

File No. 210007

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date February 3, 2021

Board of Supervisors Meeting

Date _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

- Airport Commission Resolution No. 20-0221
- Airport Commission Resolution No. 15-0182
- Airport Commission Resolution No. 17-0045
- Airport Commission Resolution No. 18-0089
- Airport Commission Resolution No. 20-0153
- _____
- _____
- _____
- _____
- _____
- _____

Completed by: Linda Wong

Date January 29, 2021

Completed by: Linda Wong

Date _____

1 [Amended and Restated Trust Agreement - Airport Hotel Special Facility Bonds]

2

3 **Resolution approving the form of an Amended and Restated Trust Agreement**
4 **providing for the restructuring of the Airport Commission’s \$260,000,000 aggregate**
5 **principal amount of outstanding Special Facility Revenue Bonds (San Francisco**
6 **International Airport Hotel), Series 2018; and approving certain related matters, as**
7 **defined herein.**

8

9 WHEREAS, The Airport Commission of the City and County of San Francisco (the
10 “Airport Commission”), by its Resolution No. 91-0210, adopted on December 3, 1991 (as
11 supplemented and amended, the “1991 Resolution”), authorized the issuance of San
12 Francisco International Airport Second Series Revenue Bonds (the “1991 Resolution Bonds”);
13 and

14 WHEREAS, The 1991 Resolution provides for the issuance by the Airport Commission
15 from time to time of the 1991 Resolution Bonds for any lawful purpose of the Airport
16 Commission; and

17 WHEREAS, As part of the implementation of the Airport Master Plan approved by the
18 Airport Commission in 1992, the Airport Commission undertook the development of a hotel
19 owned by the Airport Commission (the “Hotel”); and

20 WHEREAS, The Airport Commission, by its Resolution No. 15-0182 (as supplemented
21 and amended, the “Eighteenth Supplemental Resolution”) designated the planned Hotel as a
22 “Special Facility,” as defined in the 1991 Resolution, and determined that revenues from the
23 Hotel would constitute “Special Facility Revenues” as defined in the 1991 Resolution and
24 would not be included as “Revenues” under the 1991 Resolution, and authorized the issuance

25

1 of bonds issued by the Airport Commission and secured solely by Hotel revenues (the “Hotel
2 Special Facility Bonds”), and, by its Resolution No. 17-0045, the Airport Commission
3 increased the maximum aggregate principal amount of the authorized Hotel Special Facility
4 Bonds to \$260,000,000; and

5 WHEREAS, In order to finance the Hotel at the lowest available interest rates, among
6 other reasons, the Airport Commission, by its Resolution No. 18-0089, authorized the sale of
7 1991 Resolution Bonds to investors and the use of a portion of the proceeds of such 1991
8 Resolution Bonds to purchase the Hotel Special Facility Bonds, thereby combining the
9 desirable features of 1991 Resolution Bonds and Hotel Special Facility Bonds; and

10 WHEREAS, The Board of Supervisors, by Resolutions Nos. 433-15 and 269-17,
11 adopted on December 1, 2015 and June 27, 2017, respectively, approved the issuance of the
12 Hotel Special Facility Bonds and the purchase of the Hotel Special Facility Bonds by the
13 Airport Commission using proceeds of 1991 Resolution Bonds; approved the appointment of
14 U.S. Bank National Association, as trustee for the Hotel Special Facility Bonds (the “Hotel
15 Bonds Trustee”); and authorized the execution and delivery of a Trust Agreement with the
16 Hotel Bonds Trustee (the “Hotel Trust Agreement”), as well as other certificates and
17 agreements relating to the Hotel Special Facility Bonds; and

18 WHEREAS, On June 6, 2018, the Airport Commission issued \$260,000,000 aggregate
19 principal amount of Hotel Special Facility Bonds, pursuant to the Hotel Trust Agreement,
20 named the “Special Facility Revenue Bonds (San Francisco International Airport Hotel),
21 Series 2018,” to finance the Hotel; and

22 WHEREAS, On June 6, 2018, the Airport Commission also issued \$276,340,000
23 aggregate principal amount of 1991 Resolution Bonds, Series 2018B and Series 2018C, to
24 finance the construction of the Hotel and certain related projects; and

1 WHEREAS, Using a portion of the proceeds of the 1991 Resolution Bonds, the Airport
2 Commission invested in the Hotel Special Facility Bonds by causing the Hotel Special Facility
3 Bonds to be purchased by a separate trust entity created under Delaware law for the purpose
4 of making such purchase, with the Airport Commission as trust beneficiary; and

5 WHEREAS, As Hotel Special Facility Bonds investor and trust beneficiary, the Airport
6 Commission has authority to direct The Bank of New York Mellon Trust Company, N.A (“BNY
7 Mellon Trust”), as trustee of the separate trust entity that is the bondholder of the Hotel
8 Special Facility Bonds, to take actions and give directions to the Hotel Bonds Trustee on the
9 Airport Commission’s behalf; and

10 WHEREAS, The Hotel opened on October 4, 2019 and, since the onset of the
11 Coronavirus pandemic in March 2020, has been operating at a loss due to substantially
12 reduced guest reservations and event facility bookings; and

13 WHEREAS, As a result of such substantially reduced guest reservations and event
14 facility bookings at the Hotel, the Airport Commission, as issuer of the Hotel Special Facility
15 Bonds, did not have sufficient Hotel revenues available to fund the \$3.9 million interest
16 payment due on October 1, 2020, on the Hotel Special Facility Bonds; and

17 WHEREAS, The Airport Commission, by its Resolution No. 20-0153, authorized and,
18 by such authority, the Airport Director executed, an instruction to cause BNY Mellon Trust to
19 instruct the Hotel Bonds Trustee: (1) to temporarily suspend the payment of the interest on the
20 Hotel Special Facility Bonds due on October 1, 2020, (2) not to make certain related transfers
21 of funds held by the Hotel Bond Trustee pursuant to the Hotel Trust Agreement, (3) not to
22 exercise certain related remedies, with such instruction explicitly acknowledging that there is
23 no waiver of the right to receive the suspended interest payment and that the non-payment of
24 such interest payment and the actions directed in the instruction shall not constitute or result
25

1 in a default or Event of Default under the Hotel Trust Agreement by the Airport Commission,
2 the Hotel Bonds Trustee or Hyatt Corporation, as manager of the Hotel; and

3 WHEREAS, The Airport Commission, by its Resolution No. 20-0221 (such Resolution
4 No. 20-0221, together with Resolutions Nos. 20-0153, 18-0089 and 17-0045 and the
5 Eighteenth Supplemental Resolution, the “Commission Hotel Bond Resolutions”), approved
6 an Amended and Restated Trust Agreement (the “Amended Trust Agreement”), by and
7 between the Airport Commission and the Hotel Bonds Trustee, to reduce Hotel Special
8 Facility Bonds debt service requirements, including lowered interest rates and an amendment
9 to remove the October 1, 2020 interest payment and to require no debt service set-asides
10 until April 1, 2023, and authorized and directed the Airport Director to direct and instruct BNY
11 Mellon Trust, as trustee of the separate trust entity that is bondholder of the Hotel Special
12 Facility Bonds, to consent to and approve the Amended Trust Agreement; and

13 WHEREAS, A form of the Amended Trust Agreement and the Prior Commission
14 Hotel Bond Resolutions are on file with the Clerk of the Board of Supervisors in File No.
15 210007; and

16 WHEREAS, The Airport Commission now seeks approval by this Board of the
17 Amended Trust Agreement; now, therefore, be it

18 RESOLVED, That the Board hereby declares that each of the foregoing recitals is true
19 and correct and is a representation of the Board; and, be it

20 FURTHER RESOLVED, That the Amended Trust Agreement in the form presented
21 and on file with the Clerk of the Board is hereby approved, and that the Airport Director and
22 other appropriate Airport officials are hereby authorized to execute and deliver the Amended
23 Trust Agreement substantially in the form presented and on file with the Clerk of the Board,
24 with such changes and additions as the Airport Director shall deem necessary or advisable in
25

1 consultation with the City Attorney, which changes and additions shall be conclusively
2 approved by such execution and delivery; and, be it

3 FURTHER RESOLVED, That within thirty (30) days of the Amended Trust Agreement
4 being executed by all parties, the Airport Director shall provide copies of the executed
5 document to the Clerk of the Board for inclusion into the official file; and, be it

6 FURTHER RESOLVED, That all actions heretofore taken by the officers, agents and
7 employees of the Airport Commission and the City to carry out the intents and purposes of the
8 Commission Hotel Bond Resolutions, and of this Resolution, as consistent with this
9 Resolution, are hereby ratified, approved and confirmed; and, be it

10 FURTHER RESOLVED, That the Airport Commission and its proper officers, agents
11 and employees and those of the City are hereby authorized to take such actions or execute
12 such certificates, documents and agreements, in consultation with the City Attorney, as may
13 be necessary or desirable to carry out the intents and purposes of this Resolution and the
14 transactions contemplated hereby, including technical conforming amendments to the
15 contracts authorized by the Commission Hotel Bond Resolutions (the "Other Documents")
16 without the need for further approval by this Board; provided, that any such other actions or
17 execution of any such Other Documents are intended solely to further the purposes of this
18 Resolution, and are subject in all respects to the terms of this Resolution; and provided
19 further, that no such actions or execution of such Other Documents shall increase the risk to
20 the Airport Commission or the City or require the Airport Commission or the City to expend
21 any resources not otherwise authorized hereby; and, be it

22 FURTHER RESOLVED, That should the application of any provision of this Resolution
23 to any particular facts or circumstances be found by a court of competent jurisdiction to be
24 invalid or unenforceable, then (a) the validity of other provisions of this Resolution shall not be
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1 affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent
2 possible so as to effect the intent of this Resolution.

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Item 1 File 21-0007	Department: Airport
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EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve the Amended Hotel Trust Agreement between the Airport and U.S. Bank, the Hotel Special Facility Revenue Bond trustee.

Key Points

- The Board of Supervisors previously approved the sale of \$278 million in Airport General Revenue Bonds and \$260 million in Hotel Special Facility Revenue Bonds to finance the construction of a hotel owned by the Airport and operated by Hyatt Corporation. The Airport used the proceeds from the General Airport Revenues Bonds to purchase the Hotel Special Facility Revenue Bonds, for which debt service is paid from hotel revenues. Debt service payments on the Hotel Special Facility Revenue Bonds are revenue to the Airport. The Airport uses its operating revenues to pay for debt service on the General Airport Revenue Bonds.
- According to the Airport, because of the reduction in travel due to COVID 19, the hotel did not have sufficient revenues or reserves available to make the scheduled semi-annual interest payment for the Hotel Special Facility Revenue Bonds of \$3.9 million due on October 1, 2020.
- Under the proposed Amended Hotel Trust Agreement, all Hotel Special Facility Revenue Bond (a) debt service payments (interest and principal repayments) would be suspended for the period from October 1, 2020 and through April 1, 2023; and (b) interest rates would be reduced from 3 percent to 0.086 percent through October 1, 2023 and then gradually increase until the interest rate is restored to 3 percent beginning on April 1, 2029. Interest would continue to accrue on the outstanding debt between October 2020 and April 2023.

Fiscal Impact

- The total reduction in nominal (unadjusted for inflation) debt service is \$47.5 million. The net present value of the interest payment the Airport will forgo under the debt restructuring is \$44.1 million. This reduces the amount of Airport revenue available to pay for General Airport Revenue Bond debt that was used to purchase the Hotel Special Facility Revenue Bonds. In FY 2020-21, the reduction in revenues to the Airport from the proposed Amended Hotel Trust Agreement is \$7.8 million and in FY 2021-22 is \$8.6 million. According to the Airport, in response to the impacts of the COVID-19 pandemic, the Airport is implementing measures to significantly reduce operating expenses and near-term debt service costs on its General Airport Revenue Bond debt portfolio to offset revenue losses due to the COVID-19 pandemic.

Recommendations

- Amend the resolution to request a report from the Airport in May 2021 on the Airport’s and Airport Hotel’s revenues and expenditures in FY 2020-21, projected revenues and expenditures in FY 2021-22, and the status of outstanding debt and annual debt service.
- Approve the proposed resolution as amended.

MANDATE STATEMENT

Charter Section 9.107(4) provides for the Board of Supervisors to authorize the Airport to issue revenue bonds for any Airport related purpose and secured solely by Airport revenues.

BACKGROUND**Airport Hotel Financing Structure and Agreements**

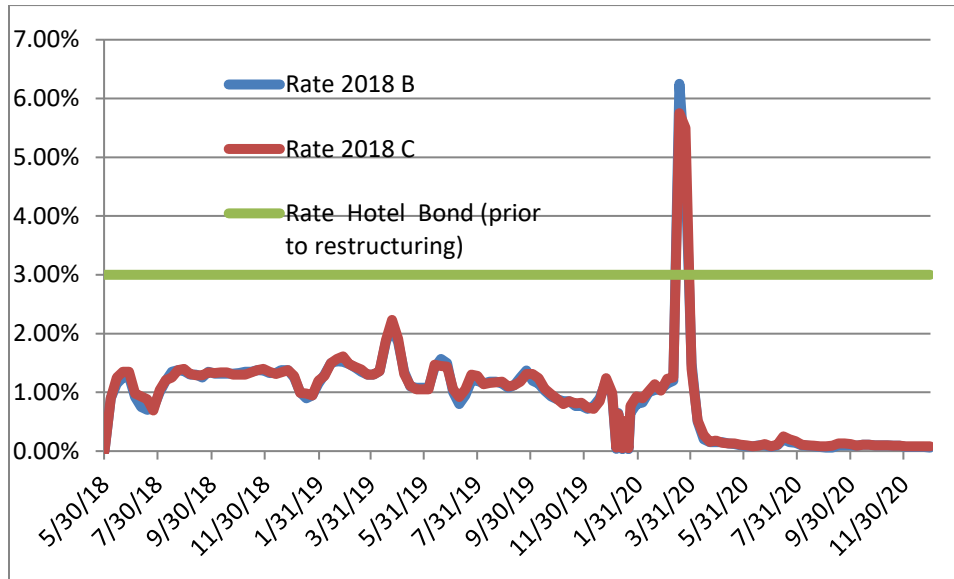
In late 2015, the Board of Supervisors approved the sale of \$243 million of General Airport Revenue Bonds and \$225 million of Hotel Special Facility Revenue Bonds to finance the construction of a 351-room hotel at the Airport (File 15-0987). Due to an increase in construction costs, in 2017 the Board of Supervisors approved an additional sale of \$35 million of General Airport Revenue Bonds and \$35 million of Hotel Special Facility Revenue Bonds to complete the project (File 17-0696).

The Airport used the proceeds from the General Airport Revenues Bonds to purchase the Hotel Special Facility Revenue Bonds. The Airport has a trust agreement with Bank of New York Mellon Trust Company, N.A., to hold the Hotel Special Facility Revenue Bonds and transfer debt service payments to the Airport. The General Airport Revenue Bonds issued to purchase the Hotel Special Facility Revenue Bonds have a variable interest rate that remained below 2 percent prior to the pandemic, while the Hotel Special Facility Revenue Bonds have a fixed interest rate of 3 percent.¹ The interest rate on the Airport General Revenue Bonds increased for two weeks in March 2020 to an average of 5.5 percent due to a short-term disruption in the financial markets caused by the outbreak of COVID-19, but have since decreased to less than 0.1 percent, on average, as shown in the Exhibit below.²

¹ The Airport's debt policy allows for up to 20 percent of outstanding debt to be issued at a variable rate. The Airport's variable rate General Airport Revenue Bonds represent 5.2 percent of its overall debt portfolio

² Under the variable rate structure of these Airport General Revenue Bonds for the hotel, the bonds are remarketed every 7 days.

Exhibit 1: Current interest rates on variable and fixed rate Hotel debt



Source: Airport

Note: Rate 2018 B and 2018 C refer to the variable rate on the General Airport Revenue Bonds issued to purchase the Hotel Special Facility Bonds

Hotel revenues pay debt service on the Hotel Special Facility Revenue Bonds. Because the Airport purchased the Hotel Special Facility Revenue Bonds, debt service payments on those bonds are revenue to the Airport. The Airport uses its operating revenues³ to pay for debt service on the General Airport Revenue Bonds.

Airport Hotel Agreements

The Airport owns the hotel, which is operated by Hyatt Corporation under a competitively procured Management Agreement approved by the Board of Supervisors in 2015 (File 15-0988). The hotel’s revenues pay for its operating costs, including the cost of the Management Agreement and, as noted above, for debt service on the Hotel Special Facility Revenue Bonds and related reserves. Hyatt receives a Base Management Fee, which is a fixed amount that escalates over the term of the Management Agreement, and a Subordinate Management Fee, which is also a fixed amount but only paid if the hotel has net revenue after debt service. If the Subordinate Management Fee is not paid in a given year, it carries over to the next year without interest. The trustee on the Hotel Special Facility Revenue Bonds has the right to apply amounts from the Subordinate Management Fee account to the extent necessary for debt service payments.

Hotel net revenue is considered concession revenue to the Airport, fifteen percent of which is transferred to the General Fund as part of the Airport Annual Service Payment (ASP) to the City. The ASP will be increased by an amount equal to the gross revenues of the hotel, less hotel operating and maintenance expenses and scheduled debt service on the Special Facility Revenue

³ Airport operating revenues primarily consist of landing and terminal fees charged to airlines as well as parking, terminal concessions, ground leases, car rentals, ground transportation, and fee revenues.

Bonds. Increases in hotel revenues, or decreases in debt service or operating expenses increase the ASP calculation.

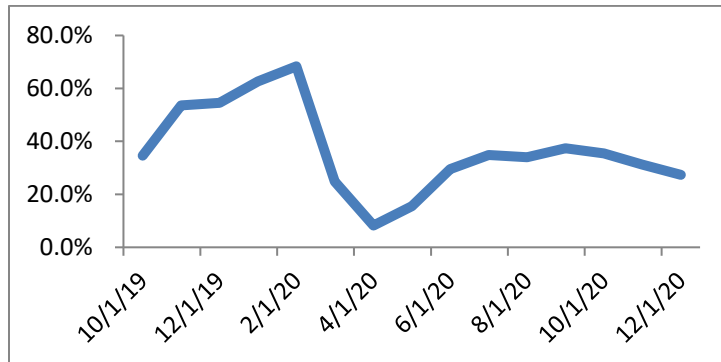
Hotel Bond Trust Agreement

The 2015 resolution approving the original General Airport Revenue Bond and Hotel Special Facility Revenue Bond sales also approved the Hotel Trust Agreement between the Airport and U.S. Bank N.A. to hold, in trust, all hotel revenues and use the hotel revenues to pay for authorized expenses, which include hotel operations, Special Facility Revenue Bond debt service, and funding required reserves.

Airport Hotel Financial Condition

The hotel commenced commercial operations in October 2019. The subsequent onset of the COVID 19 pandemic has resulted in a deterioration of the Hotel's financial position, with Hyatt reporting mounting accounting loss on hotel operations beginning in March 2020. Exhibit 2 below shows the change in the hotel’s occupancy before and during the pandemic.

Exhibit 2: Airport Hotel Occupancy



Source: SFO

According to Airport staff, the hotel had a \$4 million loss in FY 2019-20 and its annual budget projected an \$11 million loss in FY 2020-21. If hotel revenues are insufficient to cover hotel costs (debt service, operating expenses, the base management fee and subordinate management fee, and other costs), the hotel draws on its liquidity reserves to address the shortfall. According to Airport staff, the hotel has also reduced operating expenses due to reductions in its revenues caused by the COVID-19 pandemic.⁴

Suspended Debt Service Payment

According to the Airport, the hotel did not have sufficient revenues or reserves available to make the scheduled semi-annual interest payment for the Hotel Special Facility Revenue Bonds of \$3.9

⁴ According to Ms. Ronda Chu, Capital Finance Director at the Airport, the payments from the hotel to the Airport comprise a very small percentage of the Airport’s overall \$1.2 billion budget. In response to the impacts of the COVID-19 pandemic on general Airport revenues, the Airport is implementing measures to significantly reduce operating expenses and near-term debt service costs on its General Airport Revenue Bond debt portfolio. These measures will mitigate the temporary losses incurred by the hotel.

million due on October 1, 2020. On September 15, 2020, the Airport Commission authorized the Airport Director to execute an instruction to cause Bank of New York Mellon Trust, the holder of the Hotel Special Facility Revenue Bonds on behalf of the Airport, to instruct the Hotel Bonds Trustee (U.S. Bank) to temporarily suspend the interest payment of \$3.9 million that was due on October 1, 2020 and to forbear and take no action to declare a non-payment event on the Hotel Special Facility Revenue Bonds.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the Amended Hotel Trust Agreement between the Airport and U.S. Bank, the Hotel Special Facility Revenue Bond trustee.

