rescinded and annulled on or before the MBS Delivery Date Deadline if (i) the MBS is delivered on or prior to the MBS Delivery Date Deadline or (ii) the MBS Delivery Date Deadline is extended pursuant to Section 3.04 hereof. Neither the giving of such notice by the Trustee nor the receipt of such notice by the Bondholders shall be a condition precedent to the effectiveness of any such redemption. With respect to a mandatory redemption pursuant to Section 3.01(f), the notice of Mandatory Tender provided to Holders pursuant to Section 3.06 shall serve as the notice of redemption required by this Section 3.02 and shall satisfy the requirements of this Section 3.02, and no further notice of redemption will be required to the Bondholders.

(b) The Bonds to be (i) redeemed in part pursuant to Section 3.01 and (ii) exchanged in part pursuant to Section 2.16 hereof will be selected in accordance with the operational arrangements of DTC or any successor Substitute Depository, and any partial prepayments pursuant thereto shall be made in accordance with the "Pro Rata Pass-Through Distributions of Principal" procedures of DTC or comparable procedures of any successor Substitute Depository.

(c) In the event that the MBS has not been purchased by, and delivered to, the Trustee ten (10) Business Days prior to the MBS Delivery Date Deadline (as such date may be extended hereunder), the Trustee shall provide, ten (10) Business Days prior to the MBS Delivery Date Deadline, to the Borrower, the Investor Limited Partner, the Permanent Lender, the Construction Lender, the Issuer and the Underwriter, written notice of such non-purchase.

(d) Notices of optional redemption of the Series K Bonds shall be revocable in the event that there is not on deposit with the Trustee prior to the date of redemption Eligible Funds sufficient to pay the redemption price of the Series K Bonds to be redeemed or, in the case of any redemption premium on the Series K Bonds, there are not on deposit Eligible Funds sufficient to pay such redemption premium.

Notwithstanding this Section 3.02, no prior notice shall be a prerequisite to the effectiveness of any redemption under Section 3.01 hereof which redemption shall occur and be effective irrespective of whether the Trustee fulfills its obligation to provide the notice with respect to Section 3.01 hereof required by this Section 3.02.

Section 3.03. Payment of Redemption Price. With respect to any redemption pursuant to Section 3.01 hereof, notice having been given in the manner provided in Section 3.02 hereof (or not required to be given as a result of a redemption pursuant to Sections 3.01(a) or (d) hereof), and all conditions to the redemption contained in such notice, if applicable, having been met, the Bonds so called for redemption shall become due and payable on the redemption date so designated at the Redemption Price specified in Section 3.01(a), (b), (c), (d), (e), (f) or (g), as applicable, and upon presentation and surrender thereof at the offices specified in such notice, together with, in the case of Bonds presented by other than the registered owner, a written instrument of transfer duly executed by the registered owner or its duly authorized attorney; *provided, however*, that so long as the Bonds are registered in the name of the Depository, payment for such redeemed Bonds shall be made in accordance with the Representation Letter of the Issuer. If, on the redemption date, moneys for the redemption of all of the Bonds to be redeemed, together with all accrued interest on such Bonds, (which, with respect to the Series J Bonds only, shall equal all interest accrued on the MBS) if delivered, to the redemption date, shall be held by the Trustee so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the redemption date, interest on the Bonds so called for redemption shall cease to accrue.

Section 3.04. Extension of MBS Delivery Date Deadline. At any time prior to the date on which notice of redemption pursuant to Section 3.02 hereof must be given pursuant to Sections 3.01(b) or (c) hereof, as applicable, the Borrower may extend the MBS Delivery Date Deadline by (i) providing to the Trustee, the Lender, the Issuer, the Rating Agency and the Underwriter written notice of any extension of the MBS Delivery Date Deadline, (ii) depositing with the Trustee Eligible Funds for the credit of the Series J Negative Arbitrage Account of the Revenue Fund in an amount, taking into account amounts already on deposit therein, sufficient to pay interest due on the Series J Bonds to the date that is five (5) calendar days after the extended MBS Delivery Date Deadline (the “Extension Deposit”), (iii) delivering to the Trustee and the Rating Agency a Cash Flow Projection establishing the sufficiency of the Extension Deposit, and (iv) delivering to the Trustee confirmation by the Rating Agency of the then-current rating on the Series J Bonds. Extension Deposits may continue to be made by or on behalf of the Borrower until the MBS Delivery Date occurs or the Borrower declines to make an Extension Deposit resulting in a mandatory redemption of the Series J Bonds pursuant to Sections 3.01(b) or (c), as applicable; *provided, however*, the MBS Delivery Date Deadline may not be extended (i) if the Termination Date has occurred prior to the Conversion Date or (ii) to a date that is later than the fourth anniversary of the Bond Dated Date unless, prior to any extension beyond such date, there shall be filed with the Trustee and the Issuer an opinion of Bond Counsel to the effect that such extension will not, in and of itself, adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes. The cost of such opinion shall be the sole responsibility of the Borrower.

Section 3.05. Mandatory Tender of Series K Bonds.

(a) Purchase of Series K Bonds on Mandatory Tender Dates. All Outstanding Series K Bonds shall be subject to mandatory tender by the Bondholders for purchase in whole and not in part on each Mandatory Tender Date. The purchase price for each such Series K Bond shall be payable in lawful money of the United States of America by wire, check or draft, shall equal 100% of the principal amount to be purchased and accrued interest, if any, to the Mandatory Tender Date,

and shall be paid in full on the applicable Mandatory Tender Date. Notwithstanding anything herein to the contrary, any Series K Bond tendered under this Section 3.05 will not be purchased if such Series K Bond matures or is redeemed on or prior to the applicable Mandatory Tender Date.

(b) Holding of Tendered Series K Bonds. While tendered Series K Bonds are in the custody of the Trustee pending purchase pursuant hereto, the tendering Bondholders thereof shall be deemed the owners thereof for all purposes, and interest accruing on tendered Series K Bonds through the day preceding the applicable Mandatory Tender Date is to be paid as if such Series K Bonds had not been tendered for purchase.

(c) Purchase of Tendered Series K Bonds. The Trustee shall utilize amounts representing proceeds of remarketed Series K Bonds on deposit in the Remarketing Proceeds Account to pay the principal amount, plus accrued interest, of Series K Bonds tendered for purchase not later than 11:30 a.m. Local Time on the Mandatory Tender Date.

(d) Cancellation of Remarketing. In the event the Series K Bonds must be redeemed as a result of the occurrence of any of the events listed in Section 3.01(f), the remarketing shall be cancelled and all Bonds outstanding on the Mandatory Tender Date shall be redeemed in accordance with Section 3.01(f).

(e) Undelivered Bonds. Series K Bonds shall be deemed to have been tendered for purposes of this Section 3.05 whether or not the Bondholders shall have delivered such undelivered Bonds to the Trustee, and subject to the right of the holders of such undelivered Bonds to receive the purchase price of such undelivered Bonds on the Mandatory Tender Date, such undelivered Bonds shall be null and void. If such undelivered Bonds are to be remarketed, the Trustee shall authenticate and deliver new Series K Bonds in replacement thereof pursuant to the remarketing of such undelivered Bonds.

Section 3.06. Notice of Mandatory Tender.

(a) Notice to Holders. No later than the 30th day prior to a Mandatory Tender Date, the Trustee shall give written notice of a mandatory tender on the Mandatory Tender Date to the holders of the Series K Bonds then Outstanding (with a copy to the Borrower, the Issuer, the Investor Limited Partner, and the Remarketing Agent) by first class mail, postage prepaid, at their respective addresses appearing on the Register stating:

(i) the Mandatory Tender Date and that (A) if certain conditions are met, all Outstanding Series K Bonds are subject to Mandatory Tender for purchase on the Mandatory Tender Date, (B) all Outstanding Series K Bonds must be tendered for purchase no later than 9:00 a.m., Local Time, on the Mandatory Tender Date and (C) Bondholders will not have the right to elect to retain their Series K Bonds;

(ii) the address of the designated corporate trust office of the Trustee at which Bondholders should deliver their Series K Bonds for purchase and the date of the required delivery;

(iii) that all Outstanding Series K Bonds will be purchased on the Mandatory Tender Date at a price equal to the principal amount of the Outstanding Bonds plus interest accrued to the Mandatory Tender Date;

(iv) that if, in the event that the conditions to remarketing set forth in Section 3.07(b) or Section 3.07(d) hereof are not met as set forth therein, or, if proceeds from the remarketing are insufficient to pay the purchase price of the Series K Bonds on the Mandatory Tender Date, all of the Series K Bonds will be redeemed, without further notice, on the Mandatory Tender Date; and

(v) that any Series K Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date.

(b) Second Notice. In the event that any Series K Bond required to be delivered to the Trustee for payment of the purchase price of such Series K Bond shall not have been delivered to the Trustee on or before the 30th day following a Mandatory Tender Date, the Trustee shall mail a second notice to the holder of the Bond at its address as shown on the Register setting forth the requirements set forth in this Indenture for delivery of the Series K Bond to the Trustee and stating that delivery of the Series K Bond to the Trustee (or compliance with the provisions of this Indenture concerning payment of lost, stolen or destroyed Bonds) must be accomplished as a condition to payment of the purchase price applicable to the Series K Bond.

(c) Failure to Give Notice. Neither failure to give or receive any notice described in this Section 3.06, nor the lack of timeliness of such notice or any defect in any notice (or in its content) shall affect the validity or sufficiency of any action required or provided for in this Section 3.06.

Section 3.07. Remarketing of Series K Bonds.

(a) Notice of Mandatory Tender. No later than 11:00 a.m. Local Time on the 35th day prior to each Mandatory Tender Date, the Trustee shall give notice to the Borrower and the Remarketing Agent by telephone or electronic mail, confirmed on the same day in writing, which states that all Outstanding Series K Bonds shall be tendered or deemed to be tendered pursuant to Section 3.05 hereof.

(b) Preliminary Conditions to Remarketing. No later than 11:00 a.m. Local Time on the 15th day prior to the Mandatory Tender Date then in effect, the Borrower may give written notice to the Remarketing Notice Parties by electronic mail that it elects to cause the Series K Bonds to be remarketed. A remarketing of the Series K Bonds shall be permitted only if the following conditions are satisfied no later than the time the foregoing election notice is given:

(i) notice by the Borrower to the Remarketing Agent of the Remarketing Period, approved in writing by the Remarketing Agent;

(ii) delivery to the Trustee and the Remarketing Agent of a preliminary Cash Flow Projection with respect to the proposed Remarketing Period; and

(iii) the Borrower shall have notified the Trustee in writing that it has approved as to form and substance any disclosure document or offering materials which, in the opinion of counsel to the Remarketing Agent, are necessary to be used in connection with the remarketing of the Outstanding Series K Bonds or that no such disclosure document or offering material are required.

If the foregoing conditions, including written notice from the Borrower to the Remarketing Notice Parties, are not satisfied by 11:00 a.m. Local Time on the 15th day prior to the Mandatory Tender Date then in effect, the remarketing shall be cancelled and the Series K Bonds shall be redeemed in accordance with Section 3.01(f).

(c) Establishment of Remarketing Rate. The Remarketing Agent shall establish the interest rate on the Series K Bonds Outstanding for each Remarketing Period at the Remarketing Rate in accordance with this Section 3.07. Not less than ten (10) Business Days preceding each Remarketing Date, the Remarketing Agent, taking into consideration prevailing market conditions, shall, using its best professional judgment, determine the minimum rate(s) of interest which, if borne by the Series K Bonds then Outstanding for the Remarketing Period specified by the Remarketing Agent at the direction of the Borrower as provided in this Section 3.07. The rate of interest determined in accordance with the previous sentence shall be the Remarketing Rate for the specified Remarketing Period; *provided* that if the rate of interest so determined for such period would exceed the maximum interest rate per annum permitted by applicable California law, the Series K Bonds Outstanding shall be remarketed for the longest Remarketing Period for which the minimum rate of interest that would enable such Bonds to be remarketed at a price equal to 100% of the principal amount of such Series K Bonds that would not exceed the maximum interest rate permitted by applicable California law. Notwithstanding the foregoing, if the rate of interest so determined for any Remarketing Period would exceed the maximum interest rate permitted by applicable California law, the Series K Bonds Outstanding shall not be remarketed.

(d) Notice of Remarketing Rate. The Remarketing Agent shall, upon determination of the Remarketing Rate and Remarketing Period, immediately (and in no event later than the Business Day following the day on which the Remarketing Agent makes its determination of the Remarketing Rate and the Remarketing Period) give notice of its determination by telephone or telecopy, promptly confirmed in writing, to the Remarketing Notice Parties. The Remarketing Rate and the Remarketing Period shall be conclusive and binding upon the Trustee, the Issuer, the Borrower, the Investor Limited Partner and the Holders for the purposes of this Indenture.

(e) Remarketing. No later than the 10th day prior to each Mandatory Tender Date, the Remarketing Agent shall offer for sale and use its best efforts to sell the Series K Bonds Outstanding on the Mandatory Tender Date at a price equal to 100% of the principal amount of such Series K Bonds plus accrued interest on such Series K Bonds. No later than the Business Day following the day on which the Remarketing Agent makes its determination of the Remarketing Rate and the Remarketing Period, the Remarketing Agent shall give notice, by telephone or electronic mail, promptly confirmed in writing, to the Remarketing Notice Parties specifying the principal amount of Series K Bonds, if any, it has remarketed (including Series K Bonds to be purchased on the Mandatory Tender Date for its own account), the Remarketing Rate(s) and the Remarketing Period applicable to the Series K Bonds.

The Remarketing Agent shall have the right to remarket the Series K Bonds tendered pursuant to Section 3.05 hereof; *provided, however*, that no Series K Bond shall be remarketed unless all of the Outstanding Series K Bonds are remarketed and all such Series K Bonds shall be remarketed at a price not less than the amount equal to 100% of the principal amount thereof plus accrued interest (if any). The Remarketing Agent shall have the right to purchase any Series K Bond tendered or deemed tendered pursuant to Section 3.05 hereof at the purchase price thereof, and to thereafter sell such Series K Bond. Any such purchase shall constitute a remarketing hereunder.

The Remarketing Agent shall not remarket any Series K Bond to the Issuer, the Borrower, any guarantor of the Bonds or any person which is an “insider” of the Issuer, the Borrower, or any such guarantor within the meaning of the Bankruptcy Code.

(f) Final Conditions to Remarketing.

If, no later than four (4) Business Days prior to a Mandatory Tender Date:

(i) (1) the Remarketing Agent shall have notified the Trustee in writing of the remarketing of the Outstanding Series K Bonds and that the proceeds from the remarketing (including proceeds of remarketing of Outstanding Series K Bonds to be purchased by the Remarketing Agent on the Mandatory Tender Date for its own account) or other funds equal to the amount needed to purchase the remarketed Series K Bonds on the Mandatory Tender Date are expected to be available to the Trustee on the Mandatory Tender Date for deposit into the Remarketing Proceeds Account; and

(2) the Trustee shall have received written notice from the Remarketing Agent that the Remarketing Agent has received written confirmation from the Rating Agency that the then-current rating assigned to the Outstanding Series K Bonds will continue to be effective on the Remarketing Date.

(ii) If, no later than two (2) Business Days prior to a Mandatory Tender Date, there shall be on deposit with the Trustee, from Eligible Funds provided by or on behalf of the Borrower, any additional amount required to pay the Extension Deposit and the estimated Remarketing Expenses as determined by the Remarketing Agent and certified to the Trustee;

then the Trustee shall immediately give notice, by telephone or electronic mail, which notice shall be immediately confirmed in writing, to the Remarketing Agent, the Borrower and the Investor Limited Partner that (a) all conditions precedent to the remarketing of the Outstanding Series K Bonds have been satisfied and (b) the sale and settlement of the Outstanding Series K Bonds is expected to occur on the Mandatory Tender Date. Following the Trustee’s notice, the Outstanding Series K Bonds shall be sold to the purchasers identified by the Remarketing Agent for delivery and settlement on the Mandatory Tender Date, and the Trustee shall apply (i) the funds in the Remarketing Proceeds Account of the Revenue Fund on the Remarketing Date to payment of the

purchase price of the Outstanding Series K Bonds and (ii) the funds in the Remarketing Expense Account to payment of the Remarketing Expenses.

(g) Remarketing Proceeds. On or before the Business Day next preceding each Remarketing Date, the Remarketing Agent shall pay to the Trustee, in immediately available funds, the proceeds theretofore received by the Remarketing Agent from the remarketing of Series K Bonds tendered for purchase on such Mandatory Tender Date. The proceeds from the remarketing of the Series K Bonds shall be deposited into the Remarketing Proceeds Account, segregated from any funds of the Borrower and the Issuer and shall in no case be considered to be or be assets of the Borrower or the Issuer. Funds representing remarketing proceeds received by the Remarketing Agent after 10:00 a.m. Local Time on each Mandatory Tender Date shall be paid to the Trustee as soon as practicable upon such receipt.

(h) Delivery of Purchased Bonds. No later than the 10th day prior to each Mandatory Tender Date, the Remarketing Agent, by telephonic advice or electronic mail, shall notify the Trustee of (i) the principal amount of Series K Bonds to be sold by the Remarketing Agent pursuant to this Section 3.07 and the purchase price, and, unless the Series K Bonds are then in the book-entry system, the names, addresses and social security numbers or other tax identification numbers of the proposed purchasers thereof and (ii) the principal amount of Series K Bonds tendered for purchase on such Mandatory Tender Date which will not be sold by the Remarketing Agent pursuant to this Section 3.07. Such telephonic advice shall be confirmed by written notice delivered or electronically communicated at the same time as the telephonic advice.

Series K Bonds purchased by the Trustee on a Mandatory Tender Date that have been remarketed shall be delivered to the purchasers thereof as directed by the Remarketing Agent. Series K Bonds delivered as provided in this Section shall be registered in the manner directed by the recipient thereof.

Section 3.08. Cancellation. All Bonds which have been redeemed, paid or retired or received by the Trustee for exchange shall not be reissued but shall be canceled and held by the Trustee in accordance with Section 2.09 hereof.

ARTICLE IV

DELIVERY OF MBS

Section 4.01. Conversion Prior to Initial Termination Date; Delivery of MBS.

(a) If the Conversion Date occurs prior to the Initial Termination Date and Eligible Investments must be liquidated to purchase the MBS, the Borrower shall cause to be delivered to the Trustee (i) a Cash Flow Projection and (ii) Eligible Funds, if any, as set forth in the Cash Flow Projection.