Under the proposed Amended Hotel Trust Agreement, all Hotel Special Facility Revenue Bond debt service payments (interest and principal repayments) would be suspended for the period from October 1, 2020 and through April 1, 2023.

In addition, the proposed Amended Hotel Trust Agreement would reduce the interest rate on the Hotel Special Facility Revenue Bonds from 3 percent to 0.086 percent through October 1, 2023 and then gradually increase until the interest rate is restored to 3 percent beginning on April 1, 2029, as shown below. Interest would continue to accrue on the outstanding debt between October 1, 2020 and April 1, 2023. The restructured Hotel Special Facility Revenue Bonds will still have a principal amount of \$260 million.

Exhibit 3: Proposed Interest Rate Schedule

Repayment Period	Interest Rate
April 1, 2020 to October 1, 2023	0.086%
October 1, 2023 to April 1, 2025	0.600%
April 1, 2025 to April 1, 2026	1.100%
April 1, 2026 to April 1, 2027	1.600%
April 1, 2027 to April 1, 2028	2.100%
April 1, 2028 to April 1, 2029	2.600%
April 1, 2029 to April 1, 2058	3.000%

Source: Proposed Amended & Restated Trust Agreement

In addition, the proposed Amended Hotel Trust Agreement would reduce all Mandatory Sinking Fund⁵ contributions through April 1, 2029.

According to Ms. Chu, the requested debt service restructuring ensures that the suspended October 2020 Hotel Special Facility Revenue Bond debt service payment does not constitute a default on that debt.

⁵ A Mandatory Sink Fund is money set aside for principal payments.

FISCAL IMPACT

The fiscal impacts of the proposed nine-year easement of debt service are shown below in Exhibit 4.

Exhibit 4: Proposed Debt Restructuring

Date	Current Debt Service	Proposed Debt Service	Nominal Savings	Savings, Present Value
4/1/21	\$7,800,000		\$7,800,000	\$7,676,545
4/1/22	\$8,565,000		\$8,565,000	\$8,247,940
4/1/23	\$8,257,050		\$8,257,050	\$7,785,178
4/1/24	\$8,542,650	\$1,560,000	\$6,982,650	\$6,443,079
4/1/25	\$8,734,250	\$4,755,000	\$3,979,250	\$3,607,134
4/1/26	\$8,989,400	\$5,009,855	\$3,979,545	\$3,525,308
4/1/27	\$9,226,000	\$5,248,920	\$3,977,080	\$3,442,985
4/1/28	\$9,534,350	\$5,552,345	\$3,982,005	\$3,368,764
4/1/29	\$9,722,050	\$9,718,590	\$3,460	\$7,202
	\$79,370,750	\$31,844,710	\$47,526,040	\$44,104,135

Source: Airport

The total reduction in nominal (unadjusted for inflation) debt service is \$47.5 million. The net present value of the interest payment the Airport will forgo under the debt restructuring is \$44.1 million. This reduces the amount of Airport revenue available to pay for General Airport Revenue Bond debt that was used to purchase the Hotel Special Facility Revenue Bonds. In FY 2020-21, the reduction in revenues to the Airport is \$7.8 million and in FY 2021-22 is \$8.6 million. According to Ms. Chu, in response to the impacts of the COVID-19 pandemic, the Airport is implementing measures to significantly reduce operating expenses and near-term debt service costs on its General Airport Revenue Bond debt portfolio to offset revenue losses due to the COVID-19 pandemic.

POLICY CONSIDERATION

In January 2020, the Board of Supervisors authorized the Airport to issue up to \$3 billion in new General Airport Revenue Bonds (File 19-1124). According to the Budget and Legislative Analyst’s report to the January 22, 2020 Budget and Finance Committee, the Airport’s consultant forecasted that debt service on all current and proposed bonds would increase from \$463.5 million in FY2018-19 to more than \$500 million in FY 2020-21.

In January 2020, the Airport forecasted passenger enplanements to increase from approximately 28 million in CY 2018 to approximately 31 million in CY 2021. Subsequent to the Board’s authorization of the Airport’s issuance of the new General Airport Revenue Bonds, Airport enplanements and revenues were significantly reduced by the COVID-19 pandemic. According to

the Controller's Three-Month Budget Status report for FY 2020-21, Airport enplanements decreased by over 50 percent. The Airport projected a revenue loss in FY 2020-21 of \$21.4 million, offset by expenditure savings of \$47.6 million, for a projected surplus in FY 2020-21 of \$26.2 million.

The Board of Supervisors should amend the proposed resolution to request a report from the Airport in May 2021 on the Airport's and Airport Hotel's revenues and expenditures in FY 2020-21, projected revenues and expenditures in FY 2021-22, and the status of outstanding debt and annual debt service.

RECOMMENDATIONS

1. Amend the proposed resolution to request a report from the Airport in May 2021 on the Airport's and Airport Hotel's revenues and expenditures in FY 2020-21, projected revenues and expenditures in FY 2021-22, and the status of outstanding debt and annual debt service.
2. Approve the proposed resolution as amended.

FORM OF

AMENDED AND RESTATED TRUST AGREEMENT

by and between

AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

and

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

Relating to the

**Airport Commission of the City and County of San Francisco
Special Facility Revenue Bonds
(San Francisco International Airport Hotel),
Series 2018**

Dated as of [_____] 1, 2020

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TRUST AGREEMENT

This AMENDED AND RESTATED TRUST AGREEMENT, dated as of [_____] 1, 2020 (this “Trust Agreement”), between the AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO (the “Commission”), and U.S. BANK NATIONAL ASSOCIATION, a national banking association, which is authorized by law to exercise the trust powers and accept the duties and obligations of the Trustee set forth in this Trust Agreement, and its successors and assigns (the “Trustee”);

RECITALS

WHEREAS, the Commission is a duly constituted commission of the City established and authorized to transact business and exercise its powers in connection with the construction, management, supervision, maintenance, extension, operation, use and control of all property comprising San Francisco International Airport (the “Airport”) under the provisions of Section 4.115 of the Charter of the City effective July 1, 1996, as amended (the “Charter”); and

WHEREAS, the Commission is authorized pursuant to the Charter to issue revenue bonds to finance the cost of capital improvements for the benefit of the Airport; and

WHEREAS, pursuant to Resolution No. 91-0210, adopted by the Commission on December 3, 1991, as amended and supplemented (collectively, the “Master Airport Revenue Bond Resolution”), the Commission is authorized (i) to designate an existing or planned facility, structure, equipment or other property, real or personal, which is at the Airport or part of any facility or structure at the Airport as a “Special Facility,” (ii) to provide that the revenues earned by the Commission from or with respect to such Special Facility (“Special Facility Revenues”) shall not be included in Revenues (as defined in the Master Airport Revenue Bond Resolution) of the Airport and (iii) to issue revenue bonds or other evidences of indebtedness for borrowed money (“Special Facility Revenue Bonds”) payable from the Special Facility Revenues to finance the Special Facility; and

WHEREAS, pursuant to Resolution No. 15-0182, adopted by the Commission on September 22, 2015, the Commission designated the Hotel (as defined in this Trust Agreement) as a “Special Facility,” as defined in the Master Airport Revenue Bond Resolution and determined that the revenues from the Hotel shall constitute “Special Facility Revenues,” as defined in the Master Airport Revenue Bond Resolution, in each case in accordance with Section 2.16 of the Master Airport Revenue Bond Resolution; and

WHEREAS, pursuant to and in accordance with the provisions of the Charter and the Master Airport Revenue Bond Resolution, the Commission desires to issue one or more series of Special Facility Revenue Bonds for the purpose of financing costs of acquiring, designing, constructing, equipping and operating the Hotel located at the Airport, and funding certain reserves and other required amounts in connection therewith; and

WHEREAS, on June 6, 2018 the Commission issued its \$260,000,000 Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel), Series 2018 (the “Series 2018 Bonds”), pursuant to a Trust Agreement, dated as of June 1, 2018 (the “Original Trust Agreement”), by and between the Commission and the Trustee, the net proceeds of which were used to (i) finance and refinance

certain costs related to the planning, engineering, design, development, construction, furnishing and equipping of a full service hotel (as further defined in this Trust Agreement, the “Hotel”), (ii) pay interest on the Series 2018 Bonds until funds available therefor were expended and (iii) fund initial working capital for the Hotel; and

WHEREAS, the Commission entered into a Design-Build Agreement (as defined in this Trust Agreement) with the Design-Builder (as defined in this Trust Agreement), which required the Design-Builder to plan, engineer, design, construct, develop, fixture, furnish and equip the Hotel; and

WHEREAS, the Commission and Manager (as defined in this Trust Agreement) have entered into a Management Agreement (as defined in this Trust Agreement), pursuant to which Manager will manage the Hotel and be obligated to pay to the Commission revenues generated from the operation of the Hotel; and

WHEREAS, the Hotel opened on October 4, 2019 and has been operating at a loss since the onset of the Coronavirus pandemic in March due to substantially reduced guest reservations and event facility bookings; and

WHEREAS, the Commission, as issuer of the Series 2018 Bonds, did not have sufficient Revenues available to fund the interest payment due on the October 1, 2020 Interest Payment Date for the Series 2018 Bonds; and

WHEREAS, on September 15, 2020, at the direction of the Commission, the Holder of 100% of the Outstanding aggregate principal amount of the Series 2018 Bonds instructed the Trustee: (1) to temporarily suspend the payment of interest due on the Series 2018 Bonds on October 1, 2020, (2) not to make certain related transfers of funds held by the Trustee pursuant to the this Trust Agreement, (3) not to exercise certain related remedies, with such instruction explicitly acknowledging that there is no waiver of the right to receive the suspended interest payment and that the non-payment of such interest payment and the actions directed in the instruction did not constitute or result in a default or Event of Default hereunder by the Commission, the Trustee or the Manager; and

WHEREAS, the Commission now desires to execute this Trust Agreement amending and restating the Original Trust Agreement to reduce the Series 2018 Bonds debt service requirements, including a retroactive reduction of the October 1, 2020 interest payment and to require no debt service set-asides until April 1, 2023, among other things; and

WHEREAS, Section 11.02 of the Trust Agreement permits the amendments included herein with, among other things, the written consent of each Registered Owner of each Bond affected thereby; and

WHEREAS, the written consent of each Registered Owner of the Bonds affected by the amendments contained herein has been granted and the other conditions require for the amendments contained herein have been satisfied; and

WHEREAS, the Commission is authorized to issue bonds in the future in compliance with the provisions of this Trust Agreement which will be secured on a parity with the Series 2018 Bonds (the “Additional Bonds” and together with the Series 2018 Bonds, the “Bonds”); and

WHEREAS, the Series 2018 Bonds were, and any additional Bonds will be, issued pursuant to Applicable Law, including Section 4.115 of the Charter; and

WHEREAS, the Bonds are secured by a pledge of the Revenues (as defined in this Trust Agreement) of the Hotel as provided in this Trust Agreement; and

WHEREAS, the Trustee has the power to enter into this Trust Agreement and to execute the trust hereby created and has accepted the trust created hereby; and

WHEREAS, in order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal thereof, Redemption Price, if any, and interest thereon, the Commission has authorized the execution and delivery of this Trust Agreement; and

WHEREAS, all acts and proceedings required by law necessary to make the Series 2018 Bonds, when executed by the Commission, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal limited obligations of the Commission, and to constitute this Trust Agreement a valid and binding agreement for the uses and purposes in this Trust Agreement set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Trust Agreement have been in all respects duly authorized;

NOW, THEREFORE, in order to secure the payment of the principal of, Redemption Price, if any, and interest on, all Bonds at any time issued and Outstanding under this Trust Agreement, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and in this Trust Agreement 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 mutual covenants in this Trust Agreement contained and of the purchase and acceptance of the Bonds by the Registered Owners thereof, and for other valuable consideration, the receipt of which is hereby acknowledged, the Commission does hereby covenant and agree with the Trustee, for the benefit of the Registered Owners from time to time of the Bonds, as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

Section 1.01 Definitions. Except as otherwise expressly provided in this Trust Agreement or unless the context otherwise requires, capitalized terms have the meanings assigned to such listed below:

“*Account*” or “*Accounts*” means any one or more of the accounts from time to time created in any of the Funds established by this Trust Agreement or by any Supplemental Trust Agreement.

“*Accountant*” means any nationally recognized certified public accountant or firm of certified public accountants or accounting corporation of recognized experience and qualifications selected by the Commission, and may be the Independent Accountant.

“*Accountant’s Certificate*” means a certificate or opinion signed by an Accountant.

“*Additional Bonds*” means any Bonds, other than the Series 2018 Bonds, issued pursuant to Article III.

“*Administrative Costs Fund*” means the Administrative Costs Fund established by Section 5.02.

“*Administrative Code*” means San Francisco Administrative Code.

“*Administrative Expenses*” means the reasonable fees and expenses of the Asset Manager, the Trustee, any Consultant, and the Commission paid in accordance with this Trust Agreement and directly relating to the Hotel and the administration of the Bonds and limited as provided in the applicable Operating Budget. Administrative Expenses shall be supported by documentation evidencing such expenses and shall not exceed \$300,000 in any Operating Year, as adjusted each Operating Year for the change in the Bay Area CPI for the immediately preceding calendar year.

“*Affiliate*” means, with respect to any Person, as of the relevant date, any other Person directly or indirectly controlling, controlled by, or under common control with such Person, and any Person directly or indirectly controlling, controlled by or under common control with such entities and, without limiting the generality of the foregoing, shall include (a) any Person which beneficially owns or holds 50% or more of any class of voting securities of such designated Person or 50% or more of the equity interest in such designated Person and (b) any Person of which such designated Person beneficially owns or holds 50% or more of any class of voting securities or in which such designated Person beneficially owns or holds 50% or more of the equity interest. The term control (including “controls,” “controlled by,” and “under common control with”) means the ability through ownership, direct or indirect, of voting stock or other equity interests, to direct or cause the direction of the management and policies of a person, partnership, corporation, limited liability company or other entity.

“*Agent*” or “*Agents*” means the Trustee, the Registrar, any paying agent, and any escrow agent, authentication agent or other agent of the Commission or of any other Agent, or any or all of them, as the context may require.

“*Agreed Scope of the Hotel*” has the meaning set forth in the Management Agreement.

“*Airport*” means San Francisco International Airport.

“*Airport Rules and Regulations*” means the Rules and Regulations of the Airport adopted by the Airport Commission, as the same may be amended from time to time. As of the date of the Original Trust Agreement, the Airport Rules and Regulations had last been adopted on October 17, 2017 and were available online at: http://media.flysfo.com.s3.amazonaws.com/media/sfo/about-sfo/SFO_Rules_and_Regulations_10-21-17.pdf. As of the date of this Trust Agreement, the Rules and Regulations

were last amended on October 20, 2020 and are available online at: <https://www.flysfo.com/about-sfo/the-organization/rules-and-regulations>.

“*Annual Plan*” means the Operating Budget and Capital Budget for the applicable Operating Year.

“*Applicable Law*” means: (i) all laws, statutes, acts, ordinances, rules, regulations, permits, licenses, authorizations, directives, orders, requirements and other Approvals of all Governmental Authorities, including the City’s Charter and Administrative Code and the Airport Rules and Regulations, that now or hereafter may be applicable to Manager, its businesses or operations, the Commission and/or the Hotel, and, (a) with respect to obligations of the Commission, the acquisition and construction of the Hotel, including those relating to zoning, building, health, safety, Hazardous Materials, natural resources, environmental matters, and accessibility of public facilities, and (b) with respect to obligations of Manager, the maintenance, use and operation thereof, including those relating to employees, health, safety, Hazardous Materials (to the extent resulting from the operation of the Hotel by Manager) and environmental matters; and (ii) the requirements of all documents properly filed in the real property records with respect to the Property.

“*Approvals*” means licenses, approvals, permits, certificates, authorizations, registrations and similar documents required, issued, granted or approved by any Governmental Authority having jurisdiction over Manager, the Commission, the Property or the Hotel.

“*Approved Plan*” or “*Approved Plans*” has the meaning set forth in the Technical Services Agreement.

“*Architect*” means the Person or Persons serving as Architect of Record pursuant to the Design-Build Agreement.

“*Asset Manager*” means a Person with significant experience in the hospitality industry, including at least five (5) years of asset management experience, selected by the Commission, with prompt notice of such selection provided by the Commission to the Trustee and Manager, which Person may be an employee of the Commission.

“*Assignment and Subordination of Management Agreement*” means the Assignment and Subordination of Management Agreement, dated as of June 1, 2018, among the Commission, the Trustee and Manager, as originally executed and as it may from time to time be amended, modified and supplemented in accordance with the terms thereof.

“*Authorized Commission Representative*” means the Commission’s Airport Director or such other Persons as may be designated to act on behalf of the Commission by written certificate furnished to the Trustee containing the specimen signature of such Persons and signed on behalf of the Commission by the Airport Director, which Person(s) shall be acting solely in a representative capacity on behalf of the Commission and not individually.

“*Authorized Denominations*” means, with respect to the Series 2018 Bonds, \$5,000 principal amount and integral multiples thereof, and with respect to all other Bonds, unless

otherwise provided in a Supplemental Trust Agreement, \$5,000 principal amount and integral multiples thereof.

“*Available Amount*” has the meaning set forth in Section 7.18(a).

“*Available Revenue*” or “*Available Revenues*” means, for any period of time, (a) Total Operating Revenues determined on a cash basis for such period of time, plus (b) any portion of the Working Capital Set-Aside Amount remaining in the Lockbox Fund during such period of time, and less (i) Operating Expenses determined on a cash basis for such period of time, and (ii) the Working Capital Set-Aside Amount.

“*Base Management Fee*” has the meaning set forth in the Management Agreement.

“*Bay Area CPI*” means the Consumer Price Index for All Urban Consumers, All Items, for the San Francisco-Oakland-San Jose, CA, market area, as published by the Bureau of Labor Statistics of the United States Department of Labor, using the years 1982-84 as a base of 100, or if such index is discontinued, the most comparable index published by any federal governmental agency.

“*BICE*” means the Commission’s Building Inspection and Code Enforcement division with the responsibility to administer and enforce the applicable building codes, including the following responsibilities: review and approve all Airport design and construction projects and tenant improvement proposals; issue Airport building permits; inspect all demolition activities and construction installed within Airport boundaries and in conjunction with ongoing Airport projects; enforce compliance with various building codes, construction standards and regulations; and issue certificates of occupancy.

“*Bond*” or “*Bonds*” means the Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel), issued by the Commission from time to time in Series pursuant to this Trust Agreement, including the Series 2018 Bonds and any Additional Bonds.

“*Bond Counsel*” means a firm of attorneys, selected by the Commission, whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized.

“*Bond Documents*” means this Trust Agreement and the Cash Management Agreement.

“*Bondholder*,” “*Holder*,” or “*Registered Owner*” means the person in whose name any of the Bonds are registered on the books kept and maintained by the Trustee as Registrar.

“*Building*” means the building to be constructed on the Site in accordance with the Design-Build Agreement, which shall include those components, elements and features set forth in the definition of the Hotel in this Section, and which shall include the Systems.

“*Business Day*” means a day that is not a Saturday, Sunday or legal holiday on which banking institutions in the States of California, Minnesota or New York are authorized or required by law or executive order to remain closed or the New York Stock Exchange or DTC is closed.

“*Business Interruption Account*” means the segregated Account within the Insurance and Condemnation Proceeds Fund in which the Business Interruption Proceeds are to be deposited by the Trustee when and as received, which Account shall be established by the Trustee upon receipt of notice that the carrier of such insurance will be paying claims thereon to the Trustee.

“*Business Interruption Insurance*” means business interruption insurance maintained pursuant to the Management Agreement.

“*Business Interruption Proceeds*” has the meaning set forth in the Management Agreement.

“*Capital Budget*” means the approved annual plan and budget setting forth all approved Capital Improvements and Capital Expenses for the Hotel for the relevant Operating Year, prepared in accordance with the terms of Section 3.21 of the Management Agreement.

“*Capital Expense*” means any item of expense that, according to Generally Accepted Accounting Principles, generally is required to be capitalized rather than expensed on the financial statements of the Hotel.

“*Capital Improvement*” means an item of any nature incorporated into the Hotel, the cost of which is a Capital Expense.

“*Capitalized Interest Account*” means, collectively, the Series 2018 Capitalized Interest Account and any other Fund or Account created under any Supplemental Trust Agreement and designated as a Capitalized Interest Account.

“*Capital Reserve Fund*” means the Capital Reserve Fund established by Section 5.02.

“*Capital Reserve Set Aside Amount*” means an amount in each Operating Year equal to two percent (2%) of Total Operating Revenues. The Capital Reserve Set Aside Amount shall not be classified as an Operating Expense or Capital Expense; provided, that upon disbursement of funds from the Capital Reserve Fund, the disbursed amounts shall be classified as an Operating Expense or Capital Expense in accordance with the Uniform System of Accounts and, to the extent consistent therewith, Generally Accepted Accounting Principles.

“*Cash Management Agreement*” means the Cash Management and Lockbox Agreement, dated as of June 1, 2018, among the Commission, the Trustee, the Depository Bank and Manager, or any other agreement with substantially the same terms and conditions with a replacement Depository Bank, as originally executed and as it may from time to time be amended, modified and supplemented in accordance with the terms thereof.

“*Casualty*” means the damage or destruction of the Hotel at any time or times by fire or other casualty.

“*Casualty Proceeds*” means the proceeds (excluding Business Interruption Proceeds) paid under any casualty and property insurance policy maintained by Manager or the Commission with respect to the Hotel as a result of damage to or destruction of the Hotel arising as a result of a Casualty.

“*Cede & Co.*” means the nominee of the DTC.

“*Centralized Services*” means the collective reference to the following services, programs and group benefits (as are, from time to time, provided generally to all Other Grand Hyatt Hotels): (i) centralized accounting and payroll services; (ii) system-wide marketing, advertising, public relations and promotion, including search engine marketing; (iii) system-wide reservation systems, including for airline and global distribution systems; (iv) frequent guest loyalty and rewards programs; (v) supervision and control services provided to the Hotel; (vi) human resources services provided to the Hotel; (vii) financial services provided to the Hotel; (viii) targeted marketing programs that include the Hotel; (ix) information and technology systems and services provided to the Hotel, including network connectivity, email, internet distribution programs, and high-speed internet services; (x) revenue management services; and (xi) mandatory contract services (including credit card acceptance, music licenses and certain telecommunications services). Centralized Services include Chain Services.

“*Centralized Services Fees*” means the fixed amount for each Operating Year set forth in the Management Agreement, subject to adjustment as set forth in such Agreement.

“*Certificate,*” “*Statement,*” “*Request,*” “*Direction,*” or “*Order*” of the Commission means a written certificate, statement, request, direction, or order signed in the name of the Commission by an Authorized Commission Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

“*Certificate of Occupancy*” means the Temporary or Final Certificate of Occupancy.

“*Certificate of Reduction in Debt Service*” means a certificate signed by an Authorized Commission Representative to the effect that the Debt Service in each Fiscal Year on the Bonds to be Outstanding immediately after the issuance of the Series of Refunding Bonds to which such certificate relates is not greater than the Debt Service in each Fiscal Year on the Bonds Outstanding immediately prior to the issuance of such Series of Refunding Bonds.

“*Certified Annual Financial Statements*” means audited financial statements consisting of (i) a statement of net position, (ii) a statement of revenues, expenses and changes in net position, and (iii) a statement of cash flows, and a certificate of the Independent Accountant to the effect that, subject to any qualifications contained therein, the financial statements fairly present, in conformity with the Uniform System of Accounts and, to the extent consistent therewith, Generally Accepted Accounting Principles, the financial position, results of operations, and cash flows of the Hotel for the Operating Year then ended.

“*Chain Services*” means the marketing and sales program generally made available by Manager from time to time to the Hyatt System, including the following as of the Execution Date: (i) convention, business and sales promotion services (including the maintenance and staffing of Hyatt’s global sales offices and regional sales offices located in various parts of the United States and the world); (ii) chain-wide marketing, advertising and public relations services for Other Grand Hyatt Hotels and Hyatt’s other individual full-service brands; (iii) centralized reservations services; (iv) revenue management; and (v) operational departmental supervision and control

services for, among others, food and beverage, rooms, accounting, engineering and human resource departments. Manager may, in its discretion from time to time, change the specific services which are part of the foregoing general services.

“*City*” means the City and County of San Francisco, California.

“*City Treasurer*” means the Treasurer of the City.

“*Charter*” means the Charter of the City effective July 1, 1996, as amended.

“*Closing*” or “*Closing Date*” means, with respect to the Series 2018 Bonds, June 6, 2018.

“*Code*” means the Internal Revenue Code of 1986, as amended, and the United States Treasury Regulations proposed or in effect with respect thereto.

“*Commission*” means the Airport Commission of the City and County of San Francisco.

“*Construction Fund*” means the Construction Fund established by Section 5.02, and includes any separate accounts or subaccounts established therein pursuant thereto.

“*Consultant*” means any Person at the time employed by the Commission (or, to the extent specifically provided in this Trust Agreement or in any Supplemental Trust Agreement, by or on behalf of the Trustee) to carry out the duties imposed by or pursuant to this Trust Agreement or a Supplemental Trust Agreement, which Person shall be experienced, have a national and favorable reputation in the matters for which such Person is so employed, and be independent of the Design-Builder, Manager and the Commission.

“*Continuing Disclosure Certificate*” means the Continuing Disclosure Certificate, if any, executed by the Commission in connection with the issuance of any Series of Bonds pursuant to Rule 15c2-12 promulgated by the Securities and Exchange Commission, as originally executed and as it may from time to time be amended, modified and supplemented in accordance with the terms thereof.

“*Costs*,” “*Costs of the Hotel*” or “*Hotel Costs*” means all costs and expenses of acquisition, planning, design, development, supervision, construction, furnishing, opening and equipping, and improvement of the Hotel, and obtaining Approvals with respect thereto, heretofore and hereafter paid or incurred by or on behalf of the Commission. Such Costs of the Hotel shall include:

(a) contractors’ fees and charges, the cost of labor, services, materials and supplies used or furnished in site improvement and construction, training and testing costs, the cost of purchasing and installing machinery, equipment, facilities, rolling stock and ancillary items, and the cost of utility services;

(b) the costs of preparing surveys, cost estimates, appraisals, plans and specifications (including any preliminary study or planning or any aspect thereof), fees for architectural, engineering, supervisory and consulting services, planning and development costs, the costs of obtaining governmental or regulatory permits, licenses, franchises and approvals, and any other fees or expenses necessary to establish feasibility or practicability;

(c) working capital and reserves therefor in such amounts as shall be determined by the Commission to be reasonably required during construction of the Hotel and for placing the Hotel in operation, and such additional amounts of working capital and reserves therefor as may thereafter be determined;

(d) premiums of all insurance and surety and payment bonds required to be maintained, all claims and expenses relating to injury and damage, and casualty and liability insurance premiums in connection with insurance against loss from such claims, applicable during the period of construction and placing the Hotel or any portion thereof in operation;

(e) interest to accrue on the Bonds during construction of the Improvements to the Hotel being financed with such Bonds to the extent such amounts are on deposit in a Capitalized Interest Account;

(f) training and testing costs which are properly allocable to the acquisition, placing in operation or construction of the Hotel or any portion thereof;

(g) Costs of Issuance, to the extent not otherwise described in this definition;

(h) legally required or permitted federal, state and local taxes and payments in lieu of taxes applicable during the period of construction and placing the Hotel or any portion thereof in operation;

(i) all amounts payable by the Commission under any other contracts, agreements or other arrangements relating to the acquisition, design, construction and equipping of the Hotel;

(j) amounts due the United States of America as rebate of investment earnings with respect to the proceeds of the Bonds or as penalties in lieu thereof;

(k) amounts payable with respect to capital costs for the expansion, reinforcement, enlargement or other improvement of facilities determined by the Commission as necessary in connection with the utilization of the Hotel and the capital costs associated with the removal from service or reductions in service of any facilities as a result of the expansion, reinforcement, enlargement or other improvement of such facilities or the construction of the Hotel; and

(l) all other costs and expenses relating to the acquisition, design, construction, equipping and placing in service of the Hotel or any portion thereof, including costs of environmental mitigation and remediation.

“*Costs of Issuance*” means the items of expense relating to the authorization, sale and issuance of Bonds, which items of expense may include: travel expenses; printing costs; costs of reproducing documents; computer fees and expenses; filing and recording fees; initial fees and charges of the Trustee, Consultants, Registrar, any paying agent and other Agents; initial fees and charges of banks, insurers or other parties pursuant to guarantees or bond insurance policies; bond discounts; legal fees and charges; consulting fees and charges; auditing fees and expenses;

financial advisor's fees and charges; costs of credit ratings; insurance premiums; fees and charges for the execution, transportation and safekeeping of Bonds; and any other administrative or other costs of issuing, carrying and repaying such Bonds and investing the Bond proceeds.

"Costs of Issuance Account" means the Costs of Issuance Account in the Construction Fund established by Section 5.03 if applicable.

"Date of Final Completion" means the date stated in the written acceptance of the Work by the Commission, issued in accordance with Section 6.22(k) of the City's Administrative Code, when the Work has been fully and satisfactorily completed in accordance with the Development Agreements.

"Date of Substantial Completion" means the stage in the progress of the Work, when the Work (or a specified part thereof) is sufficiently complete in accordance with the Design-Build Agreement, including receipt of a Temporary Certificate of Occupancy, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended.

"Debt Service" means, as of any date of calculation, with respect to any particular period and with respect to all Bonds, all Bonds of any Series or any portion thereof as the context requires, an amount equal to the sum of (i) interest accruing during such period on such Outstanding Bonds and not accounted for with amounts on deposit in a Capitalized Interest Account held by the Trustee for such Bonds, and (ii) that portion of each Principal Payment and Mandatory Sinking Fund Installment for such Outstanding Bonds which would accrue during such period if each such Principal Payment and Mandatory Sinking Fund Installment for such Bonds were deemed to accrue daily in equal amounts from the next preceding Principal Payment Date for such Bonds (or, if there shall be no such preceding date, from a date one (1) year preceding such Principal Payment Date or from the date of issuance of the such Bonds, whichever date is later). Such interest, principal and Mandatory Sinking Fund Installment payments for the Outstanding Bonds shall be calculated on the assumption that no Bonds Outstanding at the date of calculation shall cease to be Outstanding except by reason of the payment of principal and Mandatory Sinking Fund Installments on the due dates thereof and on the basis of the actual number of days within the relevant period.

"Debt Service Coverage Ratio" means with respect to the Outstanding Bonds, a fraction calculated by dividing the Net Revenues for a particular period of time by the Net Debt Service for the Outstanding Bonds for the same period of time.

"Debt Service Coverage Requirement" means with respect to the Outstanding Bonds, a Debt Service Coverage Ratio for such Bonds which is not less than 1.05:1.00 during the first (1st) Operating Year, not less than 1.15:1.00 during the second (2nd) Operating Year, and not less than 1.25:1.00 for each Operating Year thereafter.

"Debt Service Account" means the Debt Service Account in the Debt Service Fund established by Section 5.02.

"Debt Service Fund" means the Debt Service Fund established by Section 5.02, together with the Accounts established therein.

“*Debt Service Reserve Fund*” means the Debt Service Reserve Fund established by Section 5.02.

“*Defeasance Securities*” means:

(a) Cash deposits (insured at all times by the Federal Deposit Insurance the Commission or otherwise collateralized with obligations described in the next paragraph);

(b) Direct obligations of (including obligations issued or held in book entry form on the books of the Department of Treasury) the United States of America. In the event these securities are used for defeasance, they shall be non-callable and non-prepayable; and

(c) Obligations the timely payment of which is backed by the full faith and credit of the United States of America (in the event these securities are used for defeasance, they shall be non-callable and non-prepayable).

“*Depository*” means initially DTC, or any other securities depository selected as set forth in Section 3.13 with respect to the Bonds.

“*Depository Bank*” means such banking institution or institutions as the Commission shall from time to time designate in writing to the Trustee, at which the account or accounts shall be established and maintained with respect to the Lockbox Fund pursuant to the Cash Management Agreement.

“*Design-Build Agreement*” means the Design-Build Agreement, dated as of January 1, 2016, between the Commission and the Design-Builder, for the design and construction of the Hotel, originally executed and as it may from time to time be amended, modified and supplemented in accordance with the terms thereof.

“*Design-Build Standards*” means the quality of services and work performed and practiced equal to or better than that provided by design-builders nationally recognized as design-builders of First-Class Hotels with a four (4)-diamond AAA Rating of similar type, size and complexity as the Hotel.

“*Design-Builder*” means the Person or Persons with experience and expertise in the design and construction of hotels to be selected by the Commission through a competitive process.

“*Development Agreements*” means, collectively, all documents and instruments pertaining to the construction or development of the Hotel, including the Design-Build Agreement, the Technical Services Agreement and the Pre-Opening Services Agreement.

“*Disbursement*” means a disbursement of funds in the applicable Accounts within the Construction Fund to cover Costs of the Hotel.

“*DTC*” means The Depository Trust Company or any successor securities depository thereto.

“*Emergency*” means a situation which constitutes an actual and imminent threat of serious harm to human life, health or safety.

“*Environmental Laws*” means any federal, State, local or administrative law, rule, regulation, order, or requirement relating to industrial hygiene, protection of human health and safety, environmental conditions or Hazardous Materials, whether now in effect or hereafter adopted or amended from time to time, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C Section 9601, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), the California Hazardous Waste Control Law (California Health and Safety Code Section 25100, et seq.), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000, et seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code Section 25249.5, et seq.); and applicable and controlling federal or state court decisions.

“*Event of Default*” means an event listed in Section 9.02.

“*Excluded Taxes and Other Charges*” means any (a) Gross Receipts Taxes and (b) withholding tax or other employment-related taxes.

“*FF&E*” means all items of furniture, fixtures and equipment used or held for usage at the Hotel, together with all replacements therefor and additions thereto (including information technology systems and equipment), but shall not include operating supplies and equipment.

“*FF&E Reserve Fund*” means, so long as any Bonds remain outstanding, the FF&E Reserve Fund established by Section 5.02.

“*FF&E Set Aside Amount*” means the following:

Opening Date through

1 st Operating Year-	1% of Total Operating Revenues
2 nd Operating Year-	2% of Total Operating Revenues
3 rd Operating Year -	3% of Total Operating Revenues
Each Operating Year thereafter-	4% of Total Operating Revenues

The FF&E Set Aside Amount shall be classified as an Operating Expense or Capital Expense, in accordance with the Uniform System of Accounts and, to the extent not inconsistent therewith, Generally Accepted Accounting Principles.

“*Final Certificate of Occupancy*” means the certificate or certificates, as applicable, issued by BICE that permits full, complete, permanent, unconditional, legal and beneficial occupancy, operation and use for the entirety of the Hotel for each and all of its intended purposes as initially

acquired by the Design-Builder with respect to the original construction of the Hotel and the Work pursuant to the Design-Build Agreement.

“*First-Class Hotel*” means a full-service, luxury hotel with at least a four (4)-diamond AAA Rating and, to the extent of any material change after the execution date of the Management Agreement in the standards for such a rating, consistent with the standards for such rating as of such execution date.

“*Fiscal Year*” means the fiscal year of the Commission, currently the twelve (12)-month period ending June 30.

“*Fund*” or “*Funds*” means any one or more, as the case may be, of the separate special funds established by this Trust Agreement or by any Supplemental Trust Agreement.

“*GAAP*” or “*Generally Accepted Accounting Principles*” means those conventions, rules, procedures and practices affecting all aspects of recording and reporting financial transactions by governmental entities which (i) are generally accepted by major independent accounting firms in the United States, and (ii) consistently applied in accordance with the City-wide accounting policies adopted from time to time by the Commission. If the Commission and Manager cannot agree on what constitutes Generally Accepted Accounting Principles, then the accounting firm then or most recently engaged to prepare the Certified Annual Financial Statements for the Hotel in accordance with Section 3.23(c) of the Management Agreement shall make the determination on the request of either Party, unless such accounting firm is also the auditing firm for Manager, in which case a different Independent Accountant shall make such determination.

“*Governmental Authority*” means any agency, authority, board, branch, division, department or similar unit of any federal, state, county, city, town, district, or other governmental entity or unit having jurisdiction over or validly imposing requirements on the applicable Person or the Hotel, including its construction and operation.

“*Gross Operating Profit*” means for any period of time, the amount by which Total Operating Revenues for such period exceeds Operating Expenses for the same period.

“*Gross Receipts Taxes*” means applicable excise, sales, occupancy and use taxes, or similar taxes, duties, levies or charges imposed by Governmental Authorities collected directly from patrons or guests, or as a part of the sales price of any goods, services, or displays, such as gross receipts, admission, cabaret or similar or equivalent taxes, including any transaction tax, resale of electricity tax, soft drink tax, head tax, occupancy tax, amusement tax, beverage tax, public utility tax, and/or new service tax.

“*Hazardous Materials*” means: (i) any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any Governmental Authority to pose a present or potential hazard to human health or safety or to the air, water, soil or environment; and (ii) any materials, substances, products, by products, waste, or other materials of any nature or kind whatsoever whose presence in and of itself or in combination with other materials, substances, products, by products, or waste may give rise to liability under any Environmental Laws or permits. “*Hazardous Material*” includes any material or substance identified, listed, or defined as a “hazardous waste,” hazardous substance,” or “pollutant” or “contaminant” or term of similar

import, or is otherwise regulated pursuant to Environmental Laws; any asbestos and asbestos-containing materials; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

“*Hotel*” means the hotel to be constructed on the Site as further described in Exhibit A to this Trust Agreement.

“*Hotel Account*” means the Hotel Account held by the City Treasurer and established by Section 5.02.

“*Hotel Consultant*” means an independent nationally recognized consulting firm with substantial and significant experience in the First-Class Hotel segment listed in an exhibit to the Management Agreement and which is appointed by agreement of the parties or, failing agreement, each party shall select one (1) such nationally recognized consulting firm and the two (2) respective firms so selected shall select another such nationally recognized consulting firm to be the Hotel Consultant. The Hotel Consultant may not be Manager’s or the Commission’s primary hotel consultant or auditor and shall provide a written statement to each of the Commission, the Trustee and Manager representing that it will make a fair and impartial judgment in any matter submitted to it pursuant to the provisions of the Management Agreement.

“*Hotel Environmental Requirements*” has the meaning set forth in Section 2.3 of the Management Agreement.

“*Hotel Personnel*” means all individuals performing services at the Hotel employed by Manager or an Affiliate of Manager.

“*Hotel Personnel Costs*” means all costs associated with the employment, management or termination of Hotel Personnel, including training expenses, recruitment expenses, the costs of moving Key Personnel, their families and their belongings to the area in which the Hotel is located at the commencement of their employment at the Hotel (subject to the limitations set forth in the Management Agreement), wages and salaries, compensation and benefits, employment taxes, training and severance payments, all in accordance with Applicable Law and Manager’s policies for Substantially All Other Grand Hyatt Hotels.

“*Hotel Requirements*” means any and all requirements, rules, restrictions, terms, conditions, limitations, or obligations imposed upon the Site, the Building, the Improvements, the Hotel, or any other component or part thereof, the Work, the Commission, the Design-Builder, or any Subcontractor or Consultant by any one or more of the following: Applicable Law, the Development Agreements, this Trust Agreement, the Design-Build Standards, the Hotel Environmental Requirements, the Hyatt Requirements and the Design-Build Agreement.

“*Hyatt*” means Hyatt Corporation, a Delaware corporation, and its successors and assigns.

“*Hyatt Requirements*” has the meaning set forth in the Management Agreement, and the corresponding requirements of any successor Manager.

“*Hyatt System*” means, collectively, the elements uniformly designated from time to time to identify structures, facilities, appurtenances, furniture, fixtures, equipment that provide to the

consuming public a similar, distinctive, high quality hotel service identified with the “Hyatt” brand name, in whole or in part; including licensed brands associated with the Hyatt name, Hyatt trademarks, logos, service marks and the like, access to a Hyatt reservation system, and Hyatt publicity and marketing, training, standards, specifications, policies, inspection programs and manuals containing standards and requirements for the operation of “Hyatt” branded hotels, and the corresponding elements for any successor Manager.

“*Impositions*” has the meaning given such term in Section 7.15.

“*Improvements*” means the Building and all other structures, buildings, pavement, fencing, landscaping, recreational facilities, plumbing, electrical and telephone lines and computer cables and man-made objects of every type, existing or to be placed on the Site.

“*Indebtedness*,” as applied to any Person, means: (i) all indebtedness for borrowed money; (ii) that portion of obligations with respect to leases that is properly classified as a liability on a statement of net position in conformity with GAAP; (iii) notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money; (iv) any obligation owed for all or any part of the deferred purchase price of property or services if the purchase price is due more than six (6) months from the date the obligation is incurred or is evidenced by a note or similar written instrument; and (v) all indebtedness secured by any lien on any property or asset owned or held by that Person regardless of whether the indebtedness secured thereby has been assumed by that Person or is nonrecourse to the credit of that Person.

“*Independent Accountant*” means a national firm of independent certified public accountants, mutually acceptable to the Commission and Manager.

“*Insurance and Condemnation Proceeds Fund*” means the Insurance and Condemnation Proceeds Fund established by Section 5.02.

“*Insurance Consultant*” means an insurance consultant which may be an employee of the City, unless there is a dispute between the Manager and the Commission regarding such consultant’s findings, in which case the Manager and the Commission shall mutually agree to an independent insurance consultant.