(b) The MBS shall be registered in the name of the Trustee or its designee. The obligation of the Trustee to purchase the MBS on the MBS Delivery Date shall be subject to receipt by the Trustee of written notification from the Lender upon which the Trustee may rely and act

without further investigation certifying that the MBS duly executed by Fannie Mae is available for purchase by the Trustee at the MBS Purchase Price, and meets the following requirements:

(i) the principal amount of the MBS will equal from time to time the then-current principal amount of the Series J Bonds, except for principal payments received which have not been remitted to owners of the Series J Bonds;

(ii) the MBS shall bear interest at the Pass-Through Rate payable on the 25th day of each month, commencing on the 25th day of the month following the month in which the Trustee purchases the MBS, or if any such 25th day is not a Business Day, the next succeeding Business Day, and have a final maturity date that is the same as the Bond Maturity Date;

(iii) the MBS shall provide that timely payment of principal (whether on any scheduled Payment Date or prior thereto upon any mandatory prepayment of the Mortgage Note or upon any optional prepayment of the Mortgage Note or upon declaration of acceleration following a default thereunder and interest on the MBS) is guaranteed to the record owner of the MBS, regardless of whether corresponding payments of principal and interest on the Permanent Loan are paid when due; and

(iv) the MBS shall be acquired by the Trustee on behalf of the Issuer, shall be held at all times by the Trustee in trust for the benefit of the Bondholders and shall be held only in book-entry form through the United States Federal Reserve Bank book-entry system, pursuant to which the MBS shall have been registered on the records of the Federal Reserve Bank in the name of the Trustee.

The Trustee shall receive confirmation in writing that the Depository is holding the MBS on behalf of, and has identified the MBS on its records as belonging to, the Trustee. Upon purchase of the MBS on the MBS Delivery Date, the Trustee shall post a notification to this effect on the Electronic Municipal Market Access website of the Municipal Securities Rulemaking Board.

ARTICLE V

TRUST ESTATE AND FUNDS

Section 5.01. Pledge of Trust Estate. The pledge and assignment of and the security interest granted in the Trust Estate pursuant to the Granting Clauses hereof for the payment of the principal of, premium, if any, and interest on the Bonds, in accordance with their terms and provisions, and for the payment of all other amounts due hereunder, 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.

Section 5.02. Establishment of Funds. The Trustee shall establish, maintain and hold in trust the following funds, each of which shall be maintained by the Trustee as a separate and distinct fund or account, and each of which shall be disbursed and applied only as herein authorized:

- (a) Revenue Fund, including therein (i) a Series J Revenue Fund Account; (ii) a Series K Revenue Fund Account; (iii) a Series J Negative Arbitrage Account; (iv) a Series K Negative Arbitrage Account; and (v) a Remarketing Proceeds Account;
- (b) Bond Proceeds Fund, including therein (i) a Series J Bond Proceeds Fund Account, and (ii) a Series K Bond Proceeds Fund Account;
- (c) Collateral Fund, including therein (i) a Series J Collateral Fund Account and (ii) a Series K Collateral Fund Account;
- (d) [Borrower Equity Fund;]
- (e) Costs of Issuance Fund, and therein, a Remarketing Expense Account;
- (f) Rebate Fund; and
- (g) Administration Fund.

Section 5.03. Application of Funds on MBS Delivery Date. On the MBS Delivery Date, the Trustee shall remit to the Permanent Lender as payment for the MBS, an amount equal to the aggregate principal amount of the MBS (from amounts on deposit in the Series J Collateral Fund Account and, to the extent sufficient funds are not otherwise available in the Series J Collateral Fund Account, from the Series J Bond Proceeds Fund Account upon delivery of a Bond Counsel Opinion as to no material adverse effect on the exclusion of interest on the Bonds), plus accrued and unpaid interest on the MBS at the Pass-Through Rate from the first of the month in which the MBS was delivered (from amounts in the Series J Negative Arbitrage Account of the Revenue Fund).

Section 5.04. Initial Deposits. On the Closing Date, the Trustee shall make the following deposits:

- (a) \$_____, representing the Costs of Issuance Deposit, shall be deposited into the Costs of Issuance Fund;
- (b) \$60,006,000, representing the principal amount of the Series J Bonds, shall be deposited into the Series J Bond Proceeds Fund Account to be used as set forth in this Article V;
- (c) \$24,834,000, representing the principal amount of the Series K Bonds, shall be deposited into the Series K Bond Proceeds Fund Account to be used as set forth in this Article V;
- (d) \$_____, representing the Series J Negative Arbitrage Deposit, shall be deposited into the Series J Negative Arbitrage Account of the Revenue Fund, consisting of

\$_____ of proceeds of the Series K Bonds and \$_____ of Eligible Funds provided on behalf of the Borrower;

(e) \$_____, representing the Series K Negative Arbitrage Deposit, shall be deposited into the Series K Negative Arbitrage Account of the Revenue Fund; and

(f) [\$84,840,000], representing the proceeds of the Construction Loan shall be deposited into the Series K Collateral Fund Account.

Section 5.05. Revenue Fund.

(a) Following the transfer to the applicable Account of the Revenue Fund of investment earnings from any Eligible Investments, as provided in Section 5.16 hereof, (i) prior to the MBS Delivery Date, the Trustee shall disburse from the Series J Revenue Fund Account (and, to the extent amounts in the Series J Revenue Fund Account, are insufficient for such purposes, from the Series J Negative Arbitrage Account), on each Series J Bond Payment Date an amount equal to the amount of principal and interest due on the Series J Bonds pursuant to the Permanent Loan Amortization Schedule and (ii) on each Series K Bond Payment Date, the Trustee shall disburse from the Series K Revenue Fund Account (and, to the extent amounts in the Series K Revenue Fund Account are insufficient for such purposes, from the Series K Negative Arbitrage Account) an amount equal to the amount of principal and interest due on the Series K Bonds.

(b) There shall be deposited into the Series J Negative Arbitrage Account and the Series K Negative Arbitrage Account of the Revenue Fund, as applicable, as and when received, (i) the Series J Negative Arbitrage Deposit and the Series K Negative Arbitrage Deposit, and (ii) any Extension Deposit. Upon the redemption of the Series K Bonds in full, or following the Bond Maturity Date for the Series K Bonds, any funds then remaining unexpended after payment in full of the Series K Bonds in the Series K Revenue Fund Account and the Series K Negative Arbitrage Account shall be transferred to the Series J Revenue Fund Account and the Series J Negative Arbitrage Account, as applicable, and the Series K Negative Arbitrage Account shall be closed.

(c) There shall be deposited into the Series K Revenue Fund Account all amounts paid by the Borrower pursuant to the Financing Agreement.

(d) There shall be deposited into the Series J Revenue Fund Account, as and when received, (i) following the MBS Delivery Date, all moneys received by the Trustee representing principal payments or repayments, and premium, if any, under the MBS, together with all other amounts required pursuant to this Indenture to be deposited therein, (ii) any other amounts specified in this Indenture, and (iii) all moneys received by the Trustee representing interest payments under the MBS, to be held therein pending distribution in accordance with the terms hereof.

(e) On the MBS Delivery Date, the Trustee shall remit from the Series J Revenue Fund Account (and, to the extent amounts in the Series J Revenue Fund Account, are insufficient for such purposes, from the Series J Negative Arbitrage Account) to the Permanent Lender accrued and unpaid interest on the MBS at the Pass-Through Rate from the first calendar day of the month in which the MBS was delivered.

(f) On the first Business Day following the Payment Date in the first full month following the MBS Delivery Date, the Trustee shall return to the Borrower any amounts then on deposit in the Series J Negative Arbitrage Account of the Revenue Fund and shall immediately close such account.

(g) On the first Business Day following receipt of any MBS Revenues and the deposit thereof into the Series J Revenue Fund Account pursuant to subsection (e) above, the Trustee shall pay to the Series J Bond owners all amounts so received from money on deposit in the Series J Revenue Fund Account. All payments of principal and interest shall be paid to Bond owners in proportion to the principal amount of Bonds owned by each Bond owner as set forth on the records of the Trustee at the close of business on the applicable Record Date.

(h) If the Trustee does not receive a scheduled payment on the MBS by 5:00 p.m. Eastern Time on the 25th day of any month (or the next succeeding Business Day if such day of the month is not a Business Day), the Trustee shall immediately notify Fannie Mae and immediately demand payment under the terms of the guaranty thereof.

(i) [The \$_____ of funds derived from the proceeds of the Series K Bonds on deposit in the Series J Negative Arbitrage Account shall be used prior to any other funds to pay interest on the Series J Bonds prior to the end of the construction period for the Project.]

Section 5.06. Rebate Fund. The Rebate Fund shall not be subject to the lien or encumbrance of this Indenture, but shall be held in trust for the benefit of the United States of America, and shall be subject to the claim of no other person, including that of the Trustee and Bondholders. The interest on any Eligible Investments representing an investment of moneys in the Rebate Fund and any profit arising from the sale thereof shall be retained in the Rebate Fund. Any moneys deposited therein in accordance with the provisions of this Indenture shall be used for no other purpose than to make payments to the United States Treasury, at the time and in the manner and amount specified in Section 9.12.

Section 5.07. Costs of Issuance Fund. The Cost of Issuance Fund, including the Remarketing Expense Account therein, shall not be subject to the lien or encumbrance of this Indenture. On or before the Closing Date, the Borrower shall deliver to the Trustee the Costs of Issuance Deposit, from amounts other than Bond proceeds, to be deposited to the Costs of Issuance Fund to pay Costs of Issuance incurred in connection with the issuance of Bonds. The Trustee shall use amounts in the Costs of Issuance Fund on the Closing Date or as soon as practicable thereafter in accordance with written instructions to be given to the Trustee by the Borrower, upon delivery to the Trustee of appropriate invoices for such expenses. Any unexpended amounts attributable to deposits made by the Borrower remaining on deposit in the Costs of Issuance Fund three months after the Closing Date shall be returned to the Borrower.

Any funds received by the Trustee in connection with an extension of the Mandatory Tender Date pursuant to Section 3.07 hereof designated in writing for the payment of Remarketing Expenses shall be deposited into the Remarketing Expense Account of the Costs of Issuance Fund. The Trustee shall apply money on deposit in the Remarketing Expense Account solely for the purpose of paying Remarketing Expenses. To the extent money in the Remarketing Expense Account is not sufficient to pay the foregoing fees and expenses, such deficiency shall be paid by

the Borrower pursuant to Section 4.02 of the Financing Agreement immediately upon written demand.

Section 5.08. Bond Proceeds Fund. Upon (a) deposit of Eligible Funds (other than proceeds of the Bonds) into the applicable Account of the Collateral Fund, if any, as provided in Section 5.09 hereof, (b) delivery of a corresponding Requisition executed by an Authorized Borrower Representative (and approved by the Lender and Issuer Servicer) and (c) subject to the provisions of this Section 5.08 hereof, the Trustee shall disburse proceeds of the Series J Bonds or Series K Bonds, as applicable, in an amount equal to such corresponding deposit made into the applicable Account of the Collateral Fund to fund Project Costs pursuant to such Requisition. Prior to making any such disbursement from the applicable Account of the Bond Proceeds Fund, the Trustee shall confirm that, with respect to each of the Series J Bonds and the Series K Bonds, as applicable, the aggregate amount, including projected investment earnings shown in the Cash Flow Projection delivered at closing (upon which the Trustee may conclusively rely for this confirmation without further calculation of review), that will be held in (a) the applicable Account of the Collateral Fund, (b) the applicable Account of the Bond Proceeds Fund, and (c) the Series J Negative Arbitrage Account and the Series K Negative Arbitrage Account, after the requested disbursement and subject to reallocation as provided in Section 5.21, will at least equal the principal and interest due on the Series J Bonds and the Series K Bonds, as applicable, to the Initial Termination Date and, notwithstanding anything to the contrary, the Trustee shall not disburse money from the Bond Proceeds Fund (other than to pay amounts due on the Bonds pursuant to Section 3.01 hereof), unless and until Eligible Funds in an amount equal to or greater than the requested disbursement amount have been deposited into the applicable Account of the Collateral Fund. To the extent money on deposit in the applicable Account in the Bond Proceeds Fund is invested in Eligible Investments that have not yet matured, the Trustee is hereby authorized to reallocate the Eligible Investments in accordance with Section 5.21 hereof.

Upon the satisfaction of the provisions set forth in this Section, the Trustee shall be irrevocably and unconditionally obligated to disburse Bond proceeds from the applicable Account in the Bond Proceeds Fund equal to either the amount deposited to the applicable Account of the Collateral Fund, as set forth in the corresponding Requisition and to the extent the Trustee is unable to do so, the Trustee shall return the amount deposited into the applicable Account of the Collateral Fund, within one Business Day of receipt of such deposit, to the party that made such deposit as set forth in the Requisition.

The Trustee shall not disburse any amounts on deposit in the Series J Bond Proceeds Fund Account until all amounts on deposit in the Series K Bond Proceeds Fund Account have been applied to pay Project Costs. Upon the disbursement of all amounts on deposit in the Series K Bond Proceeds Account, such account shall be closed.

To the extent sufficient Eligible Funds are not otherwise available to the Trustee, including money on deposit in the applicable Account of the Revenue Fund, the applicable Account of the Collateral Fund or the Series J Negative Arbitrage Account or the Series K Negative Arbitrage Account, as applicable, of the Revenue Fund, the Trustee shall transfer from the applicable Account of the Bond Proceeds Fund to the applicable Account of the Revenue Fund sufficient money to pay amounts due on the Series J Bonds or Series K Bonds, as applicable, pursuant to Section 3.01.

On the MBS Delivery Date, amounts remaining in the Series J Bond Proceeds Fund Account of the Bond Proceeds Fund shall be used by the Trustee, subject to the provisions of Section 5.03 hereof, in the following order: (i) to the extent sufficient funds are not otherwise available in the Series J Collateral Fund Account, to pay the MBS Purchase Price, (ii) to transfer funds to the Series J Revenue Fund Account in an amount equal to the difference, if any, between (x) the aggregate principal amount of the Bonds Outstanding as of the first day of the month in which the MBS Delivery Date occurs and (y) the principal amount of the MBS purchased on the MBS Delivery Date, plus interest accrued but unpaid to the redemption date, for redemption pursuant to Section 3.01(c) hereof, and (iii) to pay any remaining Project Costs as approved by the Lender in writing. Upon the disbursement of all amounts on deposit in the Series J Bond Proceeds Account, such account shall be closed.

Section 5.09. Collateral Fund. The Trustee shall deposit into the applicable Account of the Collateral Fund all Eligible Funds (other than proceeds of the Bonds) received pursuant to Section 4.07 of the Financing Agreement, and any other Eligible Funds received by the Trustee for deposit into the applicable Account of the Collateral Fund. Section 4.07 of the Financing Agreement requires the Borrower to cause Eligible Funds to be paid to the Trustee for deposit into the applicable Account of the Collateral Fund in a principal amount equal to, and as a prerequisite to the disbursement of, the corresponding amount of Series J Bond proceeds and Series K Bond proceeds, as applicable, on deposit in the applicable Account of the Bond Proceeds Fund to be disbursed by the Trustee to pay Project Costs.

Subject to the provisions hereof, (i) until the purchase of the MBS on the MBS Delivery Date, each deposit into the Series J Collateral Fund Account shall constitute an irrevocable deposit solely for the benefit of the holders of the Series J Bonds, and (ii) each deposit into the Series K Collateral Fund Account shall constitute an irrevocable deposit solely for the benefit of the holders of the Series K Bonds.

Money in the Collateral Fund shall be used by the Trustee as follows: (i) to the extent money is not otherwise available, the Trustee shall transfer from the applicable Account of the Collateral Fund to the applicable Account of the Revenue Fund an amount necessary to pay amounts due on the applicable Bonds pursuant to Section 3.01 hereof, and (ii) on the MBS Delivery Date, the Trustee shall use money in the Series J Collateral Fund Account (and, to the extent there are not sufficient funds on deposit in the Series J Collateral Fund Account, first from the Series J Negative Arbitrage Account and second from the Series J Bond Proceeds Fund Account) to pay for the principal amount of the MBS.

The Bonds shall not be, and shall not be deemed to be, paid or prepaid by reason of any deposit into the Collateral Fund unless and until the amount on deposit in the applicable Account of the Collateral Fund is transferred to the applicable Account of the Revenue Fund and applied to the payment of the principal of any of the Bonds, or the principal component of the redemption price of any of the Bonds, all as provided in this Indenture.

On the Business Day following each disbursement from the applicable Account of the Bond Proceeds Fund, to the extent that the aggregate principal amount held in both (a) the applicable Account of the Collateral Fund and (b) the applicable Account of the Bond Proceeds

Fund, after the requested disbursement, exceeds the then-Outstanding principal amount of the Bonds, such excess shall be retained in the applicable account of the Collateral Fund.

On the Business Day following the retirement in full of the Series K Bonds either by reason of the redemption thereof or if later, the Bond Maturity Date, any funds then remaining in the Series K Collateral Account shall be transferred to the Series J Collateral Account and the Series K Collateral Account shall be closed.

On the first Business Day of the month following the month in which the Series J Bonds are either redeemed in full for failure to deliver the MBS or the MBS has been delivered to the Trustee, any funds then remaining in the Series J Collateral Account shall be disbursed to or at the direction of the Borrower and the Series J Collateral Account shall be closed.

Section 5.10. Borrower Equity Fund. [The Borrower shall cause to be deposited with the Trustee the Borrower Equity Amount for deposit to the Borrower Equity Fund. Amounts on deposit in the Borrower Equity Fund shall be disbursed to pay Project Costs upon receipt of a Requisition approved by the Lender and Issuer Servicer. Once all Project Costs have been paid or accounted for, as certified in writing by the Borrower and approved by the Lender and Issuer Servicer, any funds remaining in the Borrower Equity Fund shall be disbursed to the Borrower and the Borrower Equity Fund shall be closed.]

Section 5.11. [Reserved].

Section 5.12. Administration Fund. The Administration Fund shall not be subject to the lien or encumbrance of this Indenture. The Trustee shall deposit into the Administration Fund, promptly upon receipt thereof, all amounts received from the Borrower and designated for deposit into such Fund. 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 Trustee Fee; SECOND, to pay to the Issuer when due the Ongoing Issuer Fee portion of the Issuer Fee; THIRD, to pay when due the fees of the Rebate Analyst as required by the Tax Certificate and all out-of-pocket expenses of the Rebate Analyst; FOURTH, to pay to the Trustee all amounts required to reimburse the Trustee for all out-of-pocket expenses, fees, costs and other charges, including reasonable counsel fees and taxes (excluding income, value added and single business taxes), reasonably and necessarily incurred by the Trustee in performing its duties as Trustee under this Indenture, to the extent not included in the Trustee Fee; FIFTH, to pay all taxes and assessments of any type or character charged to the Issuer or to the Trustee affecting the amount available to the Issuer or the Trustee from payments to be received hereunder or in any way arising due to the transactions contemplated hereby or thereby (including taxes and assessments assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Trustee and taxes based upon or measured by the net income of the Trustee; *provided, however*, that the Borrower shall have the right to protest any such taxes or assessments and to require the Issuer or the Trustee, at the Borrower's expense, to protest and contest any such taxes or assessments levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Issuer or the Trustee; and SIXTH, to pay to the Issuer the reasonable fees and expenses of the Issuer or any

agents, attorneys, accountants, consultants selected by the Issuer to act on its behalf in connection with the Financing Documents, the Permanent Loan Documents or the Bonds, including, without limitation, any and all reasonable expenses incurred in connection with the authorization, issuance, sale and delivery of the Bonds or in connection with any litigation which may at any time be instituted involving the Financing Documents, the Permanent Loan Documents or the Bonds or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the foregoing, but excluding the Issuer Fee.

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.

Section 5.13. [Reserved].

Section 5.14. Accounting Records. The Trustee shall maintain accurate books and records for all Funds and Accounts established hereunder.

Section 5.15. Amounts Remaining in Funds. After full payment of the Bonds (or provision for payment thereof having been made in accordance with Section 7.01) and full payment of the fees and expenses of the Trustee and other amounts required to be paid hereunder and under the Financing Agreement including fees payable to the Issuer and Fannie Mae, any amounts remaining in any Fund hereunder other than the Rebate Fund shall be paid to the Lender for the payment of any amounts due and payable to the Lender and/or Fannie Mae and thereafter, to the Borrower; *provided, however*, that if a default shall have occurred and remain uncured under the Permanent Loan of which the Trustee shall have received written notice from Fannie Mae or the Lender, then any such amounts remaining in any Fund or Account hereunder shall be paid to Fannie Mae.

Section 5.16. Investment of Funds. The moneys held by the Trustee shall constitute trust funds for the purposes hereof. Any moneys attributable to each of the Funds and Accounts hereunder shall be invested by the Trustee at the written direction of the Borrower in Eligible Investments which, except as otherwise provided in this Section 5.16, mature or are redeemable at par without penalty on the date on which such funds are expected to be needed for the purposes for which they are held. Notwithstanding anything herein to the contrary except as otherwise set forth in this sentence, all amounts in the Bond Proceeds Fund, the Revenue Fund and the Collateral Fund shall be invested solely in Eligible Investments; *provided, however*, that following the MBS Delivery Date, payments received with respect to the MBS shall be held uninvested. All investment earnings from amounts on deposit in the Bond Proceeds Fund, the Revenue Fund and the Collateral Fund shall be credited to the applicable Account of the Revenue Fund. If the Trustee does not receive written direction from the Borrower regarding the investment of funds, the Trustee shall invest solely in Eligible Investments described in clause (b) of the definition of Eligible Investments herein, which shall mature or be redeemable at par without penalty at the times set

forth in this Section 5.12. The Trustee may make any and all such investments through its own banking department or the banking department of any affiliate.

Eligible Investments representing an investment of moneys attributable to any Fund or Account shall be deemed at all times to be a part of such Fund. Subject to the following sentence, investments shall be sold at the best price obtainable whenever it shall be necessary to do so in order to provide moneys to make any transfer, withdrawal, payment or disbursement from such Fund. With respect to the Series J Bonds, prior to the MBS Delivery Date, at the written direction of the Borrower, the Trustee is permitted to invest in Eligible Investments that mature on or before the MBS Delivery Date Deadline but is not permitted to sell or otherwise dispose of such Eligible Investment prior to the maturity of such Eligible Investment without first receiving (i) a Cash Flow Projection and (ii) Eligible Funds, if any, as set forth in the Cash Flow Projection. With respect to the Series K Bonds, prior to the Initial Mandatory Tender Date, at the written direction of the Borrower, the Trustee is permitted to invest in Eligible Investments that mature on or before the Initial Mandatory Tender Date but is not permitted to sell or otherwise dispose of such Eligible Investment prior to the maturity of such Eligible Investment without first receiving (i) a Cash Flow Projection, and (ii), Eligible Funds, if any, as set forth in the Cash Flow Projection. In the case of any required transfer of moneys to another such Fund, such investments may be transferred to that Fund in lieu of the required moneys if permitted hereby as an investment of moneys in that Fund.

All Eligible Investments acquired by the Trustee pursuant hereto shall be purchased in the name of the Trustee and shall be held for the benefit of the Bondholders pursuant to the terms of this Indenture. The Trustee shall take such actions as shall be necessary to assure that such Eligible Investments are held pursuant to the terms of this Indenture and are subject to the trust and security interest herein created.

The Trustee shall not be liable or responsible for any loss resulting from any investment made in accordance herewith. The Trustee or its affiliates may act as sponsor, principal or agent in the acquisition or disposition of investments. The Trustee may commingle investments made under the Funds and Accounts established hereunder, but shall account for each separately.

In computing for any purpose hereunder the amount in any Fund or Account on any date, obligations so purchased shall be valued at the lower of cost or par exclusive of accrued interest, and may be so valued as of any time within four (4) days prior to such date.

The Issuer acknowledges that regulations of the Comptroller of the Currency grant the Borrower the right to receive brokerage confirmations of the security transactions as they occur. The Borrower specifically waives such notification to the extent permitted by law and will receive periodic cash transaction statements that will detail all investment transactions.

Section 5.17. Moneys Held for Particular Bonds. The amounts held by the Trustee for the payment of the interest, principal or premium, if any, due on any date with respect to particular Bonds shall, pending such payment, be set aside and held in trust by it for the Bondholders entitled thereto, and for the purposes hereof such interest, principal or premium, if any, after the due date thereof, shall no longer be considered to be unpaid.

Section 5.18. Funds Held in Trust. All moneys held by the Trustee, as such, 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 5.19. Reports From the Trustee. The Trustee shall furnish to the Borrower (and to Fannie Mae, the Permanent Lender, the Construction Lender (but only prior to the Conversion Date), the Investor Limited Partner and the Issuer upon request) quarterly statements of the activity and assets held in each of the Funds and Accounts maintained by the Trustee hereunder. Upon the written request of the owner of a Bond, the Trustee, at the cost of the Borrower, shall provide a copy of such statement to the owner of the Bond.

Section 5.20. Covenants Respecting Arbitrage and Rebate. The Trustee shall keep and make available to the Borrower such records concerning the investment of the gross proceeds of the Bonds and the investments of earnings from those investments as may be requested by the Borrower in order to enable the Borrower to fulfill the requirements of Section 148(f) of the Code. The Trustee expressly covenants and agrees to all document retention and reporting requirements contained in the Tax Certificate.

Section 5.21. Allocation and Reallocation of Government Obligations Deposited to the Collateral Fund and the Project Fund. On the Closing Date, the Trustee shall allocate ownership of the Eligible Investments acquired pursuant to this Article V hereof and deposited for the benefit of the Bond Proceeds Fund and the Collateral Fund as follows: The Trustee shall allocate to the appropriate account in the Collateral Fund a percentage of such Eligible Investments equal to the amount of Eligible Funds delivered to the Trustee for deposit to the Collateral Fund on the Closing Date divided by the aggregate Outstanding principal amount of the applicable series of Bonds and multiplied by 100 (the "Initial Collateral Fund Percentage") and the remainder (i.e., 100% minus the Initial Collateral Fund Percentage, referred to as the "Initial Bond Proceeds Fund Percentage") shall be allocated to the appropriate account in the Project Fund. On each subsequent month when an additional Eligible Funds are delivered for deposit to the appropriate account of the Collateral Fund (the "Subsequent Allocation Date"), the dollar amount of such Eligible Funds shall be added to all prior deposits of Eligible Funds, and the percentage of such Eligible Investments allocated to the appropriate account in the Collateral Fund shall be adjusted to that percentage equal to the aggregate Eligible Funds through such date divided by the aggregate Outstanding principal amount of the Bonds and multiplied by 100 (the "Collateral Fund Percentage") and the remainder (i.e., 100% minus the Collateral Fund Percentage, referred to as the "Bond Proceeds Fund Percentage") shall be allocated to the appropriate account in the Bond Proceeds Fund. On each Subsequent Allocation Date, the Trustee shall be deemed to have liquidated that portion of the Eligible Investments allocated to the appropriate account in the Bond Proceeds Fund and purchased equivalent Eligible Investments to be allocated to the appropriate account in the Collateral Fund.

ARTICLE VI

COVENANTS OF ISSUER

Section 6.01. Payment of Bonds. Subject to the other provisions of this Indenture, the Issuer shall duly and punctually pay or cause to be paid, solely from amounts available in the Trust Estate, the principal of, premium, if any, and interest on the Bonds, at the dates and places and in

the manner described in the Bonds, according to the true intent and meaning thereof. The Bonds are not a general obligation of the Issuer and are payable solely from the Trust Estate.

The payment and other obligations of the Issuer with respect to the Bonds are intended to be, and shall be, independent of the payment and other obligations of the issuer or maker of the Bond Loan Notes, the Mortgage Note and the MBS, even though the principal amount of all three instruments is expected to be identical, except in the case of a default with respect to one or more of the instruments.

Section 6.02. Performance of Covenants by Issuer.

(a) In General. The Issuer covenants that it will faithfully perform on its part at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all of its proceedings pertaining thereto; *provided, however*, that, except for the matters set forth in Section 6.01 hereof relating to payment of the Bonds, the Issuer will not be obligated to take any action or execute any instrument pursuant to any provision hereof until it has been requested to do so by the Borrower or by the Trustee, or has received the instrument to be executed and, at the option of the Issuer, has received from the party requesting such execution assurance satisfactory to the Issuer that the Issuer will be reimbursed for its reasonable expenses incurred or to be incurred in connection with taking such action or executing such instrument. The Issuer has power and lawful authority to adopt the Resolution, to execute and deliver the Issuer Documents; to issue the Bonds and receive the proceeds of the Bonds; to apply or cause to be applied the proceeds of the Bonds to make the Bond Loans; to assign the revenues derived and to be derived by the Issuer from the Bond Loans to the Trustee; and to perform and observe the provisions of the Issuer Documents and the Bonds on its part to be performed and observed.

(b) Prohibited Activities. Subject to the limitations on its liability as stated herein, the Issuer represents, warrants, covenants and agrees that it has not knowingly engaged and will not knowingly engage in any activities and that it has not knowingly taken and will not knowingly take any action which might result in any interest on the Bonds becoming includable in the gross income of the owners thereof for purposes of federal income taxation.

(c) Rights Under Financing Agreement. The Financing Agreement sets forth covenants and obligations of the Issuer and the Borrower, and reference is hereby made to the same for a detailed statement of said covenants and obligations. The Issuer agrees to cooperate in the enforcement of all covenants and obligations of the Borrower under the Financing Agreement and agrees that the Trustee, in its name, may enforce all rights of the Issuer (other than the Reserved Rights) and all obligations of the Borrower under and pursuant to the Financing Agreement and on behalf of the Bondholders, whether or not the Issuer has undertaken to enforce such rights and obligations.

(d) Issuer's Further Assurance. The Issuer covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered by the parties within its control, such instruments supplemental hereto and such further acts, instruments, and transfers as the Trustee may reasonably require for the better assuring, transferring, mortgaging, conveying, pledging, assigning, and confirming unto the Trustee, the Issuer's interest

in and to all interests, revenues, proceeds, and receipts pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds in the manner and to the extent contemplated herein. The Issuer shall be under no obligation to prepare, record, or file any such instruments or transfers.

(e) Unrelated Bond Issues. The Issuer, prior to the issuance of the Bonds, has issued, and subsequent to the issuance of the Bonds, the Issuer expects to issue various series of bonds in connection with the financing of other projects (said bonds together with any bonds issued by the Issuer between the date hereof and issuance of the Bonds shall be referred to herein as the “Other Bonds”). Any pledge, mortgage, or assignment made in connection with any Other Bonds shall be protected, and any funds pledged or assigned for the payment of principal, premium, if any, or interest on the Other Bonds shall not be used for the payment of principal, premium, if any, or interest on the Bonds. Correspondingly, any pledge, mortgage, or assignment made in connection with the Bonds shall be protected, and any funds pledged or assigned for the payment of the Bonds shall not be used for the payment of principal, premium, if any, or interest on the Other Bonds.

Section 6.03. Tax Covenants. The Issuer shall not take any action that will cause the interest paid on the Bonds to be includable in gross income for federal income tax purposes. In furtherance of the foregoing covenant, the Issuer hereby particularly covenants and agrees with the holders of the Bonds as follows:

(a) No part of the proceeds of the Bonds or any other funds of the Issuer shall be used by the Issuer at any time directly or indirectly to acquire securities or obligations, the acquisition of which, or which in any other manner, would cause any Bond to be an arbitrage bond as defined in Section 148 of the Code and any applicable Regulations promulgated thereunder.

(b) The Issuer will not 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 any applicable Regulations promulgated thereunder.

In the event of a conflict between the provisions of this Section 6.03 and the Tax Certificate, the provisions of the Tax Certificate shall control.

Section 6.04. Compliance with Conditions Precedent. Upon the Closing Date, all conditions, acts and things required by law regarding the Issuer to exist, to have happened or to have been performed precedent to or in the issuance of such Bonds shall exist, shall have happened and shall have been performed, and such Bonds, together with all other indebtedness of the Issuer, shall be within every debt and other limit prescribed by law.

Section 6.05. Extension of Payment of Bonds. The Issuer shall not directly or indirectly extend or assent to the extension of the maturity of the principal due on any of the Bonds or the time of payment of interest due on the Bonds, and if the time for payment of any such claims for interest shall be extended through any other means, such Bonds or claims for interest shall not be entitled in case of any default hereunder to any payment out of the Trust Estate or the funds (except funds held in trust for the payment of particular Bonds pursuant hereto) held by the Trustee, except subject to the provisions of Section 7.02 and subject to the prior payment of the principal of all Bonds issued and Outstanding the maturity of which has occurred and has not been extended and

of such portion of the accrued interest on the Bonds which is not represented by such extended claims for interest.

If an Extension Deposit has not been made pursuant to Sections 3.04 and 5.05(b) hereof, such that the aggregate balance in the Series J Bond Proceeds Fund Account, the Series J Collateral Fund Account and the Series J Revenue Fund Account is equal to 100% of the principal amount of the Series J Bonds plus interest accrued on the Series J Bonds to the date which is five (5) calendar days following the MBS Delivery Date Deadline (as such date may be extended hereunder), then the Series J Bonds shall be subject to mandatory redemption as set forth in Section 3.01(b) hereof.

Section 6.06. Reserved.

Section 6.07. Powers as to Bonds and Pledge. The Issuer is duly authorized to pledge, assign, transfer and set over unto the Trustee in trust the Trust Estate herein purported to be so pledged, assigned, transferred and set over unto the Trustee in trust hereby in the manner and to the extent provided herein. The Trust Estate so pledged, assigned, transferred and set over in trust is and will be free and clear of any pledge, lien, charge or encumbrance thereon with respect thereto prior to, or of equal rank with, the pledge and assignment in trust created hereby, and all action on the part of the Issuer to that end has been duly and validly taken. The Bonds and the provisions hereof are and will be the valid and binding limited obligations of the Issuer in accordance with their terms and the terms hereof. The Trustee shall at all times, to the extent permitted by law, defend, preserve and protect the pledge and assignment in trust of the Trust Estate created hereby and all the rights of the Bondholders hereunder against all claims and demands of all persons whomsoever. The Bonds shall not be deemed to constitute a debt or liability of the State of California or any political subdivision thereof, other than the Issuer to the limited extent herein provided, or a pledge of the faith and credit or the taxing power of the State of California or of any such political subdivision, but shall be payable solely from funds provided therefor pursuant hereto.

Section 6.08. Preservation of MBS Revenues; Amendment of Agreements. The Issuer shall not take any action to interfere with or impair the pledge and assignment hereunder of the Trust Estate, or the Trustee's enforcement of any rights hereunder or under the Financing Agreement or the Regulatory Agreement without the prior written consent of the Trustee. The Trustee may give such written consent, and may itself take any such action or consent to an amendment or modification to the Financing Agreement, the Regulatory Agreement or the MBS, only with the written consent of Fannie Mae and the Construction Lender (but only prior to the Conversion Date), and following receipt by the Trustee of written confirmation from the Rating Agency that the taking of such action or the execution and delivery of such amendment or modification will not adversely affect the rating then assigned to the Bonds by the Rating Agency, and if the Trustee shall have received an opinion of Bond Counsel to the effect that such action or such amendment or modification will not affect adversely the validity of the Bonds or the exclusion from gross income for federal income tax purposes of interest on the Bonds. Notwithstanding the foregoing, Fannie Mae and the Borrower may amend the Mortgage Note and the Mortgage without the consent of the Issuer, the Trustee or the holders of the Bonds so long as any such amendment does not change the amount of principal due under, or the rate of interest payable on the unpaid

principal amount of, the MBS or otherwise reduce or modify the payments due under the MBS or adversely impact the tax-exempt status of the Bonds.

Section 6.09. Assignment. Any assignment of the Issuer's rights in favor of the Trustee shall not include Reserved Rights.

Section 6.10. Request and Indemnification. Where the consent of or other action on the part of the Issuer is required in this or any other document, the Issuer shall have no obligation to act unless first requested to do so, and the Issuer shall have no obligation to expend time or money or to otherwise incur any liability unless indemnity satisfactory to the Issuer has been furnished to it.

Section 6.11. Limitations on Liability. Notwithstanding anything in this Indenture or in the Bonds, the Issuer shall not be required to advance any money derived from any source other than the MBS Revenues and other assets pledged under this Indenture for any of the purposes of this Indenture.

No agreements or provisions contained in this Indenture, nor any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issuer in connection with the Project, or the issuance, sale and delivery of the Bonds shall give rise to any pecuniary liability of the Issuer or a charge against its general credit, or shall obligate the Issuer financially in any way except from the application of MBS Revenues or proceeds pledged to the payment of the Bonds and the proceeds of the Bonds. No failure of the Issuer to comply with any term, condition, covenant or agreement herein 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 financial and pecuniary charge except to the extent that the same can be paid or recovered from the Financing Agreement or the MBS Revenues or other assets pledged to the payment of the Bonds or the proceeds of the Bonds.

ARTICLE VII

DISCHARGE OF INDENTURE

Section 7.01. Defeasance. (a) If all Bonds shall be paid and discharged as provided in this Section, then all obligations of the Trustee and the Issuer under this Indenture with respect to all Bonds shall cease and terminate, except only (i) the obligation of the Trustee to pay or cause to be paid to the owners thereof all sums due with respect to the Bonds and to register, transfer and exchange Bonds pursuant to Sections 2.08 and 2.16, (ii) the obligation of the Issuer to pay the amounts owing to the Trustee under Section 9.02 from the Trust Estate, and (iii) the obligation of the Issuer to comply with Sections 6.03 and 9.12. Any funds held by the Trustee at the time of such termination which are not required for payment to Bondholders or for payment to be made by the Issuer including any other unpaid Trustee fees and expenses, shall be paid as provided in Section 5.15.

Any Bond or portion thereof in an Authorized Denomination shall be deemed no longer Outstanding under this Indenture if paid or discharged in any one or more of the following ways:

(i) by well and truly paying or causing to be paid the principal of, premium, if any, and interest on such Bond which have become due and payable; or

(ii) by depositing with the Trustee, in trust, cash which, together with the amounts then on deposit in the Revenue Fund and dedicated to this purpose, is fully sufficient to pay when due all principal of, and premium, if any, and interest on such Bond to the maturity or earlier redemption date thereof; or

(iii) by depositing with the Trustee, in trust, any investments listed under the definition of Eligible Investments in Section 1.01 in such amount as in the written opinion of a certified public accountant will, together with the interest to accrue on such Eligible Investments without the need for reinvestment, be fully sufficient to pay when due all principal of, and premium, if any, and interest on such Bond to the maturity or earlier redemption date thereof, notwithstanding that such Bond shall not have been surrendered for payment.