“*Insurance Costs*” means insurance premiums relating to liability and casualty coverage and Business Interruption Insurance policies and other insurance policies and coverages maintained with respect to the Hotel as required pursuant to the Management Agreement and this Trust Agreement, including Exhibit N to the Management Agreement.

“*Interest Payment Date*” means, with respect to the Series 2018 Bonds, October 1, 2018, April 1, 2019, October 1, 2019, April 1, 2020, and commencing October 1, 2023, October 1 and April 1 of each year thereafter, and, with respect to any other Series of Bonds, the date or dates on which interest on such Series of Bonds is due and payable.

“*Investment Securities*” means investments permitted by Applicable Law and the City’s investment policies.

“*Key Money*” has the meaning set forth in the Management Agreement.

“*Key Personnel*” means the following positions of Manager: the General Manager, the Director of Finance, the Director of Sales and Marketing, the Director of Food and Beverage and the Director of Engineering.

“*Letter of Instructions*” means a written directive and authorization executed by an Authorized Commission Representative.

“*Lien*” means, to the extent applicable, any lien against any portion of the Hotel or any retainage for the benefit of the Architect, Consultants, Design-BUILDER, Subcontractors, laborers, mechanics, material suppliers, vendors and any other Persons providing, furnishing, performing or supplying any portion of the Work under a Subcontract.

“*Lockbox Fund*” means the Lockbox Fund required to be maintained pursuant to Section 5.06 of this Trust Agreement and established by Section 3 of the Cash Management Agreement.

[“*Management Agreement*” means the Hotel Management Agreement, dated as of January 1, 2016, as amended by the First Modification to Hotel Management Agreement, dated as of June 1, 2017, as further amended by the Second Modification to Hotel Management Agreement, dated as of October 3, 2017, and as further amended by the Third Modification to Hotel Management Agreement, dated as of May 9, 2018, each between the Commission and Manager, or as the context requires, any other management agreement entered into by the Commission with respect to the operation and management of the Hotel, as originally executed and as it may from time to time be amended, modified and supplemented in accordance with the terms hereof and thereof.]

“*Management Fee*” means the Base Management Fee and the Subordinate Management Fee.

“*Manager*” means Hyatt and any other person who enters into a Management Agreement with the Commission to operate and manage the Hotel on behalf of the Commission.

“*Manager Event of Default*” has the meaning set forth in the Management Agreement.

“*Mandatory Sinking Fund Installment*” means with respect to any Series of Bonds, the amount required to be paid as the Redemption Price of Bonds subject to mandatory sinking fund redemption on any Principal Payment Date prior to maturity pursuant to this Trust Agreement or the Supplemental Trust Agreement for such Series, as such Mandatory Sinking Fund Installment has been previously reduced by the principal amount of any Bonds of such Series of the maturity in respect of which such Mandatory Sinking Fund Installment is payable that are purchased or redeemed by the Trustee in accordance with the provisions of Section 4.03 or of any Supplemental Trust Agreement, other than by the prior payment of a Mandatory Sinking Fund Installment.

“*Material Adverse Effect*” means (i) if the Commission or another Person is referenced, the impairment of the ability of the Commission or such other Person to perform its non-monetary obligations under any Bond Document, or (ii) if the Hotel is referenced, a material adverse effect upon the business, operations, assets or condition (financial or otherwise) of the Hotel, or upon the ability of the Hotel to be in compliance with the terms of the Principal Transaction Documents. In

determining whether any individual event would result in a Material Adverse Effect, notwithstanding that such event does not of itself have such effect, a Material Adverse Effect shall be deemed to have occurred if the cumulative effect of such event and all other then-occurring events and existing conditions would result in a Material Adverse Effect.

“*Maximum Permitted Price*” means the then current maximum payment amount under the Design-Build Agreement.

“*Net Debt Service*” means, for purposes of determining the Debt Service Coverage Ratios under Section 7.21, with respect to the Series 2018 Bonds, Debt Service on the Series 2018 Bonds less actual and anticipated investment earnings on amounts held in the Debt Service Reserve Fund.

“*Net Operating Income*” means, for any period, the amount by which the sum of (i) Gross Operating Profit for such period, plus (ii) interest earned on any of the Accounts or Funds (except for the Debt Service Reserve Fund, the FF&E Reserve Fund, the Capital Reserve Fund and the Working Capital Reserve Fund), exceeds the sum of: (x) Taxes, plus (y) Insurance Costs, plus (z) amounts added to the FF&E Reserve Fund in the same period.

“*Net Revenues*” means Net Operating Income, less Administrative Expenses, less additions to the Capital Reserve Fund, plus the earnings on amounts deposited into the Revenue Fund not otherwise included in the definition of Net Operating Income.

“*Opening Date*” means October 4, 2019, the first date on which the Hotel opened for business as mutually agreed upon by the Commission and Manager.

“*Operating Budget*” means an annual marketing and operating plan and budget for the Hotel prepared by Manager and approved by the Commission, all in accordance with Section 3.21 of the Management Agreement.

“*Operating Expenses*” means all those ordinary and necessary expenses, including Reimbursable Expenses and the Base Management Fee incurred in the operation of the Hotel in accordance with and to the extent provided in the Management Agreement, Hotel Personnel Costs, the cost of maintenance and utilities, Administrative Expenses, the costs of advertising, marketing, and business promotion, lease payments for equipment to be installed and utilized at the Hotel, and any amounts payable to Manager as its Base Management Fee as set forth in the Management Agreement, all as determined in accordance with Generally Accepted Accounting Principles. Notwithstanding the foregoing, unless expressly made an Operating Expense under a specific provision of the Management Agreement, the following shall not constitute Operating Expenses: (a) Taxes and Excluded Taxes and Other Charges (with the exception of payroll taxes included in Excluded Taxes and Other Charges); (b) Insurance Costs; (c) rentals of real property (unless approved in writing by the Commission); (d) depreciation and amortization of capitalized assets; (e) Administrative Expenses; (f) costs and professional fees, including the fees of attorneys, accountants, and appraisers, incurred directly or indirectly in connection with any category of expense that would not otherwise be an Operating Expense, unless otherwise expressly provided in the Management Agreement; (g) payments of principal and interest related to any financing of the Hotel; (h) costs covered by any of Manager’s indemnity, hold harmless and defense agreements contained in the Management Agreement, all of which shall be funded out of Manager’s own funds; (i) costs incurred by Manager to perform obligations, duties, covenants, agreements and

responsibilities which, under the express terms of the Management Agreement, are to be funded from Manager's own funds; (j) Capital Expenses, including construction costs of the Hotel; (k) commissions associated with group sales or conference sales which may become payable during the Pre-Opening Period, but which are attributable to events or bookings scheduled to occur on or after the Opening Date; (l) payments made and amounts required to be paid pursuant to the Design-Build Agreement; and (m) the Subordinate Management Fee.

"Operating Standards" means the standards of management of the Hotel described in Exhibit E to the Management Agreement.

"Operating Year" means (i) each full Fiscal Year occurring during the term of the Management Agreement, (ii) the partial Fiscal Year (if it is such) during which the Opening Date occurs, and (iii) the partial Fiscal Year (if it is such) in which the termination of the Management Agreement occurs. If the Opening Date occurs prior to January 1 of a Fiscal Year, then the period from such Opening Date until and including the following June 30 shall constitute the "first Operating Year." If the Opening Date occurs on or after January 1 of a Fiscal Year, then the first full Fiscal Year beginning as of the July 1 following such Opening Date shall constitute the "first Operating Year."

"Opinion of Bond Counsel" means a written opinion of Bond Counsel.

"Original Trust Agreement" means the Trust Agreement, dated as of June 1, 2018, between the Commission and the Trustee.

"Other Grand Hyatt Hotels" means the hotels and resorts in North America and the Caribbean that are owned or managed by Manager and/or its Affiliates under the name "GRAND HYATT," or the comparable brand of any successor Manager.

"Outstanding" means, with respect to any Bonds as of any date, Bonds theretofore or thereupon being authenticated and delivered under this Trust Agreement except:

- (a) Bonds canceled or delivered for cancellation at or prior to such date;
- (b) Bonds in lieu of or in substitution for which other Bonds have been authenticated and delivered pursuant to this Trust Agreement; and
- (c) Bonds deemed to have been paid, redeemed, purchased or defeased as provided in this Trust Agreement, in any Supplemental Trust Agreement, as applicable, or as provided by law.

"Participant" means those broker-dealers, banks and other financial institutions from time to time for which DTC holds Bonds as securities depository.

"Paying Agent" means any national banking association, bank and trust company or trust company appointed as such by the Commission and accepting such appointment under this Trust Agreement. The initial Paying Agent shall be the Trustee.

"Performance Termination Event" has the meaning set forth in Section 5.05(a) of the Management Agreement.

“*Performance Test*” means each of the three (3) requirements set forth in Section 5.05(a) of the Management Agreement.

“*Permitted Encumbrances*,” with respect to the property of the Commission at the Hotel, means and includes:

(a) Liens specifically permitted by, or created by, this Trust Agreement, the Hotel or any other Principal Transaction Document;

(b) Liens for taxes, assessments, fees, levies or other similar charges which are either not yet due and payable or are being contested in good faith by appropriate proceedings conducted with due diligence, if adequate reserves therefor have been established and are being maintained;

(c) materialmen’s, mechanics’, workmen’s, repairmen’s, employees’ or other like Liens arising in the course of construction of the Hotel or in the ordinary course of operations or maintenance of the Hotel, in each such case securing obligations which are not delinquent or are bonded in a manner satisfactory to the Commission acting reasonably and in good faith or are being contested in good faith by appropriate proceedings conducted with due diligence (unless by such contest there exists any risk (taking into account any applicable insurance, reserves or bonding covering such Lien) that any portion of the Site or the Hotel may become subject to loss or forfeiture or that such Lien or contest thereof might otherwise interfere with the use of the Site or the Hotel); and

(d) purchase-money security interests and security interests placed upon personal property being acquired to secure a portion of the purchase price thereof, or lessor’s interests in leases required to be capitalized in accordance with Generally Accepted Accounting Principles; provided, that the aggregate principal amounts secured by any such interests shall not exceed at any time more than \$100,000.

“*Person*” means any individual, public or private corporation, partnership, limited liability company, county, district, authority, municipality, political subdivision or other entity of the State or the United States of America, and any partnership, association, firm, trust, estate or any other entity or organization whatsoever.

“*Petty Cash Amount*” means an amount reasonably estimated by Manager as the amount needed from time to time to be retained by Manager at the Hotel as petty cash, which amount shall be comparable to the amount kept by Manager as petty cash at other hotels of comparable size, services and quality operated by Manager.

“*Plans*” means the graphic and pictorial portions of the Design-Build Agreement prepared by the Design-Builder, or provided by the Commission, that show the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

“*Pre-Existing Condition*” means the condition the Hotel was in immediately prior to a Casualty in the case of any Casualty or to a condition, in the case of any Taking, which permits the Hotel’s use in the manner contemplated by this Trust Agreement and for which the Hotel was

originally constructed, in each case in compliance with all Hotel Requirements and Applicable Law.

“Preliminary Working Capital Account” means the Preliminary Working Capital Account established by Section 5.02.

“Pre-Opening Expenses” means the costs and expenses, including any Centralized Services Fees, Hotel Personnel Costs and Out-of-Pocket Expenses, incurred by Manager to perform the Pre-Opening Services pursuant to this Trust Agreement. Notwithstanding the foregoing, Pre-Opening Expenses shall not include: (i) commissions associated with group sales or conference sales which may become payable during the Pre-Opening Period, but which are attributable to bookings scheduled to occur on or after the Opening Date; or (ii) any costs or expenses which would otherwise be characterized as Operating Expenses but are incurred prior to the Opening Date, except as specifically permitted in this Trust Agreement, the Management Agreement or the Technical Services Agreement.

“Pre-Opening Budget” has the meaning set forth in the Pre-Opening Services Agreement.

“Pre-Opening Expenses Account” means the Pre-Opening Expenses Account in the Construction Fund established by Section 5.02(a).

“Pre-Opening Period” has the meaning set forth in the Management Agreement.

“Pre-Opening Requisition” has the meaning set forth in Section 5.05(a).

“Pre-Opening Services” has the meaning set forth in the Pre-Opening Services Agreement.

“Pre-Opening Services Agreement” means the Pre-Opening Services Agreement, dated as of January 1, 2016, between Hyatt and the Commission, as originally executed and as it may from time to time be amended, modified and supplemented in accordance with the terms thereof.

“Pre-Opening Services Manager” means Hyatt.

“Principal Office” or *“Principal Corporate Trust Office”* with respect to the Trustee means the principal corporate trust office of the Trustee located at the address set forth in Section 12.09, or at such other place as the Trustee shall designate by notice given under said Section 12.09, or such other office designated by the Trustee from time to time.

“Principal Payment” means with respect to any Principal Payment Date for any Series of Bonds, an amount equal to the sum of (a) the aggregate principal amount of Outstanding Bonds of such Series which mature on such Principal Payment Date, reduced by the aggregate principal amount of such Outstanding Bonds of such Series which are scheduled to be retired prior to such date as a result of Mandatory Sinking Fund Installments in accordance with this Trust Agreement or a Supplemental Trust Agreement; plus (b) the aggregate amount of any Mandatory Sinking Fund Installment payable on such Principal Payment Date for the retirement of any Outstanding Bonds of such Series.

“Principal Payment Date” means with respect to any Series of Bonds a date on which principal of or a Mandatory Sinking Fund Installment on such Series of Bonds is due and payable.

“*Principal Transaction Documents*” means the Management Agreement, the Development Agreements and the Bond Documents.

“*Project Manager*” means the Consultant hired by the Commission to provide project management support services and construction management for the design and construction of the Hotel.

“*Projected Additional Bonds Debt Service Coverage Ratio*” means for any future period, a fraction calculated by dividing Projected Net Revenues for a particular future period of time by the Net Debt Service for the Outstanding Bonds for the same particular period of time.

“*Projected Net Revenues*” means the amount of Net Revenues for a particular period of time as projected by the Hotel Consultant.

“*Property*” means the Site and the Improvements.

“*Proposed Annual Plan*” means the proposed Capital Budget and Operating Budget for any Operating Year.

“*Punch List*” means the list setting forth the Punch List Work produced in accordance with the requirements of the Design-Build Agreement.

“*Punch List Work*” means Work which is of a minor nature, or otherwise permitted to be completed after the Date of Substantial Completion pursuant to the Design-Build Agreement, which may include the completion of up to five percent (5%) of the guest rooms of the Hotel, the non-completion of which shall not unreasonably interfere with (i) the training of Hotel Personnel or the pre-opening of the Hotel, (ii) the safe operation and use of the Hotel by Manager without material disruption by the Design-Builder’s subcontractors performing such minor Work, (iii) the use of Substantially All guest rooms for such training and pre-opening activities, or (iv) the issuance of the Certificate of Occupancy.

“*Purchasing Agent Account*” means the Purchasing Agent Account in the Construction Fund established by Section 5.02(a).

“*Qualified Management Agreement*” means a management or service contract that meets the requirements described in Revenue Procedure 2017-13 or any successor guidance, such that the contract will not result in private business use under Section 141(b) of the Code.

“*Rebate Analyst*” means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and retained by the Commission to make the computations required under this Trust Agreement or any Supplemental Trust Agreement.

“*Rebate Fund*” means the Rebate Fund established by Section 5.02, and includes any separate accounts or subaccounts established therein by the terms of any Supplemental Trust Agreements or any agreement pursuant thereto.

“*Record Date*” means the close of business on the fifteenth day of the calendar month (whether or not a Business Day) preceding such Interest Payment Date; provided, that the Record Date for any Series of Additional Bonds, if different, means the date designated in any Supplemental Trust Agreement as the record date for the payment of interest on such Series of Additional Bonds.

“*Redemption Account*” means the Redemption Account in the Debt Service Fund established by Section 5.02.

“*Redemption Date*” means the date fixed for redemption of any Bonds prior to their respective fixed maturities pursuant to the mandatory, extraordinary mandatory or optional redemption provision of this Trust Agreement or any Supplemental Trust Agreement.

“*Redemption Price*” means, with respect to any Bond, the amount, including any applicable premium, payable upon the mandatory, extraordinary mandatory or optional redemption thereof, as provided in this Trust Agreement or any Supplemental Trust Agreement.

“*Refunding Bonds*” means all Bonds, whether issued in one or more Series, issued for the purpose of refunding a like or different principal amount of Bonds, and hereafter authenticated and delivered pursuant to this Trust Agreement.

“*Register*” means the register maintained by the Registrar for each Series of Bonds which shows ownership of Bonds in accordance with Section 3.08.

“*Registrar*” means the Trustee, and the successor or successors appointed pursuant to and meeting the requirements of Article X.

“*Reimbursable Expenses*” means all costs and expenses reimbursable to Manager pursuant to Section 4.04 of the Management Agreement.

“*Remedial Action*” means actions required to (a) investigate, monitor, clean up, remove, treat, dispose of off-site or in any other way address or respond to the effects of Hazardous Materials in the indoor or outdoor environment so as to render the Hotel safe for its intended use; or (b) prevent the release or threat of release, or minimize the further release, of Hazardous Materials in the indoor or outdoor environment.

“*Required Opening Date*” has the meaning set forth in the Pre-Opening Services Agreement.

“*Requisition*” means a written request for payment.

“*Reservation Deposit Account*” means the Reservation Deposit Account in the Construction Fund established by Section 5.02.

“*Reservation Deposits*” means deposits from guests to reserve rooms or facilities at the Hotel.

“*Reserve Fund Requirement*” means with respect to the Series 2018 Bonds, \$0, and with respect to any Additional Bonds, the amount specified in the Supplemental Trust Agreement relating to such Additional Bonds.

“*Responsible Officer*” means, when used with respect to the Trustee, the chairman or vice chairman of the board of directors of the Trustee, the chairman or vice chairman of the executive committee of said board, the president or any vice president, the secretary or any assistant secretary, the treasurer or any assistant treasurer, the cashier or any assistant cashier, any trust officer or assistant trust officer, the controller or any assistant controller or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer of the Trustee to whom such matter is referred because of that officer’s knowledge of and familiarity with the particular subject.

“*Retainage Account*” means the Retainage Account held by the City Treasurer and established by Section 5.02.

“*Retention*” has the meaning assigned to such term in Section 6.22(J) of the San Francisco Administrative Code and as used in Section 5.04(b).

“*Revenue Fund*” means the Revenue Fund established by Section 5.02.

“*Revenue Stabilization Fund*” means the Revenue Stabilization Fund established by Section 5.02.

“*Revenues*” means the Total Operating Revenues, including any insurance proceeds, condemnation proceeds, performance bonds and guaranties and all interest, profits or other income derived from the investment of amounts in any fund or account established pursuant to this Trust Agreement (except any subaccounts of the Construction Fund that are otherwise pledged and the Rebate Fund).

“*Series*” means Bonds identified as a separate series which are authenticated and delivered on original issuance and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to this Trust Agreement, or any Supplemental Trust Agreement.

“*Series 2018 Bonds*” means the Amended and Restated Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel), Series 2018, issued pursuant to this Trust Agreement in the initial aggregate principal amount of \$260,000,000.

“*Shortfall*” has the meaning set forth in Section 7.18(b).

“*Site*” means the real property in the County of San Mateo, California, legally described in Exhibit C to the Management Agreement.

“*State*” means the State of California.

“*Subaccount*” means any one or more of the subaccounts from time to time created in any of the Accounts established by Section 5.02 or by any Supplemental Trust Agreement.

“*Subcontractor*” means any subcontractor, laborer, supplier, distributor, vendor, manufacturer or materialman other than Consultants that enters into a contract with the Design-Builder (or any subcontractor, sub-supplier or sub-consultant thereof at any tier) to provide any portion of the Work.

“*Subordinate Bonds*” means any bonds issued pursuant to Section 3.15, the payment of the principal of and interest on which is subordinate to the Bonds.

“*Subordinate Management Fee*” has the meaning set forth in Exhibit K of the Management Agreement.

“*Subordinate Management Fee Fund*” means the Subordinate Management Fee Fund established by Section 5.02.

“*Subordination*” means an agreement pursuant to which Indebtedness owed to a Person, and/or the Lien securing such Indebtedness, is made subject and subordinate, in payment priority and/or lien priority, to Indebtedness owed to another Person and/or the Lien securing the same.

“*Substantially All*” means ninety-five percent (95%) or more.