(b) Notwithstanding the foregoing, no deposit under clauses (ii) and (iii) of subsection (a) above shall be deemed a payment of such Bond until the earlier to occur of:

(i) if such Bond is by its terms subject to redemption within 45 days, proper notice of redemption of such Bond shall have been previously given in accordance with Section 3.02 to the holder thereof or, in the event such Bond is not by its terms subject to redemption within 45 days of making the deposit under clauses (ii) and (iii) of subsection (a) above, the Issuer shall have given the Trustee irrevocable written instructions to mail by first-class mail, postage prepaid, notice to the holder of such Bond as soon as practicable stating that the deposit required by clauses (ii) or (iii) of subsection (a) above, as applicable, has been made with the Trustee and that such Bond is deemed to have been paid and further stating such redemption date or dates upon which money will be available for the payment of the principal and accrued interest thereon; or

(ii) the maturity of such Bond.

(c) The Trustee shall be entitled to receive a report from a nationally recognized accounting firm selected by the Issuer to provide for the payment of all Bonds to be defeased pursuant to this Section.

(d) In addition to the circumstances described in paragraph (a) above, any Bond or portion thereof in an Authorized Denomination shall be deemed no longer Outstanding under this Indenture if and to the extent of an exchange of such Bond or portion thereof for the MBS or an interest therein as provided in Section 2.16 hereof.

Notwithstanding anything herein to the contrary, the purchase of Eligible Investments in accordance with Section 5.16 hereof, together with the Negative Arbitrage Deposit, shall not cause a discharge of the Indenture under this Section 7.01.

Section 7.02. Unclaimed Moneys. Anything herein to the contrary notwithstanding, and subject to applicable escheatment laws of the State of California, any moneys held by the Trustee in trust for the payment and discharge of any of the Bonds which remain unclaimed for two years after the date when such Bonds have become due and payable, either at maturity or by call for redemption, if such moneys are held by the Trustee at said date, or for two years after the date of deposit of such moneys if deposited with the Trustee after the date when such Bonds became due and payable, shall be paid by the Trustee to the Issuer as its absolute property and free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the holders of such Bonds shall look only to the Issuer for the payment thereof; *provided, however*, that before being required to make any such payment to the Issuer, the Trustee shall cause to be mailed to the holders of such Bonds, at their addresses shown on the Bond Register, notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall be not less than 30 nor more than 60 days after the date of mailing such notice, the balance of such moneys then unclaimed will be paid to the Issuer; and *provided, further*, that the provisions of this Section shall not apply to the extent disposition of any moneys so held by the Trustee shall be governed by any laws applicable to the Trustee or the Issuer dealing with the disposition of such unclaimed property.

Section 7.03. No Release of MBS. Except as provided in this Section and in Section 7.04, the Trustee shall not release and discharge the MBS from the lien of this Indenture until the principal of, premium, if any, and interest on the Bonds shall have been paid or duly provided for under this Indenture. The Trustee shall not release or assign the MBS to any person other than a successor Trustee so long as Fannie Mae shall not be in default thereunder (except to the limited extent expressly provided for in Section 2.16).

Section 7.04. Transfer of MBS. While the Bonds are Outstanding, the Trustee shall maintain the MBS in book-entry form in the name of the Trustee and may not sell, assign, transfer or otherwise dispose of the MBS (except to the limited extent expressly provided for in Section 2.16).

Section 7.05. Issuance of Additional Obligations. The Issuer shall not hereafter create or permit the creation of or issue any obligations or create any additional indebtedness secured by a charge and lien on the MBS Revenues or other moneys, securities, funds and property pledged by this Indenture, other than the Bonds authorized under Section 2.01.

ARTICLE VIII

DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS

Section 8.01. Events of Default. Each of the following shall constitute an Event of Default under this Indenture:

(a) On and after the MBS Delivery Date, failure by Fannie Mae to pay principal, interest or premium, if any, due under the MBS;

(b) Failure to pay the principal, interest or premium, if any, on the Bonds when the same shall become due; or

(c) Default in the observance or performance of any other covenant, agreement or condition on the part of the Issuer in this Indenture and the continuation of such default for a period of 90 days after written notice to the Issuer from the Trustee or the registered owners of at least 75% in aggregate principal amount of the Bonds Outstanding at such time specifying such default and requiring the same to be remedied.

Upon any failure by Fannie Mae to distribute to the Trustee any payment required to be made under the terms of the MBS, the Trustee shall notify Fannie Mae not later than the next Business Day (all such notices to be promptly confirmed in writing) requiring the failure to be remedied.

The Trustee will immediately notify in writing the Issuer, the Bondholders, the Permanent Lender, the Construction Lender (but only prior to the Conversion Date) and Fannie Mae after an Authorized Officer obtains knowledge or receives notice of the occurrence of an Event of Default or an event which would become an Event of Default with the passage of time or the giving of notice, or both.

Section 8.02. Acceleration; Rescission of Acceleration.

(a) Upon the occurrence of an Event of Default under Section 8.01(a), the Trustee may, and upon the written request of the holders of not less than seventy-five percent (75%) in aggregate principal amount of the Bonds then Outstanding, which written request shall acknowledge that the amounts due on the MBS cannot be accelerated solely by virtue of acceleration of the Bonds, and upon receipt of indemnity satisfactory to the Trustee, shall, by notice in writing delivered to the Issuer, declare the principal of all Bonds then Outstanding, premium, if any, and the interest accrued thereon immediately due and payable, and such principal, premium, if any, and interest shall thereupon become and be immediately due and payable. An Event of Default under Section 8.01(a) hereof shall not give rise to an acceleration pursuant to this Section 8.02(a), *provided, however*, that following such an Event of Default, the holder of one-hundred percent (100%) of the Bonds then Outstanding may direct the Trustee in writing to transfer the MBS to it or its designee, in which case, the Trustee shall transfer and deliver to such requesting owner the Trustee's beneficial ownership interest in the MBS promptly following (i) delivery to the Trustee (via DWAC withdrawal) of the Bonds being exchanged, and (ii) payment by the requesting owner of the Trustee's exchange fee (\$1,000 as of the date of this Indenture) with respect to such Bonds. Such MBS will be in book-entry form. Transfers of the MBS will be made in accordance with current market practices, including the applicable provisions of the SIFMA's Uniform Practices for the Clearance and Settlement of Mortgage-Backed Securities and Other Related Securities. Upon receipt of such Bonds from the requesting Beneficial Owner, the Trustee will promptly cancel the Bonds being exchanged, which will not be reissued. MBSs delivered in such an exchange will not be exchangeable for Bonds. Once the Bonds are fully discharged or exchanged for the MBS, the Trustee will not have any remaining duties with respect thereto.

(b) The MBS delivered in such an exchange will also be subject to any applicable disclosure requirements concerning MBSs that have been issued in connection with the

multifamily mortgage lending program of a governmental housing finance agency and financed by tax-exempt obligations.

(c) Interest on such MBS is not excludable from gross income for federal income tax purposes. Owners of Series J Bonds should consult their own tax advisors concerning that and other tax consequences of any exchange of a Bond for the MBS.

(d) The acceleration of the Bonds will not constitute a default under, or by itself cause the acceleration of, the MBS.

(e) 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 Investor Limited Partner or Fannie Mae, 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) on 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 expenses of the Trustee shall have been made good or cured or adequate provisions shall have been made therefor, and all other defaults hereunder have been made good or cured or waived in writing by the holders of a majority in principal amount of the Bonds then Outstanding, then and in every case, the Trustee on behalf of the holders of all the Bonds shall rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent Event of Default, nor shall it impair or exhaust any right or power consequent thereon. Notwithstanding anything herein to the contrary, so long as Borrower shall have made all payments then required on the Bond Loan Notes and the Mortgage Loan Note or otherwise required pursuant to the Construction Loan Documents and the Permanent Loan Documents, Borrower shall have no obligation to pay any amounts with respect to the Bonds or the MBS.

Section 8.03. Other Remedies; Rights of Bondholders. Subject to Section 8.13, upon the happening and 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, 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 of California or under this Indenture by such of the following remedies as the Trustee shall deem most effectual to protect and enforce such rights:

(a) By pursuing any available remedies under the Financing Agreement, the Regulatory Agreement or the MBS;

(b) Upon an Event of Default under Section 8.01(a) only, by realizing or causing to be realized through sale or otherwise upon the security pledged hereunder (including the sale or disposition of the MBS); and

(c) By action or suit in equity, to enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders and to 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.

If an Event of Default shall have occurred, and if requested by the holders of not less than 75% in aggregate principal amount of the Bonds then Outstanding, and upon being indemnified to its satisfaction, the Trustee shall be obligated to exercise one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem to be in the best interests of the Bondholders subject to the limitations set forth above and in this Indenture.

No right or 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 right or remedy, but each and every such right and remedy shall be cumulative and shall be in addition to any other right or remedy given to the Trustee or to the Bondholders hereunder or under the Financing Agreement, the Regulatory Agreement or the MBS or now or hereafter existing at law or in equity.

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

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

Section 8.04. Representation of Bondholders by Trustee. The Trustee is hereby irrevocably appointed (and the Bondholders, by accepting and holding their Bonds, shall be conclusively deemed to have so appointed the Trustee and to have mutually covenanted and agreed, each with the other, not to revoke such appointment) the true and lawful attorney in fact of the Bondholders with power and authority, in addition to any other powers and rights heretofore granted the Trustee, at any time in the Trustee's discretion to make and file, in any proceeding in bankruptcy or judicial proceedings for reorganization or liquidation of the affairs of the Issuer, either in the respective names of the Bondholders or on behalf of all the Bondholders as a class, any proof of debt, amendment of proof of debt, petition or other document, to receive payment of any sums becoming distributable to the Bondholders, and to 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.

In the enforcement of any rights and remedies hereunder, the Trustee in its own name and as trustee of an express trust on behalf of and for the benefit of the holders of all Bonds, shall be entitled to sue for, enforce payment on and receive any and all amounts then or during any Event of Default becoming, and at any time remaining, due from the Issuer for principal, premium, if any, interest or other moneys, under any provision hereof or of the Bonds, and unpaid, with interest on overdue payments at the rate or rates of interest specified in such Bonds, together with any and all costs and expenses of collection and of all proceedings hereunder and under such Bonds, without prejudice to any other right or remedy of the Trustee or of the Bondholders.

Section 8.05. Action by Trustee. All rights of action hereunder or upon any of the Bonds enforceable by the Trustee may be enforced by the Trustee without the possession of any of the Bonds, or the production thereof at the trial or other proceedings relative thereto, and any such suit, action or proceeding instituted by the Trustee may be brought in its name for the ratable benefit of the holders of such Bonds subject to the provisions hereof.

In any action, suit or other proceeding by the Trustee, the Trustee shall be paid fees, counsel fees and expenses in accordance with Section 9.02.

Section 8.06. Accounting and Examination of Records After Default. The Issuer covenants with the Trustee and the Bondholders that, if an Event of Default shall have happened and shall not have been remedied, the books of record and account of the Issuer relating to the Bonds and the Project shall at all times during normal business hours be subject to the inspection and use of the Trustee and of its agents and attorneys.

Section 8.07. Restriction on Bondholder Action. 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 any provision hereof or for the execution of any trust hereunder or for any other remedy hereunder, unless (a)(i) such holder previously shall have given to the Issuer and the Trustee written notice of the Event of Default on account of which such suit, action or proceeding is to be instituted, and (ii) after the occurrence of such Event of Default, a written request shall have been made of the Trustee to institute such suit, action or proceeding by the holders of not less than 25% in aggregate principal amount of the Bonds then Outstanding and there shall have been offered to the Trustee security and indemnity satisfactory to it against the costs and liabilities to be incurred therein or thereby, and (iii) the Trustee shall have been enjoined or restrained from complying or shall have refused or neglected or otherwise failed to comply with such request within a reasonable time; or (b)(i) such holder previously shall have obtained the written consent of the Trustee to the institution of such suit, action or proceeding, and (ii) such suit, action or proceeding is brought for the ratable benefit of the Bondholders subject to the provisions hereof.

Nothing in this Article contained shall affect or impair the right of any Bondholder to enforce the payment of the principal of, premium, if any, and interest on his or her Bonds or the obligation of the Issuer to pay the principal of, premium, if any, and interest on each Bond to the holder thereof, at the time and place and from the source expressed in such Bonds and pursuant to the terms of the Bonds and this Indenture.

No holder of any Bond shall have any right in any manner whatever by his or her action to affect, disturb or prejudice the pledge of MBS Revenues or of any other moneys, funds or securities hereunder, or, except in the manner and on the conditions in this Section provided, to enforce any right or duty hereunder.

Section 8.08. Application of Moneys After Default. All moneys 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 Revenue Fund. Such moneys so credited to the Revenue Fund and all other moneys from time to time credited to the Revenue Fund shall at all times be held, transferred, withdrawn and applied as prescribed by the provisions of Article V and this Section.

Subject in all instances to the provisions of Section 8.11 and 9.02, in the event that at any time the moneys credited to the Revenue Fund, or any other funds held by the Issuer or the Trustee available for the payment of interest or principal then due with respect to the Bonds, shall be insufficient for such payment, such moneys and funds (other than funds held for the payment or redemption of particular Bonds as provided in Section 5.17) shall be applied as follows:

(a) For payment of all amounts due to the Trustee incurred in performance of its duties under this Indenture and the other documents executed in connection therewith, including, without limitation, the payment of all reasonable fees and expenses of the Trustee incurred in exercising any remedies under this Indenture and the other documents executed in connection herewith;

(b) Unless the principal of all of the 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, 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; and

(c) 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, 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 and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds.

Section 8.09. Control of Proceedings. In the case of an Event of Default pursuant to Section 8.01(a), the holders of a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, subject to the provisions of Section 8.07, by an instrument in writing executed and delivered to the Trustee, to direct 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; *provided, however,* that the Trustee shall have the right to decline to follow any such direction if the Trustee shall be advised by counsel that the action or proceeding so directed may not be taken lawfully, or if the Trustee in good faith shall determine that the action or

proceeding so directed would involve the Trustee in personal liability or otherwise adversely affect the Trustee or be unjustly prejudicial to Bondholders not parties to such direction.

Section 8.10. Waivers of Events of Default. 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 a majority in aggregate principal amount of all Bonds then Outstanding with respect to which there is an Event of Default; *provided, however*, that there shall not be waived (a) any default in the payment of the principal amount of any Bonds at the date of maturity specified therein or upon proceedings for mandatory redemption, or (b) any default in the payment when due of the interest or premium, if any, on any such 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 Event of 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 monetary default, shall have been paid or provided for, and in case of any such waiver or rescission, the Issuer, the Borrower, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder respectively.

No such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereto; and no delay or omission of the Trustee or of any Bondholders to exercise any right or power accruing upon any Event of Default shall impair any right or power or shall be construed to be a waiver of any such Event of Default, or acquiescence therein.

Section 8.11. Subordination. No claim for interest on any of the Bonds which claim in any way at or after maturity shall have been transferred or pledged by the holder thereof separate and apart from the Bond to which it relates, unless accompanied by such Bond, shall be entitled in case of an Event of Default hereunder to any benefit by or from this Indenture except after the prior payment in full of the principal of and premium, if any, on all of the Bonds then due and of all claims for interest then due not so transferred or pledged.

Section 8.12. Termination of Proceedings. In case any proceeding taken by the Trustee on account of any Event of Default shall have been discontinued or abandoned for any reason or determined adversely to the Trustee, then in every such case the Issuer, the Borrower, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no such proceeding had been taken.

Section 8.13. No Interference or Impairment of MBS. Notwithstanding any other provision of this Indenture to the contrary, following the MBS Delivery Date, so long as the MBS remains outstanding and Fannie Mae is not in default in its payment obligations thereunder, neither the Issuer, the Trustee nor any person under their control shall, without the prior written consent of Fannie Mae, exercise any remedies or direct any proceedings under this Indenture other than to (a) enforce rights under the MBS, (b) enforce the tax covenants in this Indenture and the Financing Agreement, or (c) enforce rights of specific performance under the Regulatory Agreement; *provided, however*, that any enforcement under subsections (b) or (c) above shall not include

seeking monetary damages other than actions for the Issuer Fees and Expenses or the Trustee Fees and Expenses.

Nothing contained in this Indenture shall 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 Trustee 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.

ARTICLE IX

THE TRUSTEE AND THE REMARKETING AGENT

Section 9.01. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions and no implied covenants or conditions shall be read into this Indenture against the Trustee:

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived) the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a reasonable person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall not be answerable for the conduct of the same if appointed with reasonable care, and shall be entitled to advice of counsel concerning all matters of the trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorneys (who may be the attorney or attorneys for the Issuer, the Borrower or Fannie Mae) approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action or non-action taken in good faith in reliance upon such opinion or advice.

(c) The Trustee shall not be responsible for any recital herein, or in the Bonds (except in respect to the certificate of authentication of the Trustee endorsed on the Bonds), or for insuring the Project or collecting any insurance moneys, or for the registration, filing or recording or re-registration, re-filing or re-recording of this Indenture or the Mortgage or any financing statements relating hereto or thereto or for the validity of the execution by the Issuer of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value or title of the Project or otherwise as to the maintenance of the security hereof. The Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the Issuer or on the part of the Borrower under the Financing Agreement,

except as hereinafter set forth; but the Trustee may require of the Issuer or the Borrower full information and advice as to their performance of the covenants, conditions and agreements aforesaid. The Trustee acknowledges it has assumed certain duties of the Issuer under the Financing Agreement and the Regulatory Agreement.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder. The Trustee may become the owner of Bonds secured hereby with the same rights which it would have if it were not Trustee hereunder. To the extent permitted by law, the Trustee may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Indenture, whether or not any such committee shall represent the holders of a majority in aggregate principal amount of the Bonds Outstanding.

(e) The Trustee shall be held harmless in acting under any notice, request, consent, certificate, order, affidavit, letter, facsimile transmission, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the purported proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request, authority or consent of any person who at the time of making such request or giving such authority or consent is the owner of any Bond, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely (unless other evidence in respect thereof is herein specifically prescribed) upon an Officer's Certificate as sufficient evidence of the facts therein contained and prior to the occurrence of an Event of Default of which the Trustee has been notified as provided in subsection (h) of this Section, or of which by said subsection it is deemed to have notice, shall also be at liberty to accept an Officer's Certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a certificate signed by an Attesting Officer of the Issuer as conclusive evidence that a resolution of the governing body of the Issuer has been duly adopted and is in full force and effect.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and it shall not be answerable for other than its own negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default or Event of Default hereunder except a default in payment when due of the principal of, premium, if any, or interest on any Bond or the failure of the Issuer or the Borrower to file with the Trustee any documents required by this Indenture, the Financing Agreement or the Regulatory Agreement to be so filed subsequent to the issuance of the Bonds unless the Trustee shall be specifically notified in writing of such default or Event of Default by the Issuer or by the holders of at least 75% in aggregate principal amount of Bonds then Outstanding and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective,

be delivered at the designated office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no default or Event of Default except as aforesaid.

(i) At any and all reasonable times the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right fully to inspect any and all of the property herein conveyed, including the Project and all books, papers and records of the Issuer pertaining to the Project and the Bonds, and to take such memoranda from and in regard thereto as may be desired, *provided* that such inspection be made and any such memoranda be taken and used on a basis that will insure the confidentiality thereof and of any results thereof.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the trusts and powers or otherwise in respect of the premises granted in this Indenture.

(k) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property or any action whatsoever within the purview of this Indenture (other than enforcement of the Regulatory Agreement), any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee, deemed desirable for the purpose of establishing the right of the Issuer to the authentication of any Bonds, the withdrawal of any cash, the release of any property or the taking of any other action by the Trustee, but the resolutions, opinions, certificates and other instruments provided for in this Indenture may be accepted by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warranty, protection and authority to the Trustee for the release of property and the withdrawal of cash hereunder.

(l) Before taking any action under Article VIII of this Indenture, the Trustee may require that a satisfactory indemnity bond or other indemnity satisfactory to the Trustee be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful default in conjunction with any action so taken.

(m) All moneys received by the Trustee, until used, applied or invested as herein provided, shall be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law.

(n) The immunities extended to the Trustee also extend to its directors, officers, employees and agents.

(o) The Trustee's rights to immunities and protection from liability hereunder and its rights to payment of its fees and expenses shall survive its resignation or removal and the final payment or the defeasance of the Bonds (or the discharge of the Bonds or the defeasance of the lien of this Indenture).

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

(q) The Trustee shall have no responsibility, opinion 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.

(r) The Trustee shall at all times, to the extent permitted by law, defend, preserve and protect the pledge and assignment in trust of the Trust Estate created hereby and all the rights of the Bondholders hereunder against all claims and demands of all persons whomsoever.

Section 9.02. Fees, Charges and Expenses of Trustee. Notwithstanding any provision to the contrary herein the Trustee shall be entitled to payment for reasonable fees for its services rendered hereunder and under the Financing Agreement and reimbursement for all advances, counsel fees and other expenses reasonably made or incurred by the Trustee (including any co-Trustee) in connection with such services which shall be paid from time to time as provided in the Financing Agreement; *provided* that no such amounts shall be paid to the Trustee from the proceeds of the MBS. Upon an Event of Default under Section 8.01(a) as a result of a failure by Fannie Mae to make payment under the MBS, but only upon such an Event of Default, the Trustee shall have a lien upon the Trust Estate for extraordinary fees, charges and expenses incurred by it. The Issuer shall require the Borrower to indemnify and save harmless the Trustee against any liabilities which the Trustee may incur in the exercise and performance of its powers and duties hereunder, under the Financing Agreement and under the Regulatory Agreement which are not due to its own negligence or willful misconduct, and to reimburse the Trustee for any fees and expenses of the Trustee to the extent they exceed funds available under this Indenture for the payment thereof, subject only to the right of the Borrower to contest the reasonableness of any such fees or the necessity for any such expenses. The Trustee shall continue to perform its duties and obligations hereunder until such time as its resignation or removal is effective pursuant to Section 9.05 or Section 9.06, respectively.

Section 9.03. Intervention by Trustee. In any judicial proceeding to which the Issuer is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of owners of the Bonds, the Trustee may intervene on behalf of the Bondholders and shall do so if requested in writing by the owners of at least 75% in aggregate principal amount of Bonds then Outstanding, subject to receipt of indemnity as provided in Section 9.01(l). The rights and obligations of the Trustee under this Section are subject to receipt of any approval of a court of competent jurisdiction which may be required by law as a condition to such intervention.

Section 9.04. Merger or Consolidation of Trustee. Any corporation or association 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 trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto shall be and become successor Trustee hereunder and vested with all of the title to the 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 instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 9.05. Resignation by Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 30 days' written notice to the Issuer, the

Construction Lender (but only prior to the Conversion Date) and Fannie Mae, and such resignation shall only take effect upon the appointment, pursuant to Section 9.07, of, and acceptance by, a successor Trustee. The successor Trustee shall give notice of such succession by first class mail, postage prepaid, to each Bondholder at the address of such Bondholder shown on the Bond Register.

Section 9.06. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee, Fannie Mae and the Construction Lender (but only prior to the Conversion Date), and signed by the Issuer (or if an Event of Default shall have occurred and be continuing, by the owners of a majority in aggregate principal amount of the Bonds then Outstanding, in which event such instrument or instruments in writing shall also be delivered to the Issuer) *provided* that such removal shall not take effect until the appointment of a successor Trustee by the Issuer (or by the Bondholders).

Section 9.07. Appointment of Successor Trustee. In case at any time the Trustee or any successor thereto shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of such Trustee or of its property shall be appointed, or if any public officer shall take charge or control of such Trustee or of its property or affairs, a successor may be appointed by the Issuer with the approval of Fannie Mae (if it is not in default in its obligations under the MBS), or if Fannie Mae does not approve a successor the Issuer proposes to appoint, or if the Issuer is in default hereunder, by the holders of a majority in aggregate principal amount of the Bonds then Outstanding, excluding any Bonds held by or for the account of the Issuer, by an instrument or concurrent instruments in writing signed by such Bondholders, or their attorneys duly authorized in writing, and delivered to such successor Trustee, notification thereof being given to the Issuer, Fannie Mae, the Borrower, the Investor Limited Partner and the predecessor Trustee. If in a proper case no appointment of a successor Trustee shall have been made pursuant to the foregoing provisions of this Section within 45 days after the Trustee shall have given to the Issuer written notice as provided in Section 9.05 or after the occurrence of any other event requiring or authorizing such appointment, the Trustee or any Bondholder may apply to any court of competent jurisdiction to appoint a successor. The court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Any Trustee appointed under the provisions of this Section shall be a bank, trust company or national banking association, having a designated office within the State of California, having trust powers, with prior experience as trustee under indentures under which multifamily housing revenue bonds of public agencies or authorities are issued, and having a capital and surplus acceptable to the Issuer, the Permanent Lender, the Construction Lender (but only prior to the Conversion Date) and Fannie Mae, willing and able to accept the office on reasonable and customary terms in light of the circumstances under which the appointment is tendered and authorized by law to perform all the duties imposed upon it hereby, if there be such an institution meeting such qualifications willing to accept such appointment.

Section 9.08. Transfer of Rights and Property to Successor Trustee. Any successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor Trustee, and also to the Issuer and Fannie Mae, and any Bondholder which shall request the same, an instrument accepting such appointment, and thereupon such successor Trustee, without any further

act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if named herein as such Trustee, but the Trustee ceasing to act shall nevertheless, on the written request of the Issuer, Fannie Mae or the successor Trustee, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as reasonably may be required for more fully and certainly vesting and confirming in such successor Trustee all the right, title and interest of the predecessor Trustee in and to any properties held by it under this Indenture, and shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the Issuer be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such moneys, estates, properties, rights, powers and duties, any and all such deeds, conveyances and instruments in writing, on request, and so far as may be authorized by law, shall be executed, acknowledged and delivered by the Issuer.

Section 9.09. Successor Trustee as Bond Registrar, Custodian of Funds and Paying Agent. In the event of a change in the Trustee, the Trustee which has resigned or been removed shall cease to be Bond Registrar, custodian of the Funds and Accounts created under this Indenture and paying agent for the Bonds, and the successor Trustee shall become such Bond Registrar, custodian and paying agent.

Section 9.10. Force Majeure. The Trustee shall not be responsible for delays or failures in performance resulting from acts beyond its control, including without limitation acts of God, strikes, lockouts, riots, acts of war or terror, epidemics, governmental regulations, fire, communication line failures, computer viruses or failures, power failures, earthquakes or other disasters.

Section 9.11. Collection of MBS Payments. Following the MBS Delivery Date, the Trustee shall cause the MBS to be registered in the name of the Trustee or in the name of the nominee of the Trustee with such additional recitals as appropriate to indicate that the MBS is to be held by the Trustee in its capacity as Trustee hereunder subject to the provisions of Sections 7.03 and 7.04. In the event that any amount payable to the Trustee under the MBS is not received by the Trustee within one Business Day of the date such payment is due, the Trustee shall notify Fannie Mae or (if directed by Fannie Mae) the paying agent for the MBS by telephone (such notification to be immediately confirmed by telegram, telecopy or other means of instantaneous written communication) that such payment has not been received in a timely manner and request that such payment be made by wire transfer of immediately available funds to the account of the Trustee or such custodian, as the case may be.

Section 9.12. Requests from Rating Agency. The Trustee shall promptly respond in writing, or in such other manner as may be reasonably requested, to requests from the Rating Agency for information deemed necessary by the Rating Agency in order to maintain the rating assigned thereby to the Bonds. The Trustee shall promptly furnish any such requested information in its possession to the Rating Agency and shall, as may be reasonably requested by the Rating Agency, assist in efforts to obtain any necessary information from the Issuer or the Borrower or Fannie Mae as applicable.

Section 9.13. Arbitrage Covenants.

(a) Moneys and securities held by the Trustee in the Rebate Fund are not pledged or otherwise subject to any security interest in favor of the Trustee to secure the Bonds or any other payments required to be made hereunder or any other document executed and delivered in connection with the issuance of the Bonds.

(b) Moneys in the Rebate Fund shall be held separate and apart from all other Funds and Accounts established under this Indenture and shall be separately invested and reinvested by the Trustee in Eligible Investments. The interest accruing thereon and any profit realized therefrom shall be credited to the Rebate Fund, and any loss resulting therefrom shall be charged to the Rebate Fund. The Trustee shall sell and reduce to cash a sufficient amount of such Eligible Investments whenever the cash balance in the Rebate Fund is insufficient for its purposes.

(c) The Trustee agrees that it will invest funds held under this Indenture in accordance with the covenants and terms of this Indenture and the Tax Certificate (this covenant shall extend through the maturity date of the Bonds, to all Funds and Accounts created under this Indenture and all money on deposit to the credit of any such Fund or Account). The Trustee covenants that, notwithstanding any other provisions of this Indenture or of any other Financing Document, it will not knowingly make or cause to be made any investment or other use of the money 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. This covenant shall extend, so long as any Bonds remain Outstanding, to all Funds and Accounts created under this Indenture and all money on deposit to the credit of any such Fund or Account. Pursuant to this covenant, with respect to the investments of the Funds and Accounts under this Indenture, the Trustee obligates itself to comply, so long as any Bonds remain Outstanding, 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, Bond Counsel 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 Issuer, the Borrower or Bond Counsel regarding such investment (which shall, in any event, be an Eligible Investment) or use so as to prevent the Bonds from becoming “arbitrage bonds,” and the Trustee will bear no liability to the Issuer or the Borrower for investments made in accordance with such instructions.

(d) The Issuer hereby covenants to cause the Borrower to provide, at the Borrower’s expense, for the calculation by the Rebate Analyst, any rebate to the federal government, in accordance with the Code, of excess investment earnings to the extent required by Section 148(f) of the Code.

(e) The determination of the Rebate Amount shall be made by the Rebate Analyst in accordance with the Tax Certificate and the Rebate Amount shall be paid at such times and in such

installments as provided therein. As further provided in the Tax Certificate, the Borrower shall be responsible for calculating or causing to be calculated and paying the Rebate Amount.

(f) In order to provide for the administration of this Section, the Trustee may provide for the employment of independent attorneys, accountants and consultants compensated on a reasonable basis and in addition and without limitation of the provisions of Section 9.01, the Trustee may rely conclusively upon and be fully protected from all liability in relying upon the opinions, determinations, calculations and advice of such attorneys, accountants and consultants employed hereunder.

(g) The Borrower shall be responsible for any fees and expenses incurred by the Issuer or the Trustee under or pursuant to this Section.

(h) Withdrawals from the Rebate Fund may be made to the extent the Rebate Analyst determines that amounts on deposit therein exceed amounts required to be on deposit therein pursuant to this Section. All amounts so withdrawn shall be transferred to the Revenue Fund.

(i) The provisions of this Section may be amended or deleted from this Indenture upon receipt by the Issuer and the Trustee of an Opinion of Bond Counsel that such amendment or deletion will not adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes. Any moneys on deposit in the Rebate Fund may be applied by the Trustee as permitted in such Opinion. Fees and expenses incurred in connection with the determination of rebatable arbitrage shall be paid by the Borrower pursuant to the provisions of the Financing Agreement.

(j) The Trustee shall not be responsible for any determination or calculation concerning arbitrage rebate with respect to the Bonds, or for determining whether the yield on any investments made in accordance with this Indenture would cause, or whether any other facts exist which would cause, any of the Bonds to become arbitrage bonds under Section 148 of the Code. Neither the Issuer nor the Trustee shall be obligated to pay any portion of the Rebate Amount (except from funds on deposit in the Rebate Fund). In addition, neither the Issuer nor the Trustee shall have any responsibility with respect to the calculation of the Rebate Amount, provided that the rebate calculations are subject to the Issuer's approval.

(k) In the event of a conflict between the provisions of this Section 9.12 and the Tax Certificate, the provisions of the Tax Certificate shall control.

Section 9.14. Compliance of Borrower Under Regulatory Agreement. The Trustee shall give written notice to the Issuer, the Permanent Lender, the Construction Lender (but only prior to the Conversion Date), the Investor Limited Partner and Fannie Mae of any failure by the Borrower to comply with the terms of the Regulatory Agreement.

Section 9.15. Concerning the Remarketing Agent. The Remarketing Agent identified in Section 1.01 hereof shall serve as the Remarketing Agent for the Bonds. The Remarketing Agent shall designate to the Trustee its designated corporate trust office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered

to the Issuer, the Borrower and the Trustee. In addition, the Remarketing Agent will agree particularly to:

- (a) keep such records relating to its computations of interest rates for the Series K Bonds as shall be consistent with prudent industry practice and to make such records available for inspection by the Issuer, the Trustee, the Borrower and the Investor Limited Partner at all reasonable times; and
- (b) perform all of its functions and duties under this Indenture.

The Remarketing Agent shall be entitled to advice of legal counsel on any matter relating to the Remarketing Agent's obligations hereunder and shall be entitled to act upon the opinion of such counsel in the exercise of reasonable care in fulfilling such obligations.

The Remarketing Agent shall be entitled to appoint additional co-Remarketing Agents to assist in the performance of the Remarketing Agent's obligations under this Indenture, and any such appointment shall be effective without any action by the Issuer or the Borrower being necessary; *provided* that any such co-Remarketing Agent, shall have a capitalization of at least \$5,000,000, or shall have a line of credit with a commercial bank in the amount of at least \$5,000,000, shall be in conformity with all standards and requirements of the Municipal Securities Rulemaking Board and the Securities and Exchange Commission, and shall be authorized by law to perform all the duties imposed upon it by this Indenture. The Remarketing Agent shall take responsibility for any co-Remarketing Agent it appoints.

Section 9.16. Qualification of Remarketing Agent. The Remarketing Agent shall be a member in good standing of the Financial Industry Regulatory Authority having a capitalization of at least \$5,000,000, or shall have a line of credit with a commercial bank in the amount of at least \$5,000,000, and shall be authorized by law to perform all the duties imposed upon it by this Indenture. Subject to the terms of the Remarketing Agreement, the Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 30 days' notice of such resignation to the Issuer, the Borrower, the Investor Limited Partner and the Trustee. The Remarketing Agent may be removed, with prior notice to the Issuer, at any time by the Borrower, with at least 30 days' notice of such removal to the Remarketing Agent.

Upon any resignation or removal of the Remarketing Agent, the departing Remarketing Agent shall pay over, assign and deliver any money and Bonds held by it in such capacity to its successor.

The Trustee, within 30 days of the resignation or removal of the Remarketing Agent or the appointment of a successor Remarketing Agent, shall give notice thereof by registered or certified mail to the Rating Agency (if the Series K Bonds are then rated) and to the holders of the Series K Bonds.

Section 9.17. City Contracting Provisions. The Trustee [and the Remarketing Agent] covenant and agree to comply with the provisions set forth in Exhibit D to this Indenture.

ARTICLE X

SUPPLEMENTAL INDENTURES

Section 10.01. Supplemental Indentures Effective Upon Acceptance. For any one or more of the following purposes and at any time or from time to time, the Issuer and the Trustee may enter into a Supplemental Indenture which, upon the execution and delivery thereof by the Issuer and by the Trustee, and with the prior written consent of Fannie Mae, the Permanent Lender and the Construction Lender (but only prior to the Conversion Date), but without the necessity of consent of the Bondholders, shall be fully effective in accordance with its terms:

(a) To add to the covenants or agreements of the Issuer herein contained other covenants or agreements to be observed by the Issuer or to otherwise revise or amend this Indenture in a manner which are/is not materially adverse to the interests of the Bondholders;

(b) To add to the limitations or restrictions herein contained other limitations or restrictions to be observed by the Issuer which are not contrary to or inconsistent with the provisions hereof as theretofore in effect;

(c) To surrender any right, power or privilege reserved to or conferred upon the Issuer herein, *provided* that the surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the Issuer contained herein and is not materially adverse to the interests of the Bondholders;

(d) To confirm, as further assurance, any pledge of the Trust Estate hereunder and the subjection to any lien on or pledge of the Trust Estate created or to be created hereby;

(e) To appoint a co-trustee or successor Trustee or successor co-trustee;

(f) To cure any ambiguity, supply any omission or cure or correct any defect or inconsistent provision herein;

(g) To insert such provisions clarifying matters or questions arising hereunder as are necessary or desirable and are not materially adverse to the interests of the Bondholders; and

(h) To make such changes and modifications that are necessary or desirable to provide for all interest, principal and premium, if any, paid with respect to the Bonds are in the exact respective amounts of the payments of interest, principal and premium, if any, paid under and pursuant to the MBS.

Section 10.02. Supplemental Indentures Requiring Consent of Bondholders. In addition to those amendments to this Indenture which are authorized by Section 10.01, any modification or amendment of this Indenture may be made by a Supplemental Indenture with the written consent, given as hereinafter provided in Section 10.03, of Fannie Mae and the holders of at least two thirds in aggregate principal amount of the Bonds Outstanding at the time such consent is given; *provided, however*, that no such modification or amendment shall (a) permit a change in the terms of redemption or maturity of the principal amount of any Outstanding Bond or an extension of the date for payment of any installment of interest thereon or a reduction in the principal amount of,

premium, if any, or the rate of interest on any Outstanding Bond without the consent of the holder of such Bond, (b) reduce the proportion of Bonds the consent of the holders of which is required to effect any such modification or amendment or to effectuate an acceleration of the Bonds prior to maturity, (c) permit the creation of a lien on the Trust Estate pledged under this Indenture prior to or on a parity with the lien of this Indenture, (d) deprive the holders of the Bonds of the lien created by this Indenture upon the Trust Estate (except as expressly provided in this Indenture), without (with respect to (b) through (d)) the consent of the holders of all Bonds then Outstanding, or (e) change or modify any of the rights or obligations of the Trustee without the written consent thereto of the Trustee.