“*Sufficient Funds*” means the following to the extent made available to Manager for the purposes for which such funds are designated:

(a) with respect to the payment of Operating Expenses, there are sufficient amounts in the Lockbox Fund and the Working Capital Reserve Fund for the payment of such Operating Expenses;

(b) with respect to Gross Receipts Taxes, there are sufficient amounts in the Lockbox Fund to pay such taxes at least equal to the collections deposited by Manager into the Lockbox Fund that are attributable to such Gross Receipts Taxes;

(c) with respect to Taxes and Insurance Costs, there are sufficient amounts in the Taxes and Insurance Fund to pay for such costs;

(d) with respect to the payment of Capital Expenses in connection with budgeted Capital Improvements, there are sufficient funds in the Capital Reserve Fund to pay for such Capital Expenses; and

(e) with respect to the payment of Capital Expenses in connection with unbudgeted Capital Improvements or an Emergency, there are sufficient amounts in the Working Capital Reserve Fund, the Capital Reserve Fund, and the Revenue Stabilization Fund to pay for such Capital Expenses; and

(f) with respect to the payment of costs to repair and/or replace FF&E, there are sufficient funds in the FF&E Reserve Fund to pay for such costs.

“*Supplemental Trust Agreement*” means any Trust Agreement supplemental to or amendatory of this Trust Agreement, entered into by the Commission and the Trustee in accordance with Article XI.

“*Systems*” include all fixtures, equipment, pipes, lines, wires, ducts, vents, computer cables, security system cables, monitoring system cables, conduits, and other systems and facilities used in the production, heating, cooling and/or transmission of air, water, gas, electricity, communications, waste water, sewage, and audio and video signals, elevators and escalators.

“*Taking*” or “*Taken*” means (a) a taking as a result of compulsory purchase or acquisition of all or part of the Hotel, by any Governmental Authority (or any authority or entity acting on behalf of or purporting to act on behalf of any Governmental Authority) for any purpose whatsoever or a conveyance in lieu thereof or (b) any direction, ruling or order of any Governmental Authority requiring conversion of all or part of the Property to another purpose other than for the Hotel.

“*Tax Certificate*” means, for any Series of Tax-Exempt Bonds, the Tax Certificate dated the date of delivery of such Bonds and executed by the Commission.

“*Tax-Exempt Bonds*” means a Series of Bonds the interest on which is excluded from gross income for purposes of federal income taxation.

“*Taxes*” means all taxes, including ad valorem taxes on real property, lease-hold excise taxes, transfer taxes, personal property taxes and other assessments imposed by Governmental Authorities relating to or assessed in connection with the ownership or operation of the Hotel, except for Excluded Taxes and Other Charges.

“*Taxes and Insurance Fund*” means the Taxes and Insurance Fund established by Section 5.02.

“*Taxes and Insurance Set Aside Amount*” means, with regard to a particular month, an amount equal to one-twelfth of the amount budgeted for real property taxes, if any, assessments, and insurance for the Hotel by the then-current Operating Budget for the Operating Year in which the month falls; provided, that such amount may be adjusted to the extent determined to be necessary to cause the amount to be deposited therein to at least equal the payment for ad valorem property taxes, if any, assessments and insurance premiums when due.

“*Technical Services Agreement*” means the Technical Services Agreement, dated as of January 1, 2016, between the Commission and Manager, as originally executed and as it may from time to time be amended, modified and supplemented in accordance with the terms thereof.

“*Temporary Certificate of Occupancy*” means the certificate or certificates, as applicable, issued by BICE, that permits legal and beneficial occupancy, operation and use of the Hotel, without interruption, for each of its intended purposes, which certificate or certificates may be issued with or without qualification so long as any qualifications shall not prohibit, restrict or impair such occupancy, operation or use, as initially acquired by the Design-Builder with respect to the original construction of the Hotel and the Work pursuant to the Design-Build Agreement.

“*Total Operating Revenues*” means all revenue and income of any kind derived directly or indirectly from operations at the Hotel, whether or not arranged by, for or on behalf of another Person or at another location, properly attributable to the period under consideration (including rentals or other payments from licensees or concessionaires of retail space in the Hotel, but not gross receipts of such licensees or concessionaires), determined in accordance with the Uniform System of Accounts and, to the extent consistent therewith, Generally Accepted Accounting Principles; provided, that the following shall not be included in determining Total Operating Revenues:

- (a) Excluded Taxes and Other Charges;
- (b) receipts from the financing, sale or other disposition of capital assets and other items not in the ordinary course of the Hotel’s operations and income derived from securities and other property acquired and held for investment;
- (c) receipts from awards or sales in connection with any Taking, from other transfers in lieu of and under the threat of any Taking, and other receipts in connection with any Taking, but only to the extent that such amounts are specifically identified as compensation for alterations or physical damage to the Hotel;
- (d) proceeds of any insurance or sureties, including the proceeds of any Business Interruption Insurance;
- (e) rebates, discounts, or credits of a similar nature (not including charge or credit card discounts, which shall not constitute a deduction from revenues in determining Total Operating Revenues, but shall constitute an Operating Expense);
- (f) consideration received at the Hotel for hotel accommodations, goods and services to be provided at other hotels although arranged by, for or on behalf of, Manager; provided, that such consideration is recognized by such other hotels;
- (g) consideration received at other hotels for hotel accommodations, goods and services to be provided at the Hotel arranged by, for or on behalf of, such other hotels; provided, that such consideration is recognized by such other hotels;
- (h) notwithstanding any contrary requirements of Generally Accepted Accounting Principles, all gratuities collected for the benefit of and paid directly to Hotel Personnel;
- (i) proceeds of any financing;
- (j) the initial operating funds and working capital loans and any other funds provided by the Commission to Manager whether for Operating Expenses or otherwise;
- (k) other income or proceeds that do not result from (i) the use or occupancy of the Hotel, or any part thereof, or (ii) the sale of goods, services or other items by or from the Hotel in the ordinary course of business;
- (l) interest earned on funds held in any Fund or Account;

- (m) the value of any complimentary rooms, goods or services;
- (n) refunds to Hotel guests of any sums or credits to any Hotel customers for lost or damaged items; and
- (o) refunds to parking customers of any sums or credits to any parking customers for lost or damaged items.

“*Trust Agreement*” means this Amended and Restated Trust Agreement, dated as of [_____] 1, 2020, between the Commission and the Trustee, as originally executed and as it may from time to time be amended, modified and supplemented in accordance with the terms hereof.

“*Trustee*” means U.S. Bank National Association, as trustee under this Trust Agreement, and as the Trustee under the Original Trust Agreement, together with any successors or assigns.

“*Unamortized Key Money*” has the meaning set forth in the Management Agreement.

“*Uniform System of Accounts*” means the latest edition of the Uniform System of Accounts for the Lodging Industry that is published by the Hotel Association of New York City, Inc. and approved by the American Hotel & Lodging Association (currently, the 11th Revised Edition, 2014).

“*United States Bankruptcy Code*” means the Bankruptcy Reform Act of 1978, as amended, (11 U.S.C. Section 101, et seq.).

“*Work*” means the performance by Design-Builder of all its responsibilities and obligations set forth in the Design-Build Agreement. Work shall include providing all materials, labor, services, and documentation required by the Design-Build Agreement to design and construct the Hotel in accordance with the Hyatt Requirements.

“*Working Capital Reserve Fund*” means the Working Capital Reserve Fund established by Section 5.02.

“*Working Capital Reserve Requirement*” means an amount equal to \$2,500,000.

“*Working Capital Set-Aside Amount*” means \$1,800,000, as such amount may be adjusted from time to time pursuant to the Management Agreement.

Section 1.02 Table of Contents, Titles and Headings. The table of contents, titles and headings of the articles and sections of this Trust Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Trust Agreement or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.03 Interpretation and Construction. For purposes of this Trust Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) All references in this Trust Agreement to designated “Exhibits,” “Articles,” “Sections,” “subsections,” “paragraphs,” “clauses” and other subdivisions are to the designated Exhibits, Articles, Sections, subsections, paragraphs, clauses and other subdivisions of this Trust Agreement. The words “herein,” “hereof,” “hereto,” “hereby,” “hereunder” and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section or other subdivision.

(b) The terms defined in this Trust Agreement shall have the meanings assigned to them in Article I and shall include the plural as well as the singular.

(c) All accounting terms not otherwise defined in this Trust Agreement have the meanings assigned to them in accordance with Generally Accepted Accounting Principles as in effect from time to time.

(d) The term “money” includes any cash, check, deposit, Investment Security or other form in which any of the foregoing are held under this Trust Agreement.

(e) The terms “include,” “includes” and “including” shall not be limiting and shall be deemed in all instances to be followed by the phrase “without limitation.”

(f) Unless the context clearly requires otherwise, the word “or” is not exclusive.

(g) The phrase “and/or” means either or both of the items referenced thereby.

(h) References to “days” mean calendar days unless otherwise indicated.

(i) Every “request,” “order,” “demand,” “application,” “appointment,” “notice,” “statement,” “certificate,” “consent” or similar action under this Trust Agreement by the Commission, the Design-Builder, Manager, the Trustee or any Agent shall, unless otherwise specifically provided, be in writing signed by an officer or other agent of such party authorized to sign the same on behalf of the applicable entity (and not individually).

(j) In the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and each of the words “to” and “until” means “to but excluding.”

Section 1.04 Content of Certificates and Opinions. Every certificate or opinion (other than legal opinions) provided for in this Trust Agreement with respect to compliance with any provision hereof shall be made on behalf of the entity named therein and not made individually by the person signing such certificate and shall include (a) a statement that the person making or giving such certificate or opinion, on behalf of the entity named therein and not individually, has read such provision and the definitions in this Trust Agreement relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the entity’s certificate or opinion is based; (c) a statement that the entity has made or caused to be made such examination or investigation as is necessary to enable the entity to express an informed opinion with respect to the subject matter referred to in the certificate or opinion which such entity is

delivering; and (d) a statement as to whether, in the opinion of such entity, such provision has been complied with. Any such certificate or opinion made or given by an officer on behalf of the Commission (and in no event individually) may be based, insofar as it relates to legal or accounting matters, upon a certificate or opinion of or representation by counsel or an accountant, unless the Commission knows that the certificate, opinion or representation with respect to the matters upon which such certificate or statement may be based, as aforesaid, is erroneous. Any such certificate or opinion made or given by counsel or an accountant may be based, insofar as it relates to factual matters (with respect to which information is in the possession of the Commission) upon a certificate or opinion of or representation by an officer of the Commission on behalf of the Commission (and not individually), unless such counsel or accountant knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation with respect to the matters upon which such Person's certificate or opinion or representation may be based, as aforesaid, is erroneous. The same officer of the Commission, or the same counsel or accountant, as the case may be, need not certify to all of the matters required to be certified under any provision of this Trust Agreement, but different officers (on behalf of the Commission and not individually), counsel or accountants may certify to different matters, respectively.

ARTICLE II LIMITED OBLIGATIONS

Section 2.01 Limited Obligations of the Commission. Notwithstanding any other provision of this Trust Agreement to the contrary, Bonds issued under this Trust Agreement and any other obligations of the Commission under this Trust Agreement shall be limited obligations of the Commission payable in accordance with this Trust Agreement and any applicable Supplemental Trust Agreement. **THE PAYMENT OBLIGATIONS OF THE COMMISSION UNDER THIS TRUST AGREEMENT AND WITH RESPECT TO THE BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE COMMISSION PAYABLE SOLELY FROM THE TOTAL OPERATING REVENUES OF THE HOTEL, AMOUNTS HELD BY THE TRUSTEE PURSUANT TO THIS TRUST AGREEMENT AND AVAILABLE PROCEEDS OF THE BONDS AS PROVIDED IN THIS TRUST AGREEMENT. THE BONDS SHALL NOT IN ANY MANNER OR TO ANY EXTENT CONSTITUTE GENERAL OBLIGATIONS OF THE COMMISSION OR THE CITY. THE BONDS ARE NOT A CHARGE UPON THE REVENUES OR GENERAL FUND OF THE COMMISSION OR THE CITY OR UPON ANY MONEYS OR OTHER PROPERTY OF THE COMMISSION OR THE CITY OTHER THAN THE TOTAL OPERATING REVENUES OF THE HOTEL, AMOUNTS HELD BY THE TRUSTEE PURSUANT TO THIS TRUST AGREEMENT AND AVAILABLE PROCEEDS OF THE BONDS. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY ARE PLEDGED TO THE PAYMENT OF THE BONDS. THE BONDS ARE NOT SECURED BY A LEGAL OR EQUITABLE PLEDGE OF, OR CHARGE, LIEN, OR ENCUMBRANCE UPON, ANY OF THE PROPERTY OF THE COMMISSION OR OF THE CITY OR ANY OF ITS OR THEIR INCOME, REVENUES OR RECEIPTS, EXCEPT TOTAL OPERATING REVENUES OF THE HOTEL.**

ARTICLE III
AUTHORIZATION AND ISSUANCE OF BONDS,
GENERAL TERMS AND PROVISIONS OF THE BONDS

Section 3.01 Authorization of Bonds.

(a) The Commission hereby authorizes the issuance of Bonds, to be designated “Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel).” The aggregate principal amount of the Bonds which may be executed, authenticated and delivered under this Trust Agreement is not limited except as may be provided in this Trust Agreement or in any Supplemental Trust Agreement or as may be limited by law.

(b) The Bonds may, as provided in this Trust Agreement and in one or more Supplemental Trust Agreements, be issued in one or more Series, and the designation thereof, in addition to the name “Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel),” shall include such further appropriate particular designation added to or incorporated in such title for the Bonds of any particular Series, as the Commission may determine. Each Bond shall bear upon its face the designations so determined for the Series to which it belongs.

(c) The Bonds shall be issued in such form as may be provided in this Trust Agreement or by Supplemental Trust Agreement, and each Bond issued under this Trust Agreement shall contain on its face a statement to the effect set forth in Section 2.01.

(d) There are hereby authorized to be issued and shall be issued under and secured by this Trust Agreement a Series of Bonds designated as “Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel), Series 2018” in an aggregate principal amount of \$260,000,000.

Section 3.02 Provisions for Issuance of Bonds.

(a) All (but not less than all) the Bonds of each Series shall be executed by the Commission for issuance under this Trust Agreement and delivered to the Trustee and thereupon shall be authenticated by the Trustee and by it delivered upon the Order of the Commission, but only upon the receipt by the Trustee of the following items (which upon receipt the Trustee may conclusively rely in determining whether the conditions precedent for the issuance and authentication of such Series of Bonds have been satisfied):

(i) With respect to the Series 2018 Bonds, an executed copy of this Trust Agreement, the Cash Management Agreement, the Management Agreement, the Pre-Opening Services Agreement and the Technical Services Agreement as originally executed or adopted and as amended to the date of issuance of the Series 2018 Bonds;

(ii) in the case of Additional Bonds that are subject to public sale, an opinion of Bond Counsel in customary form to the effect that, as of its date: (A) this Trust Agreement and the Supplemental Trust Agreement authorizing such Additional Bonds have been duly executed and delivered by, and constitute valid and binding obligations of, the Commission;

(B) such Bonds constitute valid and binding limited obligations of the Commission; and (C) if applicable, interest on such Bonds is excludible from gross income for federal income tax purposes;

(iii) in the case of Additional Bonds, an executed copy of the Supplemental Trust Agreement authorizing such Bonds which shall, among other provisions, specify:

- (A) the authorized principal amount and Series of such Bonds;
- (B) the dated date and the maturity date or dates of such Bonds;
- (C) the interest rate or rates, if any, or the manner of determining such interest rate or rates, on such Bonds and the Interest Payment Date or Dates thereof;
- (D) the denominations of and the manner of dating, numbering and lettering of such Bonds;
- (E) any capitalized interest requirements (or the method of determining the same) for such Bonds;
- (F) the Redemption Prices, if any, and the redemption or purchase terms, for such Bonds;
- (G) the amount and due date of each Mandatory Sinking Fund Installment, if any, for such Bonds of like maturity;
- (H) the form of such Bonds and whether or not such Bonds are subject to the book-entry system;
- (I) whether such Additional Bonds shall be secured by the Debt Service Reserve Fund or an account therein and the amount of the Reserve Fund Requirement if so secured;
- (J) the purpose for which such Bonds are being issued, which shall be solely for the purpose of (I) providing additional improvements to the Hotel, (II) refunding one or more Series of Bonds or portion thereof, (III) payment of costs incidental to or connected with any Bond authorized in clauses (I) or (II) above, (IV) making deposits into the applicable reserve fund or funds, and/or (V) making any deposits into the funds and accounts required by the provision of the Supplemental Trust Agreement authorizing such Bonds;
- (K) the application of the proceeds of the sale of such Bonds including the amount, if any, to be deposited in the funds and accounts established under this Trust Agreement; and
- (L) any other provisions deemed advisable by the Commission and not in conflict with the provisions of this Trust Agreement;

(iv) a certificate of either (A) an Authorized Commission Representative dated as of the date of issuance of such Series of Additional Bonds stating that there exists no Event of Default under this Trust Agreement or event which would constitute an Event of Default upon notice and failure to cure pursuant to Section 9.03 or (B) the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding consenting to the issuance of the Series of Additional Bonds; and

(v) such further opinions and instruments as are required by or pursuant to the provisions of this Trust Agreement or any Supplemental Trust Agreement.

(b) One or more Series of Additional Bonds that are Refunding Bonds may be issued, authenticated and delivered to refund all Outstanding Bonds of one or more Series or all or any portion of the Outstanding Bond or Bonds of a maturity within one or more Series. Each Series of Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefor, to accomplish such refunding, including providing amounts for the costs incidental to or connected therewith, and the making of any deposits into a reserve fund and any of the funds and accounts required by the provisions of the Supplemental Trust Agreement authorizing such Series of Refunding Bonds. Refunding Bonds of each Series shall be executed by the Commission for issuance under this Trust Agreement and delivered to the Trustee and thereupon shall be authenticated by the Trustee upon the Order of the Commission, but only upon the receipt by the Trustee (in addition to the opinions and instruments required by subsection (a) of this Section) of the following items (upon which receipt the Trustee may conclusively rely in determining whether the conditions precedent for the issuance and authentication of such Series of Refunding Bonds have been satisfied):

(i) satisfaction of the provisions of Section 8.02 with respect to the Bonds to be refunded by the Refunding Bonds;

(ii) a Certificate of the Commission that no amendments or supplements will be made to this Trust Agreement in connection with the issuance of the Refunding Bonds that would otherwise require the prior written consent of any of the Registered Owners of any Bonds to remain Outstanding after the issuance of such Refunding Bonds, under Article XI or, if any such amendments or supplements requiring such consents are being made to this Trust Agreement, that such prior written consents have been obtained;

(iii) receipt by the Trustee of one of the following: (A) a Certificate of Reduction in Debt Service; or (B) an Accountant's Certificate that either (I) the Projected Additional Bonds Debt Service Coverage Ratio, taking into account the Refunding Bonds proposed to be issued and all Outstanding Bonds (other than the Bonds proposed to be refunded with proceeds of such Refunding Bonds), is not less than 1:50:1.00 for each Fiscal Year succeeding the date of issuance of such Refunding Bonds, or (II) proceeds of such Refunding Bonds, together with any other amounts available under this Trust Agreement for such purpose, are sufficient to redeem and defease all of the Bonds that were Outstanding immediately prior to the issuance of such Refunding Bonds; or (C) the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding consent in writing to the issuance of the Series of Additional Bonds; and

(iv) such further opinions and instruments as are required by the provisions of Articles XI or XII or by the provisions of any Supplemental Trust Agreement.

(c) One or more Series of Additional Bonds that are not Refunding Bonds may be issued, authenticated and delivered upon original issuance for the purpose of financing or refinancing (excluding Refunding Bonds) the construction, installation and equipping of additions, renovation, betterments, extensions, expansions or improvements to the Hotel. Additional Bonds of a Series issued for such purposes shall be issued in a principal amount not to exceed, together with other moneys available therefor, the Commission's estimate of the reasonable Costs of the Hotel to be financed or refinanced with the proceeds of the sale of such Series of Additional Bonds, including providing amounts for the costs incidental to or connected with any such Bonds and the making of any deposits into the applicable reserve fund and any of the funds and accounts required by the provisions of this Trust Agreement and the Supplemental Trust Agreement authorizing such Series of Additional Bonds. Additional Bonds of each Series that do not otherwise constitute Refunding Bonds under subsection (b) of this Section 3.02 shall be executed by the Commission for issuance under this Trust Agreement and delivered to the Trustee and thereupon shall be authenticated by the Trustee upon the Order of the Commission, but only upon the receipt by the Trustee (in addition to the opinions and instruments required by subsection (a) of this Section 3.02) of the following items (upon which receipt the Trustee may conclusively rely in determining whether the conditions precedent for the issuance and authentication of such Series of Additional Bonds have been satisfied):

(i) (A) an Accountant's Certificate that the Projected Additional Bonds Debt Service Coverage Ratio, taking into account the Additional Bonds proposed to be issued and all Outstanding Bonds, is not less than 1.25:1.00, respectively, for each Fiscal Year succeeding the date of issuance of such Additional Bonds; or (B) the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding consent in writing to the issuance of the Series of Additional Bonds; or

(ii) such further opinions and instruments as are required by the provisions of Article XI or XII or by the provisions of any Supplemental Trust Agreement.