Section 10.03. Consent of Bondholders. The Issuer and the Trustee may, at any time, execute and deliver a Supplemental Indenture making a modification or amendment permitted by the provisions of Section 10.02, to take effect when and as provided in this Section. A copy of such Supplemental Indenture (or brief summary thereof or reference thereto in a form approved by the Trustee), together with a request to Bondholders for their consent thereto in form satisfactory to the Trustee, shall be mailed by the Trustee to the Bondholders. Such Supplemental Indenture shall not be effective unless there shall have been filed with the Trustee (a) the written consents of Fannie Mae and the holders of the proportion of Outstanding Bonds specified in Section 10.02, and (b) an Opinion of Bond Counsel stating that such Supplemental Indenture has been duly and lawfully entered into by the Issuer in accordance with the provisions of this Indenture, is authorized or permitted by the provisions of this Indenture, and, when effective, will be valid and binding upon the Issuer. Each such consent of the Bondholders shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 11.01. A certificate or certificates by the Trustee that it has examined such proof and that such proof is sufficient under the provisions of Section 11.01 shall be conclusive that the consents have been given by the Bondholders described in such certificate or certificates. Any such consent shall be binding upon the Bondholder giving such consent and upon any subsequent holder of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent holder thereof has notice thereof). At any time after the holders of the required proportion of Bonds shall have filed their consents to such Supplemental Indenture, the Trustee shall make and file with the Issuer a written statement that the holders of such required proportion of Bonds have filed and given such consents. Such written statement shall be conclusive that such consents have been so filed and have been given. Within 90 days after filing such statement, the Trustee shall mail to the Bondholders a notice stating in substance that such Supplemental Indenture (which may be referred to as a Supplemental Indenture executed by the Issuer on a stated date, a copy of which is on file with the Trustee) has been consented to by the holders of the required proportion of Bonds and will be effective as provided in this Section, but failure to mail such notice shall not prevent such Supplemental Indenture from becoming effective and binding as in this Section 10.03 provided. The Trustee shall file with the Issuer proof of the mailing of such notice to the Bondholders. A record, consisting of the papers required or permitted by this Section to be filed with the Trustee, shall be proof of the matters therein stated. Such Supplemental Indenture making such modification or amendment shall be deemed conclusively binding upon the Issuer, the Trustee and the holders of all Bonds upon the execution thereof and the filing by the Trustee with the Issuer of the statement that the required proportion of Bondholders have consented thereto.

The Issuer may conclusively rely upon the Trustee's determination that the requirements of this Section have been satisfied.

Section 10.04. Modification by Unanimous Consent. Notwithstanding anything contained in the foregoing provisions of this Article, the terms and provisions hereof and the rights and obligations of the Issuer and the Bondholders hereunder, in any particular, may be modified or amended in any respect upon execution and delivery of a Supplemental Indenture by the Issuer and the Trustee making such modification or amendment and the consent to such Supplemental Indenture of Fannie Mae, the Permanent Lender, the Construction Lender (but only prior to the Conversion Date) and the holders of all of the Bonds then Outstanding, such consent to be given and proved as provided in Section 10.03 except that no notice to Bondholders shall be required; *provided, however*, that no such modification or amendment shall change or modify any of the rights or obligations of the Trustee without the written assent thereto of the Trustee, in addition to the consent of the Bondholders.

Section 10.05. Exclusion of Bonds. Bonds owned or held by or for the account of the Issuer or the Borrower shall be excluded and shall not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in this Article, unless all of the Bonds are owned or held by or for the account of the Issuer or the Borrower. In the event that not all of the Bonds are owned or held by or for the account of the Issuer or the Borrower, then neither the Issuer nor the Borrower, as the case may be, shall be entitled with respect to such Bonds to give any consent or take any other action provided for in this Article. At the time of any consent or other action under this Article, in the event that any Bonds (but not all of the Bonds) are then owned by or for the account of the Issuer, the Issuer shall furnish to the Trustee an Officer's Certificate, upon which the Trustee may rely, describing all Bonds so to be excluded. The Trustee shall be obligated to exclude as aforesaid only such Bonds as are shown by the Bond Register or are otherwise known by the Trustee to be so owned or held.

Section 10.06. Notation on Bonds. Bonds delivered after the effective date of any action taken as provided in this Article may, and if the Trustee so determines shall, bear a notation by endorsement or otherwise in form approved by the Issuer and the Trustee as to such action, and in that case upon demand of the holder of any Bond Outstanding at such effective date and presentation of such Bond for such purpose at the principal office of the Trustee, suitable notation shall be made on such Bond by the Trustee as to any such action. If the Issuer or the Trustee shall so determine, new Bonds notated as in the opinion of the Trustee and the Issuer may be required to conform to such action shall be prepared and delivered, and upon demand of the holder of any Bond then Outstanding, shall be exchanged, without cost to such Bondholder, for Bonds of the same series, designation, maturity and interest rate then Outstanding upon surrender of such Bonds.

Section 10.07. Additional Contracts or Indentures. The Issuer, so far as it may be authorized by law, may enter, and if requested by the Trustee, shall enter into additional contracts or indentures with the Trustee giving effect to any modification or amendment of this Indenture as provided in this Article.

Section 10.08. Opinion of Bond Counsel Concerning Supplemental Indentures. The Trustee shall not execute or consent to any Supplemental Indenture unless prior to the execution

and delivery thereof the Trustee shall have received the written Opinion of Bond Counsel to the effect that the modifications or amendments effected by such Supplemental Indenture will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes and are authorized and permitted under the provisions of this Indenture.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Evidence of Signatures of Bondholders and Ownership of Bonds. Any request, consent, revocation of consent or other instrument which this Indenture may require or permit to be signed and executed by Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondholders in person or by their attorneys duly authorized in writing. Proof of the execution of any such instrument, or of an instrument appointing or authorizing any such attorney, or the holding by any person of any Bonds, shall be sufficient for any purpose hereof if made in the following manner or in any other manner satisfactory to the Trustee which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

(a) The fact and date of the execution by any Bondholder or his or her attorney of any such instrument (other than the Bond) may be proved (i) by the certificate of a notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he or she purports to act that the person signing such instrument acknowledged to him or her the execution thereof, or by the affidavit of a witness of such execution, duly sworn to before such a notary public or other officer, or (ii) by the certificate, which need not be acknowledged or verified, of an officer of a bank, trust company or duly licensed securities broker or dealer satisfactory to the Trustee that the person signing such instrument acknowledged to such bank, trust company, broker or dealer the execution thereof;

(b) The authority of a person or persons to execute any such instrument on behalf of a corporate Bondholder may be established without further proof if such instrument is authorized by a corporate resolution (a copy of which shall be delivered to the Trustee) and signed by a person purporting to be the president or a vice president of such corporation; and

(c) The holding of Bonds, the amount, numbers and other identification thereof, and the date of holding the same, shall be proved by the Bond Register.

Any request, consent or other instrument executed by the registered owner of any Bond shall bind all future owners of such Bond in respect of anything done or suffered to be done hereunder by the Issuer or the Trustee in accordance herewith in reliance on such request, consent or other instrument.

Section 11.02. U.S.A. 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 and the identity of the owners or controlling persons thereof. The Trustee may also request financial statements, licenses, identification and authorization documents from individuals claiming authority to represent such Person or other relevant documentation.

Section 11.03. Details of Documents Delivered to Trustee. Matters required to be stated in any document signed by any Authorized Officer or in any accountant's certificate, Counsel's Opinion or Officer's Certificate may be stated in separate documents of the required description or may be included in one or more thereof.

Section 11.04. Preservation and Inspection of Documents. All reports, certificates, statements and other documents received by the Trustee under the provisions hereof shall be retained in its possession and shall be available at all reasonable times for the inspection of the Issuer, Fannie Mae or any Bondholder and their agents and representatives, any of whom may make copies thereof, but any such reports, certificates, statements or other documents may, at the election of the Trustee, be destroyed or otherwise disposed of at any time six years after such date as the pledge of the Trust Estate created hereby shall be discharged as provided in Section 7.01.

Section 11.05. No Recourse on Bonds. All covenants, stipulations, promises, agreements and obligations of the Issuer contained in this Indenture shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Issuer and not of any of its officers or employees or members of its governing body, past, present or future, in his or her individual capacity, and no recourse shall be had for the payment of the principal of, premium, if any, or Redemption Price or purchase price of or interest on the Bonds or for any claim based thereon or on this Indenture or any other Issuer Document or the Financing Documents against any such member, officer, employee or agent of the Issuer, past present or future, or any natural person executing the Bonds.

Section 11.06. Severability. If any one or more of the provisions, covenants or agreements in this Indenture on the part of the Issuer or the Trustee to be performed should be illegal, inoperative, unenforceable or contrary to law, then such provision or provisions, covenant or covenants, agreement or agreements, shall be deemed severable from the remaining provisions, covenants and agreements, and shall in no way affect the validity of the other provisions hereof or of the Bonds.

Section 11.07. Notices. Unless otherwise specified in this Indenture, it shall be sufficient service or giving of any notice, request certificate, demand or other communication if the same is sent by (and all notices required to be given by mail will be given by) first-class registered or certified mail, postage prepaid, return receipt requested, or by private courier service which provides evidence of delivery, or sent by Electronic Means which produces evidence of transmission, and in each case will be deemed to have been given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission. Unless a

different address is given by any party as provided in this Section, all such communications will be addressed as follows:

- (a) As to the Issuer:

City and County of San Francisco,
California City Hall
1 Dr. Carlton B. Goodlett Place, Room 316
San Francisco, California 94102
Attention: City Controller

With a copy to:

City and County of San Francisco
Mayor's Office of Housing and Community Development
1 South Van Ness Avenue 5th Floor
San Francisco California 94103
Attention: Director

- (b) As to the Borrower or General Partner:

With copies to:

And to:

- (c) As to the Developer:

With copies to:

- (d) As to the Guarantors:

- (e) As to Investor Limited Partner:

Wincopin Circle LLLP
c/o Enterprise Community Asset Management, Inc.
70 Corporate Center
11000 Broken Land Parkway, Suite 700
Columbia, Maryland 21044
Attention: Asset Management
Phone: (410) 964-0552
Fax (410) 772-2630

With copy to:

Gallagher Evelius & Jones LLP
2108 North Charles Street, Suite 400
Baltimore, Maryland 21201
Attention: Kenneth S. Gross
Phone: (410) 347-1367
Fax: (410) 468-2786

(f) As to the Rating Agency:

(g) As to the Trustee:

With copies to:

(h) As to Lender:

Construction Period prior to Conversion:

Post Conversion to MBS:

With copies to:

(i) As to Fannie Mae:

Fannie Mae
1100 15th Street, NW
Drawer AM Washington, DC 20005
Attention: Director, Multifamily Asset Management
Phone: (202) 752-6634
Facsimile: (240) 699-3880
Re: City and County of San Francisco, California
Multifamily Tax-Exempt Mortgage-Backed Bonds (M. TEBS)
Series 2019A

With copies to:

DLA Piper LLP (US)
2000 Avenue of the Stars
Suite 400, North Tower
Los Angeles, CA 90067
Attention: Masood Sohaili
Phone: (310) 595-3040
Facsimile: (310) 595-3340

(j) As to the Remarketing Agent:

(k) As to Bloomberg:

Newcsni@bloomberg.net

fbialos@bloomberg.net

Copies of all notices given to Fannie Mae must be given concurrently to the Permanent Lender and the Construction Lender (but only prior to the Conversion Date). By notice given under this Indenture, any entity whose address is listed in this Section may designate any different address to which subsequent notices, certificates, requests, demands or other communications shall be sent, but no notice directed to any one such entity (except for Fannie Mae) will be required to be sent to more than two addresses. All approvals and notifications required under this Indenture will be given in writing. In addition, any notification required by any of the Financing Documents identified as such by the Lender and received by the Trustee from the Lender shall be sent by the Trustee to the Bondholders as soon as practical after receipt thereof.

Section 11.08. Certain Notices to be Provided to the Rating Agency. In addition, the Trustee shall provide notice to the Rating Agency under the following circumstances: (i) prepayments with respect to the MBS, in whole or in part; (ii) defeasance or discharge of this Indenture; (iii) release from the trust estate of (A) the pledge of the MBS or (B) the assignment of the MBS Revenues received; (iv) supplements or amendments to the Financing Documents or Mortgage Note; (v) extension of the MBS Delivery Date Deadline; (vi) remarketing of the Series K Bonds; and (vii) appointment of a successor Trustee.

Section 11.09. Action Required to be Taken on a Non-Business Day. In any case where any Payment Date, any other date fixed for the payment of interest on or principal of the Bonds, any maturity date or any date fixed for redemption of any Bonds, shall be a day other than a Business Day, then any payment of interest or principal (and premium, if any) required to be made on such date need not be taken or made on such date but may be taken or made on the next succeeding Business Day with the same force and effect as if made or taken on the date herein otherwise provided and, in the case of any Payment Date, no interest shall accrue for the period from and after such date.

Section 11.10. Parties Interested Herein. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person, other than the Issuer, the Trustee, Fannie Mae and the holders of the Bonds, any right, remedy or claim under or by reason hereof, and any covenants, stipulations, obligations, promises and agreements in this Indenture contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Trustee, Fannie Mae and the Bondholders.

Section 11.11. Notification of Issuer of Amount of Outstanding Bonds. On or before each Calculation Date (as defined in the Regulatory Agreement), the Trustee shall promptly notify the Issuer, via mutually acceptable Electronic Means or by mail, of the aggregate principal amount of Outstanding Bonds as of the date of such notice.

Section 11.12. Tax Certificate. In the event of any conflict between this Indenture and the Tax Certificate, the requirements of the Tax Certificate shall control.

Section 11.13. Applicable Provisions of Law; Venue. This Indenture shall be governed exclusively by the applicable laws of the State, and any action arising out of this Indenture or the Bonds shall be filed and maintained in the City and County of San Francisco, California, unless the Issuer waives this requirement in writing.

Section 11.14. Bonds Not an Obligation of the State or Any Political Subdivision.

(a) Notwithstanding anything herein or in any other instrument to the contrary, the Bonds are limited obligations of the Issuer, payable solely from the Trust Estate and other funds and moneys pledged and assigned hereunder. None of the Issuer, the State, any political subdivision thereof (except the Issuer, to the limited extent set forth herein) or any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on the bonds or for the performance of any pledge, obligation or agreement of any kind whatsoever except as set forth herein, and none of the Bonds or any of the Issuer's agreements or obligations shall be construed to constitute an indebtedness of or a pledge of the faith and credit, or taxing power of, or a loan of the credit of, or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever.

No agreements or provisions contained in this Indenture nor any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issue in connection with the Project, or the issuance, sale and delivery of the Bonds shall give rise to any pecuniary liability of the Issuer or a charge against the general credit of the Issuer, or shall obligate the Issuer financially in any way except as may be payable from the repayments by the Borrower under the Financing Agreement and the proceeds of the Bonds and other amounts pledged hereunder as part of the Trust Estate. No failure of the Issuer to comply with any term, condition, covenant or agreement herein or in any document executed by the Issuer in connection with the issuance and sale of the Bonds shall subject the Issuer to liability for any claim for damages, costs or other financial or pecuniary charge except to the extent that the same can be paid or recovered from the repayments by the Borrower under the Financing Agreement or proceeds of the Bonds and other amounts pledged hereunder as part of the Trust Estate. Nothing herein shall preclude a proper party in interest from seeking and obtaining, to the extent permitted by law, specific performance against the Issuer for any failure to comply with any term, condition, covenant or agreement herein, provided that no costs, expenses or other monetary relief shall be recoverable from the Issuer except as may be payable from the repayments by the Borrower or the proceeds of the Bonds and other amounts pledged hereunder as part of the Trust Estate.

(b) No recourse may be had for the enforcement of any obligation, promise or agreement of the Issuer contained herein, in any other Issuer Document, in the Construction Loan Documents, Permanent Loan Documents or in the Bonds or for any claim based hereon or thereon or otherwise in respect hereof or thereof against any officer, agent, attorney or employee, as such, in his individual capacity, past, present or future, of the Issuer or of any successor entity, either directly or through the Issuer or any successor entity whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty otherwise. No personal liability whatsoever will attach to, or be incurred by, any officer, agent, attorney or employee as such, past, present or future, of the Issuer or of any successor entity, either directly or through the Issuer or any successor entity, under or by reason of any of the obligations, promises or agreements entered into in the Bonds or between the Issuer and the Trustee, whether contained

herein or to be implied here from as being supplemental hereto; and all personal liability of that character against every such director, member, officer, agent, attorney and employee is, by the execution of this Indenture and as a condition of, and as part of the consideration for, the execution of this Indenture, expressly waived and released.

(c) Anything in this Indenture to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that (i) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice, or other instrument furnished to the Issuer by the Trustee or the Borrower as to the existence of any fact or state of affairs required hereunder to be noticed by the Issuer; (ii) the Issuer shall not be under any obligation hereunder to perform any record keeping or to provide any legal services; and (iii) none of the provisions of this Indenture shall require the Issuer to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless it shall first have been adequately indemnified to its satisfaction against the cost, expenses, and liability which may be incurred thereby.

Section 11.15. No Recourse on the Bonds. No recourse shall be had for the payment of the principal or redemption price or purchase price of or interest on the Bonds or for any claim based thereon or on this Indenture or any other Issuer Document or the Construction Loan Documents or Permanent Loan Documents against any member of the Board of Supervisors of the Issuer, or any officer, employee or agent of the Issuer, or any person executing the Bonds.

Section 11.16. Exempt from Individual Liability. No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of any present or future member of the Board of Supervisors of the Issuer, or officer, director, employee or agent of the Issuer or the Trustee in his individual capacity, and neither the officers, directors, employees or agents of the Issuer or the Trustee executing the Bonds or this Indenture shall be liable personally on the Bonds or under this Indenture or be subject to any personal liability or accountability by reason of the issuance of the Bonds or the execution of this Indenture.

Section 11.17. Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the Issuer has caused this Indenture to be executed on its behalf by its Authorized Officers and the Trustee, to evidence its acceptance of the trusts created hereunder, has caused this Indenture to be executed in its name by its duly authorized signatories, all as of the day and year first above written.

**CITY AND COUNTY OF SAN
FRANCISCO, CALIFORNIA**

By: _____

Director, Mayor's Office of Housing and
Community Development

Approved as to form:

DENNIS J. HERRERA
City Attorney

By: _____

Kenneth D. Roux,
Deputy City Attorney

[TRUSTEE],
as Trustee

By: _____
Authorized Officer

EXHIBIT A-1

FORM OF 2019 SERIES J BOND

No. RA-1

\$_[_____]

UNITED STATES OF AMERICA
CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA
MULTIFAMILY TAX-EXEMPT MORTGAGE-BACKED BONDS
(M. TEBS) (EASTERN PARK APARTMENTS PROJECT)
2019 SERIES J

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AS DEFINED IN THE INDENTURE OF TRUST) TO THE TRUSTEE FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

<u>Bond Interest Rate</u>	<u>Bond Maturity Date</u> ¹	<u>Final Payment</u> <u>Date</u>	<u>Bond Dated Date</u>	<u>Bond CUSIP</u> <u>Number</u>
[_____]%	[_____]	[_____]	[_____]	[_____]

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: [_____]

The CITY AND COUNTY OF SAN FRANCISCO (hereinafter called the “Issuer”), a municipal corporation and chartered city and county duly organized and validly existing under its Charter and the Constitution and the laws of the State of California (the “State”), for value received, hereby promises to pay by check (but only from the sources specified in the Indenture hereinafter referred to) to the Registered Owner named above or registered assigns, on the Bond Maturity Date stated above subject to the provisions of the Indenture, including, but not limited to, the definition of Payment Date therein and as hereinafter defined (unless this Series J Bond shall have been previously called for redemption and payment of the Redemption Price shall have been made or duly provided for) the Principal Amount stated above in lawful money of the United States of America, and to pay interest thereon in like lawful money at the Pass-Through Rate specified above in the amounts as accrued and for the periods interest is paid (except in connection with a redemption of Series J Bonds upon failure to purchase the MBS as described in the Indenture)

¹Subject to final payment of principal with respect to the MBS (as hereafter defined) which will be passed through to the Bondholders on the Final Payment Date.

pursuant to the terms of the MBS, payable on each Payment Date. Interest shall be calculated on the basis of a year of Actual/360. The payment of interest on a Payment Date is the interest accrued during the preceding calendar month. There shall be no further accrual of interest on the Series J Bonds during the period from the Bond Maturity Date to the Final Payment Date. Notwithstanding anything herein to the contrary, on and after the MBS Delivery Date, the principal, interest and premium, if any, payable on the Series J Bonds will be calculated, except with respect to interest payable on the Series J Bonds if redeemed upon failure to purchase the MBS as described in the Indenture, at the same rate and for the same periods as interest, principal and premium, if any, payable on the MBS, and will be paid, except with respect to interest payable on the Series J Bonds if redeemed upon failure to purchase the MBS as described in the Indenture (which will be paid on the redemption date), one Business Day following receipt by the Trustee pursuant to the MBS.

“Payment Date” means (i) the 26th day of the month following the month in which the Closing Date occurs and the 26th day of each month thereafter, or the next succeeding Business Day if such 26th day is not a Business Day, until and including the 26th day of the month in which the MBS Delivery Date occurs, and (ii) commencing in the first month immediately following the month in which the MBS Delivery Date occurs, the Business Day immediately after the date of receipt by the Trustee of a payment received on the MBS. The payment of interest on a Payment Date shall relate to the interest accrued during the preceding calendar month. There shall be no further accrual of interest from the Bond Maturity Date to the Final Payment Date.

Interest hereon is payable by [Trustee] (the “Trustee”). On each Payment Date, payment of the principal of and interest or premium, if any, on any Series J Bond shall be made to the person appearing on the Bond Register as the registered owner thereof on the applicable Record Date. The principal of and the interest on the Series J Bonds shall be payable in coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts of the United States of America. Unless the Series J Bonds are Book-Entry Bonds, the principal of the Series J Bonds shall be payable to the registered owners thereof upon presentation (except in connection with a redemption of Series J Bonds from principal payments or prepayments on the MBS) at the designated corporate trust office of the Trustee or its successors. Unless the Series J Bonds are Book-Entry Bonds, payments of interest on the Series J Bonds and redemption of Series J Bonds from principal payments or prepayments on the MBS shall be paid by check or draft mailed to the registered owner thereof at such owner’s address as it appears on the registration books maintained by the Trustee on the applicable Record Date or at such other address as is furnished to the Trustee in writing by such owner. All payments of principal of and interest on Book-Entry Bonds shall be made and given at the times and in the manner set out in the representation letter of The Depository Trust Company, New York, New York and the provisions of the Indenture related thereto, or any replacement securities depository appointed under the Indenture.

The date of authentication of each Series J Bond shall be the date such Series J Bond is registered.

The Series J Bonds shall be subject to redemption prior to maturity as follows:

(a) Mandatory Redemption prior to MBS Delivery Date. Prior to the first day of the first month following the MBS Delivery Date, the Series J Bonds are subject to mandatory

redemption in part on any Payment Date in an amount equal to the amount due on the first day of the month in which such Payment Date occurs as shown in the Permanent Loan Amortization Schedule, payable with respect to principal first, from money on deposit in the Series J Account of the Collateral Fund, and second, from money on deposit in the Bond Proceeds Fund and with respect to interest, from money on deposit in the Series J Account of the Revenue Fund.

(b) Mandatory Redemption upon Failure to Convert by the Termination Date or Failure to Purchase the MBS. The Series J Bonds are subject to mandatory redemption in whole five (5) calendar days after the MBS Delivery Date Deadline (as such date may be extended pursuant to the Indenture) at a Redemption Price equal to 100% of the Outstanding principal amount thereof, plus interest accrued but unpaid from the first day of the month in which the last Payment Date occurred to such redemption date, if (i) the Conversion Date has not occurred on or prior to the Termination Date or (ii) the MBS Delivery Date has not occurred on or prior to the MBS Delivery Date Deadline, as such date may be extended, payable with respect to principal first, from money on deposit in the Series J Account of the Collateral Fund, and second, from money on deposit in the Series J Bond Proceeds Account of the Bond Proceeds Fund and with respect to interest and premium, if any, from money on deposit in the Series J Account of the Revenue Fund.

(c) Mandatory Redemption on the MBS Delivery Date. The Series J Bonds are subject to mandatory redemption in part on the MBS Delivery Date at a Redemption Price equal to 100% of the principal amount of the Series J Bonds to be redeemed, plus interest accrued but unpaid from the first day of the month in which the last Payment Date occurred to the MBS Delivery Date, in an amount equal to the difference between (i) the principal amount of the MBS purchased on the MBS Delivery Date and (ii) the aggregate principal amount of the Series J Bonds Outstanding as of the first day of the month in which the MBS Delivery Date occurred, payable with respect to principal first, from money on deposit in the Series J Account of the Collateral Fund, and second, from money on deposit in the Series J Bond Proceeds Account of the Bond Proceeds Fund and with respect to interest and premium, if any, from money on deposit in the Series J Account of the Series J Account of the Revenue Fund.

(d) Mandatory Redemption Following the MBS Delivery Date. Following the MBS Delivery Date, the Series J Bonds are subject to mandatory redemption in part in an amount equal to, and one Business Day after the date on which, each principal payment or prepayment is received pursuant to the MBS at a Redemption Price equal to 100% of the principal amount received pursuant to the MBS, plus interest and premium, if any, received pursuant to the MBS.

(e) Mandatory Redemption in Lieu of Exchange. The Series J Bonds are subject to mandatory redemption in part in the event the Issuer elects pursuant to the Indenture to redeem a Beneficial Owner's Series J Bonds for an amount equal to the Cash Value in lieu of delivering to the Beneficial Owner of the Series J Bonds its proportionate interest in the MBS based upon its proportionate interest in the Series J Bonds. Any such redemption shall be made in the amounts, from the sources and in accordance with the provisions of the Indenture.

Notwithstanding anything to the contrary herein, the Series J Bonds are not subject to optional redemption.

Anytime the Series J Bonds are to be redeemed pursuant to the Indenture, the Trustee shall give at least twenty (20) Business Days' notice, in the name of the Issuer, of the redemption of the Series J Bonds, which notice shall specify the following: (i) the maturity and principal amounts of the Series J Bonds to be redeemed; (ii) the CUSIP number, if any, of the Series J Bonds to be redeemed; (iii) the date of such notice; (iv) the issuance date for such Series J Bonds; (v) the interest rate on the Series J Bonds to be redeemed; (vi) the redemption date; (vii) any conditions to the occurrence of the redemption; (viii) the place or places where amounts due upon such redemption will be payable; (ix) the Redemption Price; (x) the Trustee's name and address with a contact person and a phone number; and (xi) that on the redemption date, the Redemption Price shall be paid. Notice delivered as required in this paragraph with respect to a redemption pursuant to Section (b), above, may be rescinded and annulled on or before the MBS Delivery Date Deadline if (i) the MBS is delivered on or prior to the MBS Delivery Date Deadline or (ii) the MBS Delivery Date Deadline is extended pursuant to the Indenture. Neither the giving of such notice by the Trustee nor the receipt of such notice by the Bondholders shall be a condition precedent to the effectiveness of any such redemption. Notwithstanding anything herein to the contrary, no notice of redemption shall be required with respect to redemptions pursuant to Sections (a) or (d) above, and notice of redemption required in connection with a redemption pursuant to Section (e) above shall be given as described in the Indenture.

A Beneficial Owner of the Series J Bonds may file with the Trustee a written request to exchange Series J Bonds for a like principal amount of the MBS subject to and in accordance with the Indenture.

This Series J Bond is one of the duly authorized bonds of the Issuer designated as Multifamily Tax-Exempt Mortgage-Backed Bonds (M. TEBS) (Eastern Park Apartments), 2019 Series J (the "Series J Bonds"), limited in aggregate principal amount to \$ _____ issued pursuant to the Act and pursuant to an Indenture of Trust, dated as of December 1, 2019, by and between the Issuer and the Trustee (the "Indenture") and a resolution duly adopted by the governing body of the Issuer. The Series J Bonds are limited obligations of the Issuer payable from and all equally secured by the lien of the Indenture, and the other security pledged thereby, including certain funds and accounts created pursuant thereto. The Series J Bonds are issued for the benefit of Eastern Park Apartments LP (the "Borrower"), to finance a multifamily rental housing development within the City and County of San Francisco, known as Eastern Park Apartments (the "Project"). Capitalized terms used herein and not otherwise defined shall have the meanings assigned in the Indenture.

The payment and other obligations of the Issuer with respect to the Series J Bonds are intended to be, and shall be, independent of the payment and other obligations of the issuer or maker of the Bond Loan Notes, the Mortgage Note and the MBS (as hereafter defined), even though the principal amount of all three instruments is expected to be identical, except in the case of a default with respect to one or more of the instruments.

The Series J Bonds are secured by certain funds held under the Indenture as described therein, and after the MBS Delivery Date, if any, by (i) the pledge of a MBS (the "MBS") issued by the Federal National Mortgage Association ("Fannie Mae") and delivered to the Trustee, under the terms of which timely payment of principal of and interest on the MBS is guaranteed by Fannie Mae regardless of whether corresponding payments on the Permanent Loan are paid when due,

and (ii) amounts payable under and pursuant to the MBS. After the MBS Delivery Date, the MBS is held in trust and pledged under the Indenture to secure the payment of the Series J Bonds.

Reference is hereby made to the Act and to the Indenture, a copy of which is on file at the principal office of the Trustee, and all indentures supplemental thereto for a description of the rights thereunder of the registered owners of the Series J Bonds, of the payments and funds pledged and assigned as security for payment of the Series J Bonds and the nature and extent thereof, of the terms on which the Series J Bonds are issued and the terms and conditions on which the Series J Bonds will be deemed to be paid at or prior to maturity or redemption upon provision for payment thereof in the manner set forth in the Indenture, of the rights, duties and immunities of the Trustee and of the rights and obligations of the Issuer thereunder, to all of the provisions of which Indenture the registered owner of this Series J Bond, by acceptance hereof, assents and agrees.

The Series J Bonds are subject to redemption in the amounts and on the dates, in whole or in part, in the event of optional prepayment of amounts payable under the Permanent Loan and a corresponding prepayment of the MBS.

THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE AND OTHER FUNDS AND MONEYS PLEDGED AND ASSIGNED UNDER THE INDENTURE. NEITHER THE ISSUER, THE STATE OF CALIFORNIA (THE "STATE"), NOR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER, TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE) NOR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS SET FORTH IN THE INDENTURE, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT, OR TAXING POWER OF, OR A LOAN OF THE CREDIT OF, OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

THE OBLIGATION OF THE ISSUER ON THIS BOND ARE EXPRESSLY LIMITED TO AND ARE PAYABLE SOLELY FROM (I) THE PAYMENTS MADE BY THE BORROWER PURSUANT TO THE FINANCING AGREEMENT AND THE BOND LOAN NOTES, AND THE SECURITY THEREFOR PROVIDED BY THE MBS AND THE MORTGAGE AND ANY OTHER COLLATERAL SECURITY FROM TIME TO TIME HELD BY THE TRUSTEE, AND (II) ANY ADDITIONAL SECURITY PROVIDED IN THE INDENTURE.

The registered owner of this Series J Bond shall have no right to enforce the provisions of the Indenture or to institute actions to enforce the pledge, assignments in trust or covenants made therein or to take any action with respect to an Event of Default under the Indenture or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture.

If an Event of Default shall occur, the principal of all Series J Bonds may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture. The Indenture provides that in certain events such declaration and its consequences may be rescinded by the holders of at least a majority in aggregate principal amount of the Series J Bonds then Outstanding.

The Series J Bonds are issuable only as fully registered Series J Bonds without coupons in denominations of \$1,000.00 or any integral multiple of \$1.00 in excess thereof (an "Authorized Denomination"). Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Indenture, Series J Bonds may be exchanged at the designated corporate trust office of the Trustee for Series J Bonds in the same aggregate principal amount.

The registration of this Series J Bond is transferable by the registered owner hereof in person or by its attorney duly authorized in writing at the designated corporate trust office of the Trustee. Upon surrender for registration of transfer of this Series J Bond at such office, the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Series J Bond of the same maturity or maturities and Authorized Denomination for the same aggregate principal amount. Series J Bonds to be exchanged shall be surrendered at said designated corporate trust office of the Trustee, and the Trustee shall authenticate and deliver in exchange therefore a Series J Bond of equal aggregate principal amount of the same maturity and Authorized Denomination.

In any case where any Payment Date, any other date fixed for the payment of interest on or principal of the Series J Bonds, any maturity date or any date fixed for redemption of any Series J Bonds, shall be a day other than a Business Day, then any payment of interest or principal (and premium, if any) required to be made on such date need not be taken or made on such date but may be taken or made on the next succeeding Business Day with the same force and effect as if made or taken on the date herein otherwise provided and, in the case of any Payment Date, no interest shall accrue for the period from and after such date.

The Issuer and the Trustee shall treat the registered owner of this Series J Bond as the owner hereof for all purposes, and any notice to the contrary shall not be binding on the Issuer and the Trustee.

The Indenture contains provisions permitting the Issuer and the Trustee, with the written consent of Fannie Mae and the registered owners of not less than two thirds in aggregate principal amount of the Series J Bonds Outstanding, as specified in the Indenture, and in certain instances without such consent, to execute supplemental indentures adding any provisions to, or changing in any manner, or eliminating any of the provisions of, the Indenture; *provided, however*, that no such supplemental indenture shall (a) permit a change in the terms of redemption or maturity of the principal amount of any Outstanding Series J Bond or an extension of the date for payment of any installment of interest thereon or a reduction in the principal amount of, premium, if any, or the rate of interest on any Outstanding Series J Bond without the consent of the holder of such Series J Bond, (b) reduce the proportion of Series J Bonds the consent of the holders of which is required to effect any such modification or amendment or to effectuate an acceleration of the Series J Bonds prior to maturity, (c) permit the creation of a lien on the Trust Estate pledged under the Indenture prior to or on a parity with the lien of the Indenture, (d) deprive the holders of the Series J Bonds of the lien created by the Indenture upon such Trust Estate (except as expressly provided

in the Indenture), without (with respect to clauses (b) through (d)) the consent of the holders of all Series J Bonds then Outstanding, or (e) change or modify any of the rights or obligations of the Trustee without the written consent thereto of the Trustee.

Neither the members of the governing body of the Issuer nor any officer, agent, representative or employee of the Issuer nor any person executing this Series J Bond shall be subject to any personal liability or accountability by reason of the issuance hereof, whether by virtue of any Constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly waived as a condition of and in consideration for the execution of the Indenture and the issuance of the Series J Bonds.

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

Notwithstanding any provision of this Bond to the contrary, in no event shall the interest contracted for, charged or received in connection with this Bond (including any other costs or considerations that constitute interest under the laws of the State which are contracted for, charged or received pursuant to this Bond) exceed the maximum rate of nonusurious interest allowed under the laws of the State as presently in effect and to the extent of any increase allowable by such laws. To the extent permitted by law, interest contracted for, charged or received on this Bond shall be allocated over the entire term of this Bond, to the end that interest paid on this Bond does not exceed the maximum amount permitted to be paid thereon by law. Excess interest, if any, provided for in this Bond, or otherwise, shall be canceled automatically as of the date of such acceleration or, if theretofore paid, shall be credited as principal paid on this Bond.

It is certified and recited that all conditions, acts and things required by the statutes of the State or by the Act or the Indenture to exist, to have happened or to have been performed precedent to or in the issuance of this Bond exist, have happened and have been performed and that the issue of the Bonds, together with all other indebtedness of the Issuer, is within every debt and other limit prescribed by said statutes and said Act.

In the event of any inconsistencies between the provisions of this Series J Bond and the provisions of the Indenture, the provisions of the Indenture shall control.

IN WITNESS WHEREOF, the City and County of San Francisco has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor, as of the Closing Date.

**CITY AND COUNTY OF SAN
FRANCISCO**

By: _____
Mayor

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

This Series J Bond is one of the bonds described in the within mentioned Indenture.

Date of Authentication: _____, 2019

[TRUSTEE] as Trustee

By: _____
Authorized Officer

[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 registered Series J Bond and do(es) hereby irrevocably constitute and appoint, attorney, to transfer the same on the registration books of the Trustee, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

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

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

EXHIBIT A-2

FORM OF 2019 SERIES K BOND

No. RB-1

\$_[_____]

UNITED STATES OF AMERICA
CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA
MULTIFAMILY HOUSING REVENUE BONDS
(EASTERN PARK APARTMENTS PROJECT)
2019 SERIES K

NOTICE: Unless this 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 in such other name as is 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 owner hereof, Cede & Co., has an interest herein.

DATED DATE INTEREST RATE MATURITY DATE CUSIP NUMBER

_____ ____% [_____] _____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ (\$_____)

INITIAL MANDATORY TENDER DATE: _____, 20__

The CITY AND COUNTY OF SAN FRANCISCO (hereinafter called the "Issuer"), a municipal corporation and chartered city and county duly organized and validly existing under its Charter and the Constitution and the laws of the State of California (the "State"), for value received, promises to pay to the Registered Owner specified above or registered assigns, but solely from the sources and in the manner referred to herein, the Principal Amount specified above on the Maturity Date specified above (subject to the rights of redemption and tender set forth herein), and to pay from those sources interest on the unpaid principal balance of said Principal Amount calculated at the aforesaid Initial Series K Bond Rate (a) January 1 and July 1 of each year, beginning on _____, (ii) each Mandatory Redemption Date described in the Indenture, (iii) each Mandatory Tender Date, (iv) the Bond Maturity Date and (v) the date of acceleration of the Series K Bonds (the "**Payment Dates**") until the principal amount is paid or duly provided for. This Series K Bond will bear interest from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from its above dates as of date.