(d) The Commission may issue Additional Bonds in the principal amount not to exceed ten percent (10%) of the aggregate principal amount of the Series 2018 Bonds, the proceeds of which are required to complete the Hotel in the manner originally contemplated as of the Closing Date or to pay amounts reasonably determined by the Commission to be required to be made to protect life, health or property from imminent danger or to comply with Applicable Laws so long as there is delivered to the Trustee (in addition to the opinions and instruments required by subsection (a) of this Section 3.02) (i) an Accountant's Certificate to the effect that the Projected Additional Bonds Debt Service Coverage Ratio, taking into account the debt service requirements of such Additional Bonds, is not less than 1.00:1.00 for each of the Fiscal Years succeeding the date of issuance of such Series of Additional Bonds through the final maturity date for such Series of Additional Bonds, or (ii) the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding consent in writing to the issuance of the Series of Additional Bonds.

Section 3.03 Application of Bond Proceeds and Other Funds.

(a) The Trustee shall apply the net proceeds from the sale of the Series 2018 Bonds in the amount of \$260,000,000 (consisting of an amount equal to the aggregate principal amount of the Series 2018 Bonds of \$260,000,000) as follows:

(i) \$14,024,000 shall be deposited into the Series 2018 Capitalized Interest Account of the Construction Fund and applied to the payment of interest accruing on the Series 2018 Bonds until such funds are expended;

(ii) \$5,476,000 shall be deposited into the Pre-Opening Expenses Account of the Construction Fund and applied to the payment of Pre-Opening Expenses;

(iii) \$500,000 shall be deposited into the Preliminary Working Capital Account of the Construction Fund;

(iv) \$93,000,000 shall be paid to or upon the order of the Commission to repay the interim financing undertaken by the Commission with respect to the Costs of the Hotel; and

(v) the remainder shall be transferred to the City Treasurer for deposit into the Hotel Account and used to pay Costs of the Hotel.

(b) Upon receipt of a Direction of the Commission, the Trustee shall deposit or transfer proceeds between or among any Account or Accounts within the Construction Fund and the Hotel Account from time to time, subject to compliance with that certain tax certificate dated the Closing Date and executed by the Commission in connection with the Commission's San Francisco International Airport Second Series Variable Rate Revenue Bonds, Series 2018B and 2018C (Non-AMT/Governmental Purpose).

(c) The proceeds, including accrued interest, if any, of Additional Bonds together with any other moneys provided by the Commission, shall be applied by the Trustee simultaneously with the delivery of such Bonds in the manner provided in the Supplemental Trust Agreement authorizing such Series of Additional Bonds.

(d) The Commission shall provide the Trustee with written notice of the date that constitutes the Opening Date. Pursuant to Section 3.2 of the Management Agreement, the Trustee shall deposit the Key Money received from the Manager on a date that is thirty (30) days prior to the Opening Date as follows: \$2,500,000 shall be deposited in the Working Capital Reserve Fund and \$1,800,000 shall be deposited in the Lockbox Fund. The remaining amount shall be deposited to any fund or account established hereunder or under the Cash Management Agreement as specified in a Direction of the Commission provided to the Trustee.

Section 3.04 Medium of Payment; Form and Date; Letter and Numbers.

(a) The Bonds shall be payable, as to principal and interest in any 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. Interest on the Series 2018 Bonds shall be computed on the basis of a 360-day year consisting of twelve (12) thirty (30)-day months. Interest on any Series of

Additional Bonds shall be computed as provided in the Supplemental Trust Agreement authorizing such Series of Additional Bonds.

(b) Each Series 2018 Bond shall be issued only as a fully registered Bond. Each Series 2018 Bond shall be substantially in the form of Exhibit B to this Trust Agreement, with such changes therein that are not inconsistent with this Trust Agreement, as are approved by the Authorized Commission Representative executing the Series 2018 Bonds (whose manual or facsimile signature thereon shall constitute conclusive evidence of such person's approval of any such changes appearing thereon). Additional Bonds may be issued in such form or forms as shall be provided in the Supplemental Trust Agreement authorizing such Series of Additional Bonds.

(c) The Series 2018 Bonds shall be numbered consecutively from R-1 upward, or in such other manner as the Commission, with the concurrence of the Trustee, shall determine. The Trustee shall insert the date of authentication of each Bond in the place provided for such purpose in the form of certificate of authentication of the Trustee to be printed on each Bond. If interest on the Bonds shall be in default, Bonds issued in exchange for Bonds surrendered for transfer or exchange shall be dated as of the date to which interest has been paid in full on the Bonds surrendered. Each Additional Bond shall be lettered and numbered as provided in this Trust Agreement or the Supplemental Trust Agreement authorizing the Series of which such Additional Bond is a part and so as to be distinguished from every other Bond.

(d) The Series 2018 Bonds shall be dated June 6, 2018, shall be issued in Authorized Denominations, shall mature on April 1, 2058, and shall bear interest, payable October 1, 2018, April 1, 2019, October 1, 2019, April 1, 2020, and thereafter, semiannually on each April 1 and October 1, beginning October 1, 2023, at the rate per annum of:

- (i) From their dated date to April 1, 2020, 3.000%;
- (ii) From April 1, 2020 to October 1, 2023, 0.086%;
- (iii) From October 1, 2023 to April 1, 2025, 0.600%;
- (iv) From April 1, 2025 to April 1, 2026, 1.100%;
- (v) From April 1, 2026 to April 1, 2027, 1.600%;
- (vi) From April 1, 2027 to April 1, 2028, 2.100%;
- (vii) From April 1, 2028 to April 1, 2029, 2.600%;
- (viii) From April 1, 2029 to April 1, 2058, 3.000%;

Additional Bonds of each Series shall be dated as of, and bear interest from, such date or dates as shall be provided in the Supplemental Trust Agreement authorizing such Series of Additional Bonds.

(e) The following provisions apply to the Series 2018 Bonds except as otherwise provided in any arrangements with DTC as set forth in Section 3.13 with respect to the

all Additional Bonds, unless with respect to any Additional Bonds the Supplemental Trust Agreement authorizing such Additional Bonds provides otherwise:

(i) interest on Bonds other than interest payable at maturity or on a Redemption Date shall be paid to the Person in whose name such Bond is registered on the Register at the close of business on the Record Date for such Interest Payment Date; payment of interest on Bonds other than interest payable at maturity or on a Redemption Date shall be made by check of the Trustee mailed to the Registered Owners thereof at their addresses set forth in the Register as of the Record Date, or by wire transfer to Registered Owners of \$1,000,000 or more in aggregate principal amount of Bonds at such wire transfer address in the United States as such Registered Owner shall specify in writing requesting payment by wire transfer delivered to the Trustee prior to the Record Date;

(ii) payment of interest on Bonds at maturity or on a Redemption Date shall be paid upon presentation and surrender of such Bonds at the Trustee's Principal Office (provided, however, that no presentation shall be required for mandatory redemption pursuant to Section 4.03); and

(iii) principal of the Bonds shall be payable by check in lawful money of the United States of America at the Trustee's Principal Office in accordance with the notice provisions of this Trust Agreement; no payment of principal shall be made on any Bond unless and until such Bond is tendered to the Trustee for cancellation; provided, that the Trustee may agree with any Registered Owner that such Registered Owner may, in lieu of surrendering the same for a new Bond, endorse on such Bond a record of partial payment of the principal of such Bond. The Trustee shall maintain a record of each such partial payment made in accordance with the foregoing agreement and such record shall be conclusive. Such partial payment shall be valid upon payment of the amount thereof to the Registered Owner of such Bond, and the Commission and the Trustee shall be fully released and discharged from all liability to the extent of such payment irrespective of whether such endorsement shall or shall not have been made upon such Bond by the Registered Owner thereof and irrespective of any error or omission in such endorsement.

Section 3.05 Legends. The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Trust Agreement as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission, brokerage board, municipal securities rulemaking board or otherwise.

Section 3.06 Execution and Authentication.

(a) The Bonds shall be signed in the name of the Commission by the President or by such other officer of the Commission authorized to do so by resolution of the Board by manual or facsimile signature, and attested by the Secretary or Assistant Secretary of the Commission. In case any such officer of the Commission shall have signed any of the Bonds shall cease to hold such office before the Bonds so signed shall have been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be authenticated and delivered as provided in this Trust Agreement, and may be issued as if the persons who signed such Bonds had not ceased to hold such offices. Any Bond of a Series may be signed on behalf of the Commission by such

persons who at the time of the execution of such Bonds shall be duly authorized or hold the designated office of the Commission, although at the date borne by or of delivery of the Bond or Bonds of such Series such persons may not have been so authorized or have held such office.

(b) Only such Bonds as shall have endorsed thereon a certificate of authentication, substantially in the form set forth in Exhibit B to this Trust Agreement with respect to the Series 2018 Bonds, and in the form set forth in the Supplemental Trust Agreement authorizing Additional Bonds with respect to such Additional Bonds, dated as of the date of authentication and duly authenticated by the Trustee shall be entitled to any right, security or benefit under this Trust Agreement. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee, and such executed certificate upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Trust Agreement and that the Registered Owner thereof is entitled to the benefits of the trust hereby created. The Trustee's certificate of authentication on any Bond shall be deemed to have been duly executed by it if (i) 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 or on all of the Bonds of any Series issued under this Trust Agreement and (ii) the date of authentication of the Bond is inserted in the place provided therefor on the certificate of authentication.

Section 3.07 Exchange of Bonds. Unless otherwise provided in any Supplemental Trust Agreement, Bonds, upon surrender thereof at the designated office of the Registrar, when surrendered with a written request satisfactory to the Registrar duly executed by the Registered Owner or the Registered Owner's duly authorized attorney, may, at the option of the Registered Owner thereof, and upon payment by such Registered Owner of any charges which the Registrar or the Commission may make as provided in Section 3.09, be exchanged for an equal aggregate principal amount of Bonds of the same Series, lien priority, interest rate and maturity and in any Authorized Denomination.

Section 3.08 Negotiability, Transfer and Registry.

(a) Unless otherwise provided in any Supplemental Trust Agreement, Bonds shall be transferable only upon the Register, which shall be kept for that purpose at the designated office of the Registrar for such Series of Bonds, by the Registered Owner thereof, in person or by the Registered Owner's attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or the Registered Owner's duly authorized attorney.

(b) The Registrar shall keep, or cause to be kept, on behalf of the Commission at the designated office of the Registrar or such other location or locations as shall be provided in any Supplemental Trust Agreement, the Register, in which, subject to such reasonable regulations as the Commission, the Trustee, and the Registrar may prescribe, the Registrar shall cause Bonds to be registered and shall transfer Bonds as in this Article provided. The Register shall contain the name and address of the Registered Owner of each Bond. Upon the transfer of any such Bond and payment of any required fees, the Registrar shall issue in the name of the transferee a new fully registered Bond or Bonds of the same aggregate principal amount, Series, lien priority, interest rate and maturity as the surrendered Bond.

(c) The Commission, the Trustee and any Agent may deem and treat the person in whose name any Bond shall be registered in the Register as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price of and interest on such Bond and for all other purposes, and all such payments so made to any such Registered Owner or upon the Registered Owner's order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and the Commission, the Trustee, and any other Agent shall not be affected by any notice to the contrary.

Section 3.09 Exchanges and Transfers. Except as otherwise provided in any Supplemental Trust Agreement, in all cases in which the privilege of exchanging or transferring Bonds is exercised, the Commission shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions of this Trust Agreement. All registered Bonds surrendered in any exchange or transfer shall forthwith be canceled by the Trustee. For every such transfer of Bonds pursuant to Section 3.08, whether temporary or definitive, the Commission, the Trustee or the Registrar may make a charge sufficient to reimburse it or them for any expense, tax, fee or other governmental charge required to be paid with respect to such transfer. In addition, for every exchange of Bonds (other than the exchange of temporary Bonds for definitive Bonds), the Commission, the Trustee or the Registrar may make reasonable charges to cover the costs of printing Bonds including any Trustee's or Registrar's charges in connection therewith. The payment of the sum or sums provided in this Section shall be made by the Registered Owner requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. Except as may be otherwise provided in a Supplemental Trust Agreement, the Registrar shall not be required to transfer or exchange Bonds for a period from the 15th day of the month next preceding any Interest Payment Date or Principal Payment Date of such Bond through such Interest Payment Date or Principal Payment Date nor to transfer or exchange any Bond after notice calling such Bond or portion thereof for redemption has been given as provided in this Trust Agreement nor during the period of fifteen (15) days next preceding the giving of such notice.

Section 3.10 Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bonds shall become mutilated or be destroyed, stolen or lost, the Commission shall execute, and thereupon the Trustee shall authenticate and deliver, a new Bond of like Series, lien priority, maturity date, principal amount and interest rate as the Bond so mutilated, lost, stolen or destroyed; provided, that (a) in the case of any mutilated Bond, such Bond is first surrendered to the Trustee, (b) in the case of any lost, stolen or destroyed Bond, there is first furnished evidence of such loss, theft or destruction satisfactory to the Trustee together with indemnity satisfactory to the Trustee, (c) all other reasonable requirements of the Commission and the Trustee are complied with, and (d) expenses in connection with such transaction are paid by the Registered Owner. All Bonds so surrendered to the Trustee shall be canceled by it. Any such new Bonds issued pursuant to this Section in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Commission, whether or not the Bonds alleged to be destroyed, stolen or lost be at any time enforceable by anyone, and shall be equally secured by and entitled to equal and proportionate benefits in the Revenues and other assets pledged under this Trust Agreement with all other Bonds issued under this Trust Agreement, to the same extent provided in this Trust Agreement and subject to the terms and priority set forth in this Trust Agreement. If, after the delivery of such new Bond, a bona fide purchaser of the original Bond in

lieu of which such new Bond was issued presents for payment or registration such original Bond, the Trustee shall be entitled to recover such new Bond from the Person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the Commission or the Trustee in connection therewith.

Section 3.11 Temporary Bonds. Until the definitive Bonds of any Series are prepared, the Commission may execute, in the same manner as is provided in Section 3.06, and, upon the Request of the Commission or the Trustee shall authenticate and deliver, in lieu of definitive Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds except as to denomination, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, in Authorized Denominations as provided in this Trust Agreement or in a Supplemental Trust Agreement, and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The Commission at its own expense shall prepare and execute and, upon the surrender of such temporary Bonds, the Trustee shall authenticate and, without charge to the Registered Owner thereof, deliver in exchange therefor, definitive Bonds of the same aggregate principal amount and Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds authenticated and issued pursuant to this Trust Agreement. If the Commission shall authorize the issuance of temporary Bonds in more than one denomination, the Registered Owner of any temporary Bond or Bonds may, at said Registered Owner's option, surrender the same to the Trustee in exchange for another temporary Bond or Bonds of like aggregate principal amount, Series, lien priority and maturity of any other Authorized Denomination or Denominations, and thereupon the Commission shall execute and the Trustee shall authenticate and, in exchange for the temporary Bond or Bonds so surrendered and upon payment of the taxes, fees and charges as provided for in Section 3.09, shall deliver a temporary Bond or Bonds of like aggregate principal amount, Series and maturity in such other Authorized Denomination or Denominations as shall be requested by such Registered Owner.

All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith canceled by the Trustee.

Section 3.12 Cancellation and Destruction of Bonds. Except as otherwise provided in this Trust Agreement or any Supplemental Trust Agreement, all Bonds paid in full, either at or before maturity, or purchased pursuant to Section 5.10, shall be delivered to the Trustee when such payment or purchase is made, and such Bonds shall thereupon be promptly canceled. Bonds so canceled shall thereafter be treated in accordance with the Trustee's document retention policies.

Section 3.13 Depository for Bonds. As provided in Section 3.14 hereof, this Section 3.13 will not apply to the Series 2018 Bonds on their original issuance. Except as otherwise provided in this Trust Agreement or any Supplemental Trust Agreement, the provisions of this Section 3.13 shall apply to Bonds that are subject to the book-entry system.

(a) Bonds that are subject to the book-entry system shall be executed and delivered in the form of a separate, single, authenticated, fully registered bond for each separate stated maturity of the Bonds of any Series, each such bond to be in the full principal amount of the Bonds with such stated maturity of such Series. Upon initial execution, authentication and delivery, the ownership of such Bonds shall be registered in the bond register in the name of Cede

& Co., as nominee of DTC, the Depository for the Bonds. The Trustee and the Commission may treat DTC (or its nominee) as the sole and exclusive Registered Owner of the Bonds registered in its name for the purposes of payment of the principal of and interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Registered Owners of Bonds under this Trust Agreement, registering the transfer of Bonds, obtaining any consent or other action to be taken by the Registered Owner of Bonds and for all other purposes whatsoever, and neither the Trustee nor the Commission shall be affected by any notice to the contrary. Neither the Trustee nor the Commission shall have any responsibility or obligation to any Participant, any Person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any other Person, with respect to the accuracy of any records maintained by DTC or any Participant; the payment by DTC or any Participant of any amount in respect of the principal of or interest on the Bonds; any notice that is permitted or required to be given to the Registered Owners of the Bonds under this Trust Agreement; the selection by DTC or any Participant of any Person to receive payment in the event of a partial redemption of the Bonds; or any consent given or other action taken by DTC (or its nominee) as the Registered Owner of the Bonds. So long as DTC (or its nominee) is the Registered Owner of all Bonds, the Trustee shall pay all principal and of, and interest on, the Bonds only to DTC, and all such payments shall be valid and effective to fully satisfy and discharge the Commission's obligations with respect to the principal of and interest on the Bonds to the extent of the sum or sums so paid. Except under the conditions specified in subsection (b) of this Section, no Person other than DTC or its nominee shall receive authenticated Bonds. Upon delivery by DTC to the Trustee of written notice to such effect, DTC may substitute a new nominee in place of Cede & Co., or any successor nominee, and subject to the provisions in this Trust Agreement with respect to record dates, the term "Cede & Co." in this Trust Agreement shall refer to such new nominee of DTC.

(b) If (i) DTC or any successor as Depository for the Bonds determines not to continue to act as Depository for the Bonds or (ii) the Commission determines that the incumbent Depository for the Bonds shall no longer so act, and the Commission delivers a written certificate of an Authorized Commission Representative to the Trustee to that effect, then the Commission shall discontinue the book-entry system with the incumbent Depository for the Bonds. If the Commission determines to replace the incumbent Depository for the Bonds with another Depository, the Commission shall prepare or direct the preparation of a new single, separate fully registered Bond for the aggregate outstanding principal amount of Bonds of each maturity of any Series to be registered in the name of such successor Depository, or its nominee, or make such other arrangements acceptable to the Commission, the Trustee and the successor Depository for the Bonds as are not inconsistent with the provisions of this Trust Agreement. If the Commission fails to identify a successor Depository for the Bonds to replace the incumbent Depository, then the Bonds shall no longer be restricted to being registered in the bond register in the name of the incumbent Depository or its nominee, but shall be registered in whatever name or names the incumbent Depository for the Bonds, or its nominee, shall designate in accordance with the provisions of subsection (a) of this Section. In such event the Commission shall, at its expense, prepare, execute and deliver a sufficient quantity of Bonds to the Trustee for authentication and delivery at the Commission's written direction to carry out the transfers and exchanges provided in this Section and Section 3.09. All such Bonds shall be in fully registered form in Authorized Denominations.

(c) Notwithstanding anything to the contrary in this Trust Agreement, so long as any Bond is registered in the name of DTC, or its nominee, all payments with respect to principal and Redemption Price of and interest on, such Bond, and all notices with respect to such Bond, shall be made and given, respectively, as appropriate or necessary with respect to the arrangements made with DTC relating to the Bonds.

(d) In connection with any notice or other communication to be provided to Registered Owners of the Bonds pursuant to this Trust Agreement by the Commission or the Trustee with respect to any consent or other action to be taken by Registered Owners of the Bonds, the Commission or the Trustee, as the case may be, shall establish a record date for such consent or other action and give DTC notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent practicable.

Section 3.14 No Depository; Physical Delivery of Series 2018 Bonds. The Series 2018 Bonds shall be physically delivered to the Registered Owners thereof and shall not be subject to the book-entry system.

Section 3.15 Subordinate Bonds. Nothing in this Trust Agreement shall prevent the Commission from issuing at any time, while any of the Bonds issued hereunder are Outstanding, Subordinate Bonds with a pledge of, lien on and security interest in Total Operating Revenues which are junior and subordinate to those of the Bonds. The principal and redemption price of and interest on such Subordinate Bonds shall be payable from time to time out of Total Operating Revenues in the order or priority set forth in Section 5.07 only if all amounts then required to have been paid or deposited hereunder from Total Operating Revenues with respect to the principal and redemption price of and interest on the Bonds then Outstanding shall have been paid or deposited as required in this Trust Agreement and any Supplemental Trust Agreement. Any such Subordinate Bonds may be issued only upon satisfaction of the conditions set forth in Section 3.02 by treating such Subordinate Bonds as if they constitute Additional Bonds. The Subordinate Bonds shall be issued pursuant to a subordinate trust agreement with covenants, terms and conditions substantially the same as this Trust Agreement except for the subordinated status of such Subordinate Bonds.