This Series K Bond shall be dated as of the Bond Dated Date, shall bear interest, payable on each Payment Date, from the date of issuance to but not including the Initial Mandatory Tender

Date at a rate per annum equal to the Initial Series K Bond Rate and thereafter shall bear interest at the Remarketing Rate for each subsequent Remarketing Period (as defined in the Indenture), and shall mature (subject to prior redemption as set forth herein) on the Bond Maturity Date. Interest on this Series K Bond shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

On each Payment Date, payment of the principal of and interest or premium, if any, on any Bond shall be made to the person appearing on the Bond Register as the registered owner thereof on the applicable Record Date. The principal of and the interest on the Series K Bonds shall be payable in coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts of the United States of America. Unless the Series K Bonds are Book-Entry Bonds, the principal of the Series K Bonds shall be payable to the registered owners thereof upon presentation at the designated corporate trust office of the Trustee or its successors. Unless the Series K Bonds are Book-Entry Bonds, payments of interest on the Series K Bonds and redemption of the Series K Bonds pursuant to the Indenture shall be paid by check or draft mailed to the registered owner thereof at such owner's address as it appears on the registration books maintained by the Trustee on the applicable Record Date or at such other address as is furnished to the Trustee in writing by such owner. The Trustee shall cause CUSIP number identification with appropriate dollar amounts for each CUSIP number to accompany all payments of interest and/or principal made to such owners, whether such payment is made by check or wire transfer.

THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE AND OTHER FUNDS AND MONEYS PLEDGED AND ASSIGNED UNDER THE INDENTURE. NEITHER THE ISSUER, THE STATE OF CALIFORNIA (THE "STATE"), NOR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER, TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE) NOR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS SET FORTH IN THE INDENTURE, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT, OR TAXING POWER OF, OR A LOAN OF THE CREDIT OF, OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

THE OBLIGATION OF THE ISSUER ON THIS BOND ARE EXPRESSLY LIMITED TO AND ARE PAYABLE SOLELY FROM (I) THE PAYMENTS MADE BY THE BORROWER PURSUANT TO THE FINANCING AGREEMENT AND THE BOND LOAN NOTES, AND THE SECURITY THEREFOR PROVIDED BY THE MBS AND THE MORTGAGE AND ANY OTHER COLLATERAL SECURITY FROM TIME TO TIME HELD BY THE TRUSTEE, AND (II) ANY ADDITIONAL SECURITY PROVIDED IN THE INDENTURE.

This Series K Bond is one of a duly authorized issue of City and County of San Francisco, California, Multifamily Housing Revenue Bonds, 2019 Series K (Eastern Park Apartments) (the

“**Series K Bonds**”), issuable under the Indenture of Trust dated as of December 1, 2019 (the “**Indenture**”), between the Issuer and the Trustee, aggregating in principal amount \$24,834,000 and used for the purpose of financing a loan to be made to Eastern Park Apartments LP, a California limited partnership (the “**Borrower**”). The loan will be used by the Borrower to pay a portion of the costs of acquiring, constructing and equipping the Project, as defined in the Indenture, as further provided in the Financing Agreement dated as of even date with the Indenture (the “**Financing Agreement**”), between the Issuer and the Borrower. The Series K Bonds are special limited obligations of the Issuer, issued or to be issued under and are to be secured and entitled equally and ratably to the protection given by the Indenture. The Series K Bonds are issued pursuant to, under authority of and in compliance with the Act (as defined in the Indenture) and the Indenture.

The Series K Bonds are subject to redemption and tender prior to their stated maturity as follows:

(a) Optional Redemption. The Series K Bonds are not subject to optional redemption prior to the Initial Mandatory Tender Date.

(b) Mandatory Redemption. The Series K Bonds shall be redeemed in whole at a redemption price of 100% of the principal amount of such Series K Bond, plus accrued interest to the Redemption Date, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has elected not to remarket the Series K Bonds, (ii) the conditions precedent to a remarketing, set forth in the Indenture, have not been met by the dates and times required, or (iii) the proceeds of a remarketing on deposit are insufficient to pay the purchase price of the Outstanding Series K Bonds on such Mandatory Tender Date.

(c) Mandatory Tender. The Series K Bonds are subject to mandatory tender in whole on each Mandatory Tender Date. Holders will not have the right to elect to retain their Series K Bonds. Upon presentation and surrender of the Series K Bonds by the Holder on the date fixed for tender, the Holder shall be paid the principal amount of the Series K Bonds to be tendered, plus accrued interest on such Series K Bonds to the tender date. Upon the occurrence of the events described in paragraph (b) above, Bon Series K Bonds ds tendered for purchase shall not be purchased, but rather shall be redeemed on the Mandatory Tender Date at a redemption price equal to the principal amount of the Series K Bonds tendered, plus accrued interest on such Series K Bonds to the tender date.

Reference is made to the Indenture for a more complete description of the Project, the provisions, among others, with respect to the nature and extent of the security for the Series K Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Holders of the Series K Bonds, and the terms and conditions upon which the Series K Bonds are issued and secured. Each Holder assents, by its acceptance hereof, to all of the provisions of the Indenture.

The Borrower is required by the Financing Agreement to cause the Construction Lender (as defined in the Indenture) to deposit, on its behalf, Eligible Funds (as defined in the Indenture) with the Trustee in the amounts and at the times necessary to pay the principal of and interest (the “**Bond Service Charges**”) on the Series K Bonds. In the Indenture, the Issuer has assigned to the Trustee, to provide for the payment of the Bond Service Charges on the Series K Bonds, the

Issuer's right, title and interest in and to the Financing Agreement, except for Reserved Rights as defined in the Indenture. To secure its compliance with certain covenants in the Financing Agreement and in the Tax Certificate (as defined in the Indenture), each dated as of December 1, 2019, the Borrower has executed and delivered the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of December 1, 2019 (the "**Regulatory Agreement**"), among the Issuer, the Borrower and the Trustee.

Copies of the Indenture, the Financing Agreement, the Regulatory Agreement and the Tax Certificate are on file in the designated corporate trust office of the Trustee.

The Bond Service Charges on the Series K Bonds are payable solely from the Trust Estate, as defined and as provided in the Indenture, and are an obligation of the Issuer only to the extent of amounts pledged under the Trust Estate. The Series K Bonds are not secured by an obligation or pledge of any money raised by taxation and do not represent or constitute a debt or pledge of the faith and credit of the Issuer.

The Series K Bonds are issuable only as fully registered bonds and, except as hereinafter provided, in printed or typewritten form, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("**DTC**"), which shall be considered to be the Holder for all purposes of the Indenture, including, without limitation, payment by the Issuer of Bond Service Charges, and receipt of notices to, giving of consents by and exercise of rights of, Holders. There shall be a single Bond representing each maturity, and all Series K Bonds shall be immobilized in the custody of DTC with the owners of beneficial interests in those Series K Bonds (the "Book-Entry interests") having no right to receive from the Issuer Series K Bonds in the form of physical securities or certificates. Ownership of Book-Entry interests in the Series K Bonds shall be shown by Book-Entry on the system maintained and operated by DTC, its participants (the "**Participants**") and certain persons acting through the Participants, and transfers of ownership of Book-Entry interests shall be made only by that Book-Entry system, the Issuer and the Trustee having no responsibility therefor. DTC is to maintain records of the positions of Participants in the Series K Bonds, and the Participants and persons acting through Participants are to maintain records of the purchasers and owners of Book-Entry interests in the Series K Bonds. The Series K Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository (as defined in the Indenture) or to another nominee of a Depository, without further action by the Issuer and otherwise at the expense of the Borrower.

If any Depository determines not to continue to act as a Depository for the Series K Bonds for use in a Book-Entry system, the Issuer may attempt to have established a securities depository/Book-Entry system relationship with another qualified Depository under the Indenture. If the Issuer does not or is unable to do so, the Issuer and the Trustee, after the Trustee has made provision for notification of the owners of Book-Entry interests by the then Depository, shall permit withdrawal of the Series K Bonds from the Depository, and authenticate and deliver Bond certificates in fully registered form (in denominations of \$5,000, or any integral multiple of \$5,000 in excess thereof) to the assignees of the Depository or its nominee, all at the cost and expense (including costs of printing or otherwise preparing and delivering replacement Bond certificates) of those persons requesting such authentication and delivery, if the event is not the result of Issuer action or inaction (including action at the request of the Borrower).

The Indenture permits certain amendments or supplements to the Indenture, the Financing Agreement, the Tax Certificate, the Regulatory Agreement and the Series K Bond Loan Note not prejudicial to the Holders to be made without the consent of or notice to the Holders, and certain other amendments or supplements thereto to be made with the consent of the Holders of not less than a majority in aggregate principal amount of the Series K Bonds then Outstanding.

The Holder of each Series K Bond has only those remedies provided in the Indenture.

Notwithstanding any provision of this Bond to the contrary, in no event shall the interest contracted for, charged or received in connection with this Bond (including any other costs or considerations that constitute interest under the laws of the State which are contracted for, charged or received pursuant to this Bond) exceed the maximum rate of nonusurious interest allowed under the laws of the State as presently in effect and to the extent of any increase allowable by such laws. To the extent permitted by law, interest contracted for, charged or received on this Bond shall be allocated over the entire term of this Bond, to the end that interest paid on this Bond does not exceed the maximum amount permitted to be paid thereon by law. Excess interest, if any, provided for in this Bond, or otherwise, shall be canceled automatically as of the date of such acceleration or, if theretofore paid, shall be credited as principal paid on this Bond.

It is certified and recited that all conditions, acts and things required by the statutes of the State or by the Act or the Indenture to exist, to have happened or to have been performed precedent to or in the issuance of this Bond exist, have happened and have been performed and that the issue of the Bonds, together with all other indebtedness of the Issuer, is within every debt and other limit prescribed by said statutes and said Act.

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

[Signature Pages Follow]

IN WITNESS WHEREOF, the City and County of San Francisco has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor, as of the Closing Date.

**CITY AND COUNTY OF SAN
FRANCISCO**

By: _____
Mayor

CERTIFICATE OF AUTHENTICATION

This Series K Bond is one of the Series K Bonds described in the within-mentioned Indenture.

Date of Registration and Authentication: _____, 2019.

[TRUSTEE] as Trustee

By: _____
Authorized Officer

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____ the within Series K Bond and irrevocably constitutes and appoints _____ attorney to transfer that Series K Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Signature guarantee shall be made by a guarantor institution participating in the Securities Transfer Agent Medallion Program or in such other guarantee program acceptable to the Registrar.

Notice: The assignor’s signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

Please insert social security number or other tax identification number of transferee

DTC FAST RIDER

Each Series K Bond shall remain in the Trustee’s custody subject to the provisions of the FAST Balance Certificate Agreement currently in effect between the Trustee and DTC.

EXHIBIT B

NOTICE OF REQUEST TO EXCHANGE

City and County of San Francisco, California
Multifamily Tax-Exempt Mortgage-Backed Bonds (M. TEBS),
(Eastern Park Apartments), 2019 Series J

The undersigned Beneficial Owner of the City and County of San Francisco, California Multifamily Tax-Exempt Mortgage-Backed Bonds (M. TEBS) (Eastern Park Apartments), 2019 Series J (the “Series J Bonds”), hereby requests [Trustee] (the “Trustee”) to exchange Series J Bonds in an original face amount and current principal amount equal to \$_____ and \$_____, respectively, for a like original face amount and current principal amount of the MBS. The Series J Bonds were issued pursuant to an Indenture of Trust dated as of December 1, 2019 (the “Indenture”), by and between the City and County of San Francisco, California (the “Issuer”) and the Trustee. The undersigned has arranged with its securities dealer (and/or DTC participant) to deliver such Series J Bonds to the Trustee (via DTC withdrawal or Deposit/Withdrawal At Custodian (“DWAC”)) on or before the sixth (6th) business day next succeeding the date hereof (such business day being the “Exchange Date”). Once the Issuer has validated the exchange requested hereby and the DTC DWAC has been verified and settled by the Trustee, the Trustee is hereby requested to deliver free the above-referenced original face and current principal amount of the MBS using the automated book-entry system maintained by the Federal Reserve Banks acting as depositories for the issuer of the MBS in accordance with the Beneficial Owner’s Fed delivery instructions. Such MBS will be (1) in book-entry form and (2) transferred in accordance with current market practices, including the applicable provisions of the SIFMA’s Uniform Practices for the Clearance and Settlement of Mortgage-Backed Securities and Other Related Securities. The undersigned Beneficial Owner shall pay the Trustee’s exchange fee in the amount of \$1,000 by wire transfer on the Exchange Date. If the Exchange Date is subsequent to a Record Date and prior to a corresponding Payment Date for the Series J Bonds, the Trustee shall wire the applicable principal and interest payments on the Series J Bonds to the undersigned Beneficial Owner using the wire instructions set forth below. The undersigned acknowledges that the submission of this notice of request (the “Notice”) is subject to all of the terms and conditions of the Indenture.

Capitalized terms used in this Notice but not defined herein shall have the meanings assigned such terms in the Indenture.

[Signatures on Following Page]

Dated: _____

Signature: _____

SIGNATURE GUARANTEE

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

Beneficial Owner's Fed delivery instructions:

Beneficial Owner's wire instructions:

Trustee's wire instructions:

EXHIBIT C

PERMANENT LOAN AMORTIZATION SCHEDULE

EXHIBIT D

CITY AND COUNTY OF SAN FRANCISCO MANDATORY CONTRACTING PROVISIONS

The following provisions shall apply to this Indenture as if set forth in the body thereof. Capitalized terms used but not defined in this Exhibit shall have the meanings given in this Indenture.

Section 1. Nondiscrimination; Penalties.

(a) Non Discrimination in Contracts. The Trustee shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. The Trustee shall incorporate by reference in any subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require any subcontractors to comply with such provisions. The Trustee is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

(b) Nondiscrimination in the Provision of Employee Benefits, San Francisco Administrative Code 12B.2. The Trustee does not as of the date of this Indenture, and will not during the term of this Indenture, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

(c) Condition to Contract. As a condition to the Indenture, the Trustee shall execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

Section 2. MacBride Principles—Northern Ireland. The provisions of San Francisco Administrative Code §12F are incorporated by this reference and made part of this Indenture. By entering into this Indenture, the Trustee confirms that it has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

Section 3. Tropical Hardwood and Virgin Redwood Ban. Under San Francisco Environment Code Section 804(b), the City urges the Trustee not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

Section 4. Alcohol and Drug-Free Workplace. The City reserves the right to deny access to, or require the Trustee to remove from, City facilities personnel of such Trustee who the City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs the City’s ability to maintain safe work facilities or to protect the health and

well-being of City employees and the general public. The City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

Section 5. Compliance with Americans with Disabilities Act. The Trustee shall provide the services specified in the Indenture in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

Section 6. Sunshine Ordinance. The Trustee acknowledges that this Indenture and all records related to its formation, such Trustee's performance of services provided under the Indenture, and the City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

Section 7. Limitations on Contributions. By executing this Indenture, the Trustee acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. The prohibition on contributions applies to each prospective party to the contract; each member of the Trustee's board of directors; the Trustee's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in such Trustee; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by such Trustee. The Trustee must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to City.

Section 8. Requiring Minimum Compensation for Covered Employees. The Trustee shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P. The Trustee is subject to the enforcement and penalty provisions in Chapter 12P. By entering into this Indenture, the Trustee certifies that it is in compliance with Chapter 12P.

Section 9. Requiring Health Benefits for Covered Employees. The Trustee shall comply with San Francisco Administrative Code Chapter 12Q. The Trustee shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative

Code Chapter 12Q.3. The Trustee is subject to the enforcement and penalty provisions in Chapter 12Q.

Section 10. Prohibition on Political Activity with City Funds. In performing the services provided under the Indenture, the Trustee shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Indenture from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. The Trustee is subject to the enforcement and penalty provisions in Chapter 12G.

Section 11. Nondisclosure of Private, Proprietary or Confidential Information. If this Indenture requires the City to disclose “Private Information” to the Trustee within the meaning of San Francisco Administrative Code Chapter 12M, the Trustee shall use such information consistent with the restrictions stated in Chapter 12M and in this Indenture and only as necessary in performing the services provided under the Indenture. The Trustee is subject to the enforcement and penalty provisions in Chapter 12M.

In the performance of services provided under the Indenture, the Trustee may have access to the City’s proprietary or confidential information, the disclosure of which to third parties may damage the City. If the City discloses proprietary or confidential information to the Trustee, such information must be held by such Trustee in confidence and used only in performing the Indenture. The Trustee shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary or confidential information.

Section 12. Consideration of Criminal History in Hiring and Employment Decisions. The Trustee agrees to comply fully with and be bound by all of the provisions of Chapter 12T, “City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions,” of the San Francisco Administrative Code (“Chapter 12T”), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Indenture. The text of Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. A partial listing of some of the Trustees’ obligations under Chapter 12T is set forth in this Section. The Trustee is required to comply with all of the applicable provisions of Chapter 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Indenture shall have the meanings assigned to such terms in Chapter 12T.

The requirements of Chapter 12T shall only apply to the Trustee’s operations to the extent those operations are in furtherance of the performance of this Indenture, shall apply only to applicants and employees who would be or are performing work in furtherance of this Indenture, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco which excludes City property. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

Section 13. Reserved.

Section 14. Submitting False Claims; Monetary Penalties. The full text of San Francisco Administrative Code §§ 21.35, including the enforcement and penalty provisions, is incorporated into this Indenture. Under San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

Section 15. Conflict of Interest. By entering into the Indenture, the Trustee certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Indenture.

Section 16. Assignment. The services provided under the Indenture to be performed by the Trustee are personal in character and neither this Indenture nor any duties or obligations may be assigned or delegated by the Trustee unless first approved by the City by written instrument executed and approved in the same manner as this Indenture. Any purported assignment made in violation of this provision shall be null and void.

Section 17. Food Service Waste Reduction Requirements. The Trustee shall comply with the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including but not limited to the provided remedies for noncompliance.

Section 18. Cooperative Drafting. This Indenture has been drafted through a cooperative effort of the City and the Trustee, and all parties have had an opportunity to have the Indenture reviewed and revised by legal counsel. No party shall be considered the drafter of this Indenture, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Indenture.

Section 19. Laws Incorporated by Reference. The full text of the laws listed in this Appendix, including enforcement and penalty provisions, are incorporated into this Indenture by reference. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Appendix are available at www.sfgov.org under "Open Gov."

Section 20. Sugar-Sweetened Beverage Prohibition. The Trustee agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Indenture.

Section 21. First Source Hiring Program. The Trustee must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Indenture, and the Trustee is subject to the enforcement and penalty provisions in Chapter 83.

Section 22. Prevailing Wages. Trustee understands and agrees that all provisions of section 1770, et seq., of the California Labor Code are required to be incorporated into every contract for any public work or improvement and are hereby incorporated into this Indenture. Trustee also understands and agrees that all provisions of sections 6.22E and 6.22F of the San Francisco Administrative Code are hereby incorporated into this Indenture. Trustee also understands and agrees that all applicable provisions of the Davis-Bacon Act (40 U.S.C. §§3141 et seq.) are hereby incorporated into this Indenture.