ARTICLE IV REDEMPTION OF BONDS

Section 4.01 Privilege of Redemption and Redemption Price. Bonds subject to redemption prior to maturity shall be redeemable, upon notice as provided in this Article unless a different notice provision is provided for in a Supplemental Trust Agreement, at such Redemption Dates, at such Redemption Prices and upon such terms in addition to the terms contained in this Article, as may be specified in this Trust Agreement with respect to the Series 2018 Bonds or in the Supplemental Trust Agreement authorizing Additional Bonds with respect to such Additional Bonds.

Section 4.02 Redemption at the Option of the Commission.

(a) The Series 2018 Bonds shall be subject to redemption at the option of the Commission, in whole or in part on any date, from any legally available funds, at a Redemption

Price equal to the principal amount of Series 2018 Bonds called for redemption, without premium, plus accrued interest with respect thereto to the date fixed for redemption.

(b) In the case of any redemption of Bonds at the option of the Commission, an Authorized Commission Representative shall give written notice to the Trustee of its election and Direction so to redeem, of the Redemption Date, of the Series, and of the principal amounts of the Bonds of each maturity of such Series to be redeemed (which Series, maturities, and principal amounts thereof to be redeemed shall be determined by the Commission in its sole discretion, subject to any limitations with respect thereto as are contained in Section 4.04). Such notice shall be given at least ten (10) days prior to the date on which notice of redemption is required to be given to the Registered Owners of the Bonds to be redeemed or within such shorter period as shall be provided by Supplemental Trust Agreement or as may be agreed to by the Trustee. Prior to any notice of redemption being given as provided in Section 4.05, there shall be paid to the Trustee for deposit into the appropriate Redemption Account an amount which, in addition to other moneys, if any, available therefor held by the Trustee, will be sufficient to redeem on the Redemption Date at the Redemption Price, plus interest accrued and unpaid to the Redemption Date, all of the Bonds called for redemption.

Section 4.03 Redemption Otherwise Than at the Option of the Commission.

(a) The Series 2018 Bonds are subject to mandatory redemption, at a Redemption Price equal to the principal amount of the Series 2018 Bonds being redeemed, together with accrued interest thereon to the Redemption Date, pursuant to Mandatory Sinking Fund Installments on April 1 in each of the years and principal amounts set forth in the table below; provided, that the Mandatory Sinking Fund Installments of Series 2018 Bonds shall be reduced in chronological order by the principal amount of any Series 2018 Bonds redeemed pursuant to any other optional or mandatory redemption provision on or before the date on which any such Mandatory Sinking Fund Installment is due:

<u>Year (April 1)</u>	<u>Mandatory Sinking Fund Installment</u>
2025	\$3,195,000
2026	2,185,000
2027	1,175,000
2028	230,000
2029	3,135,000
2030	2,530,000
2031	2,905,000
2032	3,295,000
2033	3,710,000
2034	4,140,000
2035	4,600,000
2036	5,080,000
2037	5,590,000
2038	6,120,000
2039	6,675,000
2040	7,260,000
2041	7,875,000
2042	8,520,000
2043	9,020,000
2044	9,290,000
2045	9,565,000
2046	9,855,000
2047	10,150,000
2048	10,455,000
2049	10,770,000
2050	11,090,000
2051	11,425,000
2052	11,765,000
2053	12,120,000
2054	12,485,000
2055	12,855,000
2056	13,245,000
2057	13,640,000
2058*	14,050,000

* Final Maturity

(b) The Bonds shall be subject to extraordinary mandatory redemption at the Direction of the Commission pursuant to Section 7.18 and Section 5.19(b), in whole or in part on the earliest date following the date for which notice of redemption can be given as provided in this Trust Agreement, at a Redemption Price equal to the principal amount of Bonds to be redeemed plus interest accrued thereon to the date fixed for redemption, without premium, from proceeds of insurance or condemnation awards permitted or required to be applied to such redemption under Section 7.18 and Section 5.19(b).

(c) Whenever by the terms of this Trust Agreement or any Supplemental Trust Agreement the Trustee is required or authorized to redeem Bonds other than at the option of the Commission, the Trustee shall select the Bonds to be redeemed, give the notice of redemption and pay, out of moneys available therefor, the Redemption Price thereof, plus interest accrued and unpaid to the Redemption Date, to the Registered Owners of Bonds to be redeemed in accordance with the terms of this Trust Agreement and any Supplemental Trust Agreement.

(d) In lieu of depositing cash with the Trustee as a Mandatory Sinking Fund Installment with respect to Bonds of a Series and maturity, the Commission shall have the option to tender to the Trustee for cancellation at least sixty (60) days prior to a mandatory sinking fund redemption date any amount of Bonds of such Series and maturity purchased by the Commission, which Bonds may be purchased by or upon the Direction of the Commission at public or private sale as, when and at such prices not in excess of the principal amount thereof plus accrued interest thereon as the Commission may in its discretion determine from moneys held by the Trustee under this Trust Agreement that are available for such purpose. The principal amount of any Bonds of a maturity so purchased by or upon the Direction of the Commission and tendered to the Trustee in any 12-month period ending on April 1 in any calendar year shall be credited towards and shall reduce the next Mandatory Sinking Fund Installment required to be made with respect to Bonds of such Series and maturity in the order in which they are required to be made pursuant to this Trust Agreement.

(e) Upon any optional or extraordinary mandatory redemption of any Bonds subject to Mandatory Sinking Fund Installments, the Trustee shall credit the principal amount of such Bonds so redeemed toward the next Mandatory Sinking Fund Installment or Installments for such Bonds.

Section 4.04 Selection of Bonds to be Redeemed. Bonds subject to optional or extraordinary mandatory redemption shall be selected in such order of maturity and from such Series of Bonds as the Commission may direct. If less than all of the Bonds of a single maturity within the same Series are to be redeemed, the Bonds of such Series to be redeemed will be selected by lot or other random method by the Trustee in such a manner as the Trustee may determine unless otherwise provided by the Supplemental Trust Agreement authorizing that Series of Additional Bonds; provided, that the portion of any Bonds of a Series of a denomination greater than the minimum Authorized Denomination for the Bonds of such Series to be redeemed shall be redeemed in part only in an Authorized Denomination and that, in selecting portions of Bonds of a Series for redemption, the Trustee shall treat each Bond of such Series as representing that number of Bonds of the minimum Authorized Denomination for such Series which is obtained by dividing the principal amount of such Bond to be redeemed in part by the minimum Authorized

Denomination for such Series. In case of any partial redemption during the continuance of an Event of Default, such redemption shall be applied on a *pro rata* basis to all Outstanding Bonds of the Series called for redemption, without differentiation by maturity or within a maturity.

Section 4.05 Notice of Redemption.

(a) Notice of mandatory, extraordinary mandatory and optional redemption of Bonds shall be given in accordance with this Section and (with respect to mandatory redemption) Section 5.10(b). When the Trustee shall have received an amount sufficient, in addition to other moneys, if any, available therefor held by the Trustee to effect such redemption and the Trustee shall receive notice from the Commission of its election and Direction to redeem Bonds pursuant to Section 4.02, and when redemption of Bonds is authorized or required pursuant to Section 4.03(b), the Trustee shall give notice, in the name of the Commission, of the redemption of such Bonds, which notice shall specify the Series and maturities of the Bonds to be redeemed, the Redemption Date and the place or places where amounts due upon such Redemption Date will be payable and, if less than all of the Bonds of any like Series and maturity are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, such notices shall also specify the respective portions of the principal amounts thereof to be redeemed. Such notice shall further state that on such Redemption Date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof, in the case of Bonds to be redeemed in part only, together with interest accrued to the Redemption Date, and that from and after such date interest thereon shall cease to accrue and be payable. The Trustee shall mail a copy of such notice, first class mail postage prepaid, not less than thirty (30) days nor more than sixty (60) days before the Redemption Date (or such shorter period as shall be provided by Supplemental Trust Agreement), to the Registered Owners of any registered Bonds, or portions of registered Bonds that are to be redeemed, at their last addresses, if any, appearing upon the Register, unless waived by the Holder of the Bonds to be redeemed. The Trustee shall give notice required by this Section for an optional redemption of Bonds pursuant to Section 4.02 only upon the prior payment to the Trustee of funds sufficient to pay the Redemption Price on the Bonds to which such notice relates together with interest thereon to the Redemption Date.

(b) Failure to give the notices described in this Section, or any defects therein, shall not in any manner affect the validity of any proceedings for redemption of any other Bonds for which such notice has been duly given. Neither the Commission nor the Trustee shall have any responsibility for any defect in the CUSIP number that appears on any Bonds or in any redemption notice with respect thereto, and any such redemption notice may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference and that neither the Commission nor the Trustee shall be liable for any inaccuracy in such numbers.

Section 4.06 Payment of Redeemed Bonds. Notice having been given in the manner provided in Section 4.05, the Bonds or portions thereof so called for redemption shall become due and payable on the Redemption Date so designated at the Redemption Price, plus interest accrued and unpaid to the Redemption Date, and upon presentation and surrender thereof at the office specified in such notice. If there shall be called for redemption less than all of the principal of any Bond, the Commission shall execute and the Trustee shall authenticate, upon the surrender of such

Bond, without charge to the Registered Owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of like Series and maturity in any Authorized Denomination. If, on the Redemption Date, moneys for the redemption of all the Bonds or portions thereof of any like Series and maturity to be redeemed, together with interest 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 or portions thereof of such Series and maturity so called for redemption shall cease to accrue and become payable. If such moneys shall not be so available on the Redemption Date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne interest at had they not been called for redemption.

Section 4.07 Modification by Supplemental Trust Agreement. The provisions of this Article may be modified by any Supplemental Trust Agreement in respect of any Series of Additional Bonds authorized thereby, and in the event of any conflict with the provisions hereof the provisions of such Supplemental Trust Agreement shall control in respect of any Series of Additional Bonds authorized thereby.

ARTICLE V PLEDGE AND ASSIGNMENT; ESTABLISHMENT OF FUNDS AND APPLICATION THEREOF

Section 5.01 Security for Bonds; Deposits of Total Operating Revenues, Available Revenue and Other Amounts.

(a) Subject only to the provisions of this Trust Agreement, the Management Agreement and the Cash Management Agreement permitting the application thereof for the purposes and on the terms and conditions set forth in this Trust Agreement and therein, there are hereby pledged to secure the payment of the principal of, Redemption Price, if any, and interest on the Bonds in accordance with their terms and the provisions of this Trust Agreement, all of the Revenues and any other amounts (including proceeds of the sale of Bonds), held in any Fund or Account established pursuant to this Trust Agreement (other than the separate subaccounts within the Construction Fund otherwise pledged pursuant to Section 5.03(b) and the Rebate Fund). Said pledge shall constitute a lien on and security interest in such assets and shall attach, be perfected and be valid and binding from and after delivery by the Trustee of the Bonds, without any physical delivery thereof or further act.

(b) The Commission hereby transfers in trust, grants a lien on and security interest in and assigns to the Trustee, for the benefit of the Holders from time to time of the Bonds, all of the Revenues and other assets pledged in subsection (a) of this Section and all of the right, title and interest of the Commission pursuant to the Assignment and Subordination of Management Agreement, the Management Agreement and the Pre-Opening Services Agreement. The Trustee shall be entitled to and shall collect and receive all of the Revenues, and any Revenues collected or received by the Commission shall be deemed to be held, and to have been collected or received, by the Commission as the agent of the Trustee and shall forthwith be paid by the Commission to the Trustee.

(c) The Commission shall deposit or cause to be deposited, as long as any of the Bonds remain Outstanding, all of the Total Operating Revenues as calculated on a cash basis

(less the Petty Cash Amount, which shall be retained by Manager for use solely for Hotel purposes), as soon as practicable upon receipt (but in no event less often than once each Business Day), in the Lockbox Fund.

(d) From and after the Opening Date, on or before 10:00 a.m. Pacific time, on the first Business Day of each month, after payment or provision for payment of the Base Management Fee then due and owing, the Trustee shall be entitled to and shall collect and receive all of the Available Revenue as calculated on a cash basis from the Lockbox Fund for deposit into the Revenue Fund, and any such amounts collected or received by or on behalf of the Commission shall be deemed to be held, and to have been collected or received, by the Commission as the agent of the Trustee and shall forthwith be paid or caused to be paid by the Commission to the Trustee for deposit in the Revenue Fund. All such Available Revenues deposited with the Trustee in the Revenue Fund shall be held, disbursed, allocated and applied by the Trustee only as provided in this Trust Agreement and the Cash Management Agreement.

(e) As set forth in the Management Agreement and the Cash Management Agreement, all Excluded Taxes and Other Charges and any other amounts received by Manager that are not included in Total Operating Revenues or Available Revenues shall be applied in the manner as set forth in this Trust Agreement or, if not set forth in this Trust Agreement, shall either be (i) retained by Manager and paid by Manager promptly, but in any event prior to the time such payment becomes delinquent, directly to the appropriate Person entitled thereto as determined by Manager in its reasonable discretion, or (ii) deposited with the Trustee in the Revenue Fund if Manager determines in its reasonable discretion that such amounts are not otherwise designated for payment to a particular Person.

(f) Subject to the rights of Manager under the Cash Management Agreement, the Trustee also may (upon the occurrence and during the continuance of an Event of Default under this Trust Agreement), subject to the provisions of this Trust Agreement, take all steps, actions and proceedings to enforce either jointly with the Commission or separately, all of the rights and all of the obligations of the Commission under this Trust Agreement and the Cash Management Agreement.

Section 5.02 Establishment of Funds and Accounts. The Commission hereby establishes the following Funds and Accounts, all of which shall be held by the Trustee:

(a) “Construction Fund,” and within such Fund, the “Pre-Opening Expenses Account,” the “Preliminary Working Capital Account,” the “Series 2018 Capitalized Interest Account”, the “Reservation Deposit Account” and the “Purchasing Agent Account” (which Construction Fund may include such additional special Accounts and Subaccounts therein to be held by the Trustee or any other designated Agent pursuant to Section 5.03);

(b) “Revenue Fund”;

(c) “Taxes and Insurance Fund”;

(d) “Administrative Costs Fund”;

(e) “Debt Service Fund,” and within such Fund a “Debt Service Account” and a “Redemption Account”;

(f) “Debt Service Reserve Fund,” and within such fund separate accounts as may be established in connection with Additional Bonds;

(g) “Rebate Fund”;

(h) “Subordinate Management Fee Fund”;

(i) “Working Capital Reserve Fund”;

(j) “FF&E Reserve Fund”;

(k) “Capital Reserve Fund”;

(l) “Revenue Stabilization Fund”; and

(m) “Insurance and Condemnation Proceeds Fund.”

The Trustee may create any other Funds or Accounts under this Trust Agreement, to be held in trust for the benefit of the Registered Owners of the Bonds, as the Trustee deems necessary to carry out the purposes of this Trust Agreement; provided, that the creation of any such Funds or Accounts shall not affect the rights and obligations of the Trustee, without the prior written consent of the Trustee, or Manager under the Cash Management Agreement, without the prior written consent of Manager, and shall require an opinion of Bond Counsel to the effect that the creation of such Fund or Account will not, in and of itself, cause the interest on any of the Tax-Exempt Bonds to become includable in gross income for federal income tax purposes. Not later than the 10th calendar day of each month, the Trustee shall provide the Commission and Manager with a monthly statement of (i) the amounts on deposit in the Funds and Accounts as of the last calendar day of the prior month and, (ii) if applicable, the amounts of any deficiencies in such Funds and Accounts that are known to the Trustee.

The Commission shall cause the City Treasurer to establish and hold the Hotel Account and the Retainage Account separately from other moneys held by the City Treasurer and shall cause the City Treasurer to dispose of amounts held in the Hotel Account and the Retainage Account only in the manner provided in this Trust Agreement.

Section 5.03 Construction Fund.

(a) The Trustee shall pay into the Construction Fund the amounts required to be so paid by the provisions of this Trust Agreement and any Supplemental Trust Agreement, and shall transfer amounts between or among any Account or Accounts within the Construction Fund and the Hotel Account as provided in Section 3.03(b). The Trustee shall also pay into the Construction Fund until the Date of Final Completion any moneys received by the Trustee from any source with the express written direction to deposit such moneys in an Account of the Construction Fund unless otherwise required to be applied by this Trust Agreement or any Supplemental Trust Agreement.

(b) In addition to the Accounts established by Section 5.02(a) other separate, segregated Accounts and subaccounts may be created by the Commission within the Construction Fund (including, if applicable, the Costs Issuance Account) and held by the Trustee in the manner provided in this Trust Agreement or in any Supplemental Trust Agreement. The Trustee shall hold money in such Accounts and subaccounts separately from other moneys in the Construction Fund and shall dispose of such money only in the manner provided in this Trust Agreement or in the Supplemental Trust Agreement pursuant to which such Accounts and subaccounts are created. Without limiting the generality of the foregoing, such separate, segregated Accounts and subaccounts, and all funds, investments thereof and investment income earned thereon may be exclusively pledged (and a lien and security interest therein may be exclusively granted) to secure for any period of time the payment of principal and Redemption Price of the Series of Bonds from which such funds are derived, and interest thereon to any date, all as may be more fully provided in a Supplemental Trust Agreement, in which case such pledge, lien and security interest will be prior and superior to the pledge of, lien on and security interest in the Construction Fund granted by this Trust Agreement securing the Bonds generally.

Section 5.04 Hotel Account.

(a) Except as otherwise provided in this Trust Agreement, the Commission shall cause the moneys to be disbursed from the Hotel Account by the City Treasurer solely for payment of the Costs of the Hotel. Prior to disbursement by the City Treasurer pursuant to a Requisition from the Commission the following conditions shall have been satisfied by the Commission:

(i) *Requisition.* The Commission shall have delivered or caused to be delivered to the City Treasurer a written request for payment in the form required by the City Treasurer from time to time (the “Requisition”).

(ii) *Approval of Design-Build Agreement Requisition.* With respect to Requisitions for payment to the Design-Builder under the Design-Build Agreement, the Commission shall cause the Project Manager to have reviewed the invoices and documents accompanying the Requisition and prepared the Requisition for review and approval by the Project Manager and the other requisite, duly authorized Commission employees, consistent with then-current Commission and City policies for payment of contract invoices of the corresponding amount and type. The Project Manager’s approval of the Requisition shall signify that the Project Manager has inspected the Hotel (which the parties agree shall be in addition to and not in lieu of any formal inspection by any Governmental Authority as part of the permitting process) and reviewed the expenses incurred and determined that the work has been performed in a good and workman-like manner in accordance with the Approved Plans, that construction is progressing within the Design-Build Schedule, and that the expenses are reasonable and in accordance with the Annual Plan.

(iii) *Lien Waivers.* The Commission shall obtain or cause to be obtained appropriate unconditional or conditional (conditioned solely upon payment) waivers of mechanics’ and materialmen’s lien rights and stop notice rights executed by all contractors and other persons rendering services or delivering materials covered by the requests made in the Requisition and complying with the requirements of Applicable Law.

(iv) *Compliance.* The Commission shall provide or cause to be provided to the Project Manager evidence satisfactory to it of compliance with all Hotel Requirements and evidence that the Hotel is being constructed in compliance with the Hotel Requirements.

(v) *Building Permits.* The Commission shall provide or cause to be provided a valid building permit and any other required permit(s) for the construction of the Hotel.

(b) With respect to payments to the Design-Builder under the Design-Build Agreement, the City Treasurer shall advance to the Design-Builder 95% of each amount requested in the Requisition, and shall transfer to the Retainage Account an amount equal to 5% of such costs (the “Retention”). The Retention shall be released to the Design-Builder pursuant to the Design-Build Agreement, which, in part, requires the Commission to confirm completion of the applicable work on the Hotel in accordance with the Approved Plans and a final conditional lien waiver or release complying with the requirements of Applicable Law.

(c) The aggregate amount of each disbursement shall be based on a percentage of completion of the Hotel against a draw schedule set forth in the Design-Build Agreement.

(d) Except as otherwise provided in this Trust Agreement or as mutually agreed upon between the City Treasurer and the Commission, disbursements shall be made by wire transfer to or upon Direction of the Commission. The Commission shall apply or cause to be applied such moneys received to the payment of Hotel Costs identified in such Requisition.

(e) Promptly following the Date of Final Completion, the Commission shall, by Request, direct the City Treasurer to transfer the balance in the Hotel Account, if any, first, to satisfy any remaining amounts owed to the Design-Builder under the Design-Build Agreement for Costs of the Hotel, and second to the Trustee for deposit in the Debt Service Account of the Debt Service Fund.

Section 5.05 Other Accounts in the Construction Fund.

(a) The Trustee shall disburse amounts in the Pre-Opening Expenses Account to or to the order of the Pre-Opening Services Manager upon receipt by the Trustee of a Requisition executed by the Pre-Opening Services Manager in the form attached to this Trust Agreement as Exhibit D (“Pre-Opening Requisition”) to pay the Pre-Opening Expenses for the Hotel in accordance with the Pre-Opening Services Agreement. No later than six months after the Opening Date, the Pre-Opening Services Manager is required under the terms of the Pre-Opening Services Agreement to notify the Commission and the Trustee of the amount of Pre-Opening Expenses that remain unpaid. All amounts in the Pre-Opening Expenses Account in excess of such amount shall be transferred by the Trustee to the Lockbox Fund. The Trustee shall close the Pre-Opening Expenses Account immediately after such transfer.

(b) Except as otherwise provided by Supplemental Trust Agreement or in Section 9.04, prior to the Opening Date, the Commission shall cause the City Treasurer to transfer amounts in the Hotel Account, and the Trustee shall transfer amounts in the Pre-Opening Expenses Account of the Construction Fund, at the Direction of the Commission to the Debt Service Account and apply such amounts to the payment of principal of and interest on the Bonds when due, as required by Section 5.07(a); provided, that with respect to the Maximum Permitted Price, the

Project Manager and the Design-Builder and, with respect to the Pre-Opening Expenses only, the Pre-Opening Services Manager, each shall first certify to the Trustee that the amounts remaining in the Hotel Account and in the Pre-Opening Expenses Account, as the case may be, after such transfer are sufficient to pay all of the remaining Maximum Permitted Price and Pre-Opening Expenses, respectively.

(c) Amounts in the Preliminary Working Capital Account shall be used to pay the initial Operating Expenses of the Hotel, including any prepayment of Operating Expenses requested in writing by Manager in its reasonable discretion. The Commission shall provide written notice to the Trustee of the Opening Date of the Hotel not less than seven (7) days prior thereto. Upon receipt of such notice, the Trustee shall transfer an amount equal to the Petty Cash Amount to Manager from the amounts on deposit in the Preliminary Working Capital Account and shall transfer the remaining amounts in the Preliminary Working Capital Account to the Lockbox Fund, which amount shall be at least equal to the Working Capital Set Aside Amount. The Trustee shall close the Preliminary Working Capital Account immediately after such transfer.

(d) Pursuant to the Pre-Opening Services Agreement, the Pre-Opening Services Manager shall transfer Reservation Deposits received prior to the seventh (7th) day prior to the Opening Date by the Pre-Opening Services Manager, less any refunds thereof, to the Trustee not less frequently than monthly for deposit by the Trustee into the Reservation Deposit Account of the Construction Fund. Prior to the seventh (7th) day before the Opening Date, the Trustee shall remit to the Pre-Opening Services Manager upon receipt of a Request therefor from the Pre-Opening Services Manager amounts on deposit in the Reservation Deposit Account due to refunds of Reservation Deposits or to pay for Operating Expenses incurred with respect to any event for which a Reservation Deposit has been received. The Trustee shall transfer all amounts on deposit in the Reservation Deposit Account to the Lockbox Fund upon receipt of written notice from Manager that the Opening Date of the Hotel is scheduled to occur within seven (7) days. If Manager fails to provide such notice, the Trustee shall make such transfer on the Opening Date of the Hotel. The Reservation Deposit Account shall be closed by the Trustee immediately after such transfer.

(e) On the 15th Business Day prior to each Interest Payment Date, to the extent of any remaining balance in the Series 2018 Capitalized Interest Account, the Trustee shall transfer amounts in the Series 2018 Capitalized Interest Account equal to the interest due on the Series 2018 Bonds on such Interest Payment Date to the Debt Service Account. Moneys in the Series 2018 Capitalized Interest Account shall not be available for payment in respect of any Bonds other than the Series 2018 Bonds. The Trustee shall close the Series 2018 Capitalized Interest Account if there are no funds remaining on deposit therein.

(f) The Trustee shall disburse amounts in the Purchasing Agent Account to or to the order of the Commission upon receipt by the Trustee of a Requisition executed by the Authorized Commission Representative in the form attached to this Trust Agreement as Exhibit M to pay costs of FF&E and operating supplies and equipment for the Hotel.

Section 5.06 Lockbox Fund; Revenue Fund.

(a) Commencing on a date at least seven (7) days prior to the Opening Date, the Trustee shall at all times cause to be maintained a Lockbox Fund pursuant to the provisions of

the Cash Management Agreement or, if the initial Manager is replaced by a successor Manager, a Cash Management Agreement with terms substantially similar to those contained in the initial Cash Management Agreement. Amounts in the Lockbox Fund shall be applied as provided in this Trust Agreement, the Cash Management Agreement and the Management Agreement to pay or reimburse Manager for the payment of Operating Expenses.

(b) Unless a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement or the Management Agreement has been terminated, in each case of which the Trustee has notice, the Trustee shall instruct the Depository Bank to periodically disburse amounts deposited in the Lockbox Fund to Manager as periodically requested by Manager, pursuant to either check or draft drawn by Manager directly against such Lockbox Fund or by written instructions provided by Manager to the Trustee specifying the amount to be transferred by the Trustee to Manager for the payment of Operating Expenses and the Base Management Fee then due and owing. The Base Management Fee then due and owing shall be paid out on the first Business Day of each month immediately prior to any other disbursements, including the disbursements to the Revenue Fund as provided in this Section.

(c) If a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement of which the Trustee has notice, and the Trustee has not received notice of the termination of the Management Agreement, the Trustee shall instruct the Depository Bank to periodically distribute amounts deposited in the Lockbox Fund to Manager as periodically requested by Manager pursuant to either check or draft drawn by Manager directly against such Lockbox Fund or by written instructions provided by Manager to the Trustee specifying the amount to be transferred by the Depository Bank to Manager for the payment of (i) Operating Expenses included in the Annual Plan, (ii) the Base Management Fee then due and owing, (iii) with the prior written consent of the Asset Manager and the Authorized Commission Representative, Operating Expenses not included in the Annual Plan and amounts reasonably determined by Manager to be required to protect life, health or property from imminent danger or to comply with Applicable Laws; provided, that Manager shall provide a weekly report summarizing all Operating Expenses paid during each week to the Commission and the Trustee.

(d) On the first Business Day of each month following the Opening Date, the Trustee shall make the deposits in the Revenue Fund from the Lockbox Fund required by Section 5.01(d). All amounts in the Revenue Fund shall be used for the purposes and in the order of priority set forth in Section 5.07. The Commission agrees to pay as an Operating Expense the fees of the Depository Bank in accordance with the customary fees charged by the Depository Bank for the services described in this Trust Agreement and in the Cash Management Agreement, as such fees are established from time to time. The Trustee or the Commission may replace the Depository Bank with a new Depository Bank reasonably acceptable to Manager upon five (5) Business Days' prior notice to the parties to the Cash Management Agreement.

Section 5.07 Flow of Funds.

(a) Except as otherwise provided in subsections (b) and (c) of this Section or in Section 9.04, on the first Business Day of each month, after making the deposit required in Sections 5.01(d) and 5.06 to the Revenue Fund, the Trustee shall make the deposits, transfers or

payments indicated below from amounts then on deposit in the Revenue Fund in the priority listed below (including curing any existing deficiency in deposits, transfers or payments required in prior months and curing any deficiency resulting from transfers to Debt Service Fund pursuant to Section 5.11), the requirements of each Fund, deposit, transfer or payment of each priority to be fully satisfied, leaving no deficiencies, prior to any deposit, transfer or payment later in priority, unless as otherwise expressly provided below:

First, to the Taxes and Insurance Fund, an amount which together with moneys on deposit in such Fund will equal the Taxes and Insurance Set Aside Amount, as specified by Commission in writing to the Trustee in accordance with the Annual Plan, accrued but not paid through the preceding month;

Second, to the Administrative Costs Fund, an amount which together with moneys on deposit in such Fund will equal the amount necessary to pay the Administrative Expenses, as specified by Commission in writing to the Trustee in accordance with the Annual Plan, then due and owing for such month, together with any accruals from prior periods;

Third, to the FF&E Reserve Fund, an amount which together with moneys on deposit in such Fund will equal the FF&E Set Aside Amount, as specified by Commission in writing to the Trustee in accordance with the Annual Plan, accrued but not paid through the preceding month;

Fourth, unless provision for such payments from the Construction Fund or otherwise has been made as contemplated by Section 5.03 or otherwise, to the Debt Service Account of the Debt Service Fund, an amount equal to:

(A) commencing with the month occurring six months prior to each Interest Payment Date for each Series of Outstanding Bonds, one-sixth of any interest to become due and payable on each Series of Outstanding Bonds on the next Interest Payment Date for such Series, plus an amount equal to any shortfall from prior periods to the extent not made up from another source; plus

(B) commencing with the month occurring twelve months prior to the first Principal Payment Date for each Series of Outstanding Bonds, one-twelfth of the next Principal Payment to become due and payable within the next twelve months on each Series of Outstanding Bonds, plus an amount equal to any shortfall from prior periods to the extent not made up from another source;

Fifth, to the Debt Service Reserve Fund or any account with such Fund, an amount which together with moneys on deposit in such Fund or account will equal the Reserve Fund Requirement;

Sixth, to the Rebate Fund, an amount which together with moneys on deposit in such Fund, will equal the aggregate amount required to be on deposit therein pursuant to the Tax Certificate delivered in connection with the issuance of each Series of Tax-Exempt Bonds;

Seventh, to the Subordinate Management Fee Fund, the amount of the Subordinate Management Fee for such month, together with any accruals from prior periods;

Eighth, to the Working Capital Reserve Fund, an amount which together with moneys on deposit in such Fund will equal the Working Capital Reserve Requirement;

Ninth, to the Capital Reserve Fund, an amount which together with moneys on deposit in such Fund will equal the Capital Reserve Set Aside Amount, as specified by Commission in writing to the Trustee in accordance with the Annual Plan, accrued but not paid through the preceding month;

Tenth, to pay principal of, interest on and any debt service reserve requirements with respect to any Subordinate Bonds; and

Eleventh, to the Revenue Stabilization Fund, the balance, if any, of moneys remaining in the Revenue Fund.

(b) Notwithstanding the provisions of subsection (a) of this Section, if on the 25th day immediately preceding each Interest Payment Date and Principal Payment Date, there are not on deposit in the Debt Service Account amounts sufficient to pay the interest and Principal Payments to become due on the Bonds on such Interest Payment Date and Principal Payment Date, and sufficient amounts are not on deposit in the Funds referenced in Section 5.11 (with respect to insufficiency of amounts on deposit in the Debt Service Account) to make up any such deficiency, then the Trustee shall promptly notify the Depository Bank and the Commission on the immediately succeeding Business Day of such shortfall. Unless funds to cover such deficiency are transferred to the Trustee for deposit to the Revenue Fund within ten (10) days after receipt of such notice, the Commission, if directed to do so by the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding, shall cause the Depository Bank to transfer the Lockbox Fund to the name and credit of the Trustee, as assignee of the Commission. The Lockbox Fund shall remain in the name and to the credit of the Trustee until the amounts on deposit in the Lockbox Fund are sufficient to pay in full (or have been used to pay in full) all amounts in default and until all other Events of Default known to the Trustee shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, whereupon the Lockbox Fund (except for the Available Revenues held in the Lockbox Fund that are required to make such payments or cure such defaults) shall be returned to the name and credit of the Commission.

(c) During any period that the Lockbox Fund is held in the name and to the credit of the Trustee, the Trustee shall use and withdraw from time to time amounts in the Lockbox Fund to make payments of Debt Service on the Bonds and to deposit the FF&E Set-Aside amounts in the FF&E Reserve Fund. During any period that the Lockbox Fund is held in the name and to the credit of the Trustee, the Commission shall not be entitled to use or withdraw any of the Total Operating Revenues therefrom unless (and then only to the extent that) the Trustee so directs for the payment of current or past due Operating Expenses; provided, that the Commission shall be entitled to withdraw any amounts in the Lockbox Fund that do not constitute Total Operating Revenues and apply such amounts in the manner set forth in this Trust Agreement.

(d) Notwithstanding the foregoing, (i) unless the Management Agreement has been terminated or a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement or the Cash Management Agreement, Manager shall be entitled to continue to receive the funds it would have otherwise been entitled to pursuant to this Trust Agreement, the Management Agreement and the Cash Management Agreement as if no Event of Default under this Trust Agreement had occurred, and (ii) if a Manager Event of Default (as defined in the Management Agreement) of which the Trustee has notice has occurred and is continuing under the Management Agreement but the Trustee has not received notice that the Management Agreement has been terminated, the Trustee shall pay Manager (x) Operating Expenses included in the Annual Plan, including the Base Management Fee then due and owing, items within the Capital Budget, and amounts needed to pay Insurance Costs with respect to the Hotel, and (y) with the prior written consent of the Asset Manager and the Authorized Commission Representative, expenses not included in the Annual Plan and amounts reasonably determined by Manager to be required to protect life, health or property from imminent danger or to comply with Applicable Laws. Manager shall supply a weekly accounting of such expenditures paid during such week to the Trustee and the Commission.

(e) Notwithstanding anything contained in Section 5.07(a) to the contrary, to the extent any amounts are paid by any Person other than the Commission to the Trustee, any moneys received by the Trustee from any source that are identified as payment to the Trustee relating to items paid from amounts received by the Trustee from such other Person, as aforesaid, shall be paid by the Trustee to such other Person.

Section 5.08 Taxes and Insurance Fund. Unless the Management Agreement has been terminated, pursuant to the Cash Management Agreement, moneys in the Taxes and Insurance Fund shall be paid out from time to time by to pay all Taxes and insurance premiums that become due and payable with respect to the ownership and operation of the Hotel, pursuant to and in accordance with a Request of Manager or the Commission, as appropriate, in substantially the form attached to this Trust Agreement as Exhibit E.

Section 5.09 Administrative Costs Fund. The Trustee shall deposit in the Administrative Costs Fund the amounts required to pay the Administrative Expenses. Upon the Request of an Authorized Commission Representative, the Trustee shall apply amounts in the Administrative Costs Fund for payment of Administrative Expenses then due and owing or to reimburse the Commission for the payment of any Administrative Expenses previously paid by the Commission.

Section 5.10 Debt Service Fund.

(a) The Trustee shall pay out of the Debt Service Account of the Debt Service Fund on or before each Interest Payment Date for any of the Bonds the amount required for the interest payment on such Interest Payment Date, and shall pay out of the Debt Service Account of the Debt Service Fund on or before each Principal Payment Date, the amount required for the Principal Payment due on such due date; provided, that if any special fund, account or subaccount has been created for the payment of capitalized interest on the Bonds or any Series thereof, the Trustee shall apply any amounts transferred to the Debt Service Fund from such special fund, account or subaccount to pay such interest prior to the use of any amounts in the Debt Service Fund for such purpose. On or before any Redemption Date for Bonds to be redeemed, the Trustee

shall pay out of the Debt Service Account of the Debt Service Fund, from available amounts deposited therein from time to time, the Redemption Price of and interest on the Bonds then to be redeemed.

(b) The Trustee shall apply amounts in the appropriate Account of the Debt Service Fund with respect to any Mandatory Sinking Fund Installment (together with amounts in the Debt Service Account of the Debt Service Fund with respect to interest on the Bonds for which such Mandatory Sinking Fund Installment was established) to the redemption of Bonds of the Series and maturity for which such Mandatory Sinking Fund Installment was established in an amount not exceeding that necessary to complete the retirement of such Mandatory Sinking Fund Installment as hereinafter provided.

(c) Except as otherwise provided in Section 5.11, the Trustee shall apply amounts in the Debt Service Account of the Debt Service Fund only to the payment of Debt Service on the Bonds.

Section 5.11 Other Transfers to Debt Service Fund. Notwithstanding anything to the contrary in this Trust Agreement, if on the 10th Business Day immediately preceding each Interest Payment Date and Principal Payment Date there are not on deposit in the Debt Service Account on such date amounts sufficient to pay the interest and Principal Payments to become due on the Bonds on such Interest Payment Date or Principal Payment Date (other than the Bonds for which moneys have been already set aside and dedicated to the payment of such Bonds as permitted in this Trust Agreement), the Trustee shall transfer moneys to the Debt Service Account from the following sources in an aggregate amount which, together with the amount then on deposit in the Debt Service Account, will result in the Debt Service Account having the balance required to be on deposit therein in order to pay interest and Principal Payments to become due and payable on such Interest Payment Date or Principal Payment Date:

First, from the Capitalized Interest Account created for such Series of Bonds;

Second, from the Revenue Stabilization Fund;

Third, from the Subordinate Management Fee Fund;

Fourth, from the Capital Reserve Fund;

Fifth, subject to Section 5.03, from the Hotel Account (which the Commission shall cause the City Treasurer to transfer to the Trustee) and/or Pre-Opening Expenses Account in the Construction Fund;

Sixth, from the Debt Service Reserve Fund (but only at the end of the Business Day immediately preceding the Interest Payment Date or Principal Payment Date) in accordance with the provisions of Section 5.12; and

Seventh, from the FF&E Reserve Fund (but only in an amount equal to any amounts deposited into the FF&E Reserve Fund during the then-current Operating Year).

Section 5.12 Debt Service Reserve Fund.

(a) When funded, the Trustee shall apply amounts from the Debt Service Reserve Fund to the extent necessary to cure any deficiency in the Debt Service Account pursuant to Section 5.07(a) by using cash or investments on deposit in the Debt Service Reserve Fund.

(b) Except as provided in subsection (e) of this Section, and subject to the provisions of Section 6.03 relating to the application of interest earnings, if on the last Business Day of any month the amount on deposit in the Debt Service Reserve Fund shall exceed the Reserve Fund Requirement, the Trustee shall deposit any excess moneys in the Hotel Account of the Construction Fund until the Date of Substantial Completion, and thereafter the Trustee shall deposit such amounts in the Debt Service Account to the payment of the principal of the Bonds.

(c) When the amount in the Debt Service Reserve Fund, together with the amounts in the Debt Service Account, amounts in the Working Capital Reserve Fund in excess of Working Capital Reserve Requirement and amounts in the Revenue Stabilization Fund, is sufficient to fully pay all Outstanding Bonds in accordance with their terms (including principal or Redemption Price and interest), the Trustee shall apply the amount on deposit in the Debt Service Reserve Fund, together with the amount on deposit in the Debt Service Account, amounts in the Working Capital Reserve Fund in excess of Working Capital Reserve Requirement and all amounts in the Revenue Stabilization Fund, at the Direction of the Commission, to pay the principal or Redemption Price of and interest on all Outstanding Bonds.

(d) In the event of the refunding of one or more Series of Bonds (or portions thereof), the Trustee shall, upon the Direction of the Commission, withdraw from the Debt Service Reserve Fund any or all of the amounts on deposit therein with respect to the Bonds being refunded and apply such amounts to the payment of the principal of and interest on the Bonds (or portions thereof) being refunded; provided, that such withdrawal shall not be made unless:

(i) immediately thereafter the Bonds (or portions thereof) being refunded shall be deemed to have been paid pursuant to Section 8.02, and

(ii) the amount remaining in the Debt Service Reserve Fund after such withdrawal, taking into account any deposits to be made in the Debt Service Reserve Fund in connection with such refunding, shall not be less than the Reserve Fund Requirement.

(e) If the Trustee shall withdraw any amount from the Debt Service Reserve Fund pursuant to subsection (a) of this Section for deposit in the Debt Service Account, the Trustee shall give written notice thereof within ten (10) Business Days to the Commission.

(f) Except as provided in this Section, if any amount transferred into the Debt Service Reserve Fund pursuant to Section 5.05(a) causes the balance in the Debt Service Reserve Fund to exceed the Reserve Fund Requirement, then the Trustee shall transfer such excess to the Working Capital Reserve Fund.

Section 5.13 Rebate Fund. The Trustee shall deposit amounts into the Rebate Fund pursuant to Section 5.07 as directed in writing by the Commission in the amount required pursuant to the Tax Certificate delivered in connection with the issuance of the Series 2018 Bonds and

pursuant to any similar instrument or certificate delivered by the Commission in connection with the issuance of any Additional Bonds (each, a “Tax Certificate,” and collectively, the “Tax Certificates”). Notwithstanding anything to the contrary in this Trust Agreement, moneys on deposit in the Rebate Fund shall not be part of the Revenues or other assets pledged under this Trust Agreement and, except as otherwise provided in this Section, moneys on deposit in the Rebate Fund shall be used solely for the purpose of paying amounts due to the United States of America with respect to the Bonds pursuant to Section 148(f) of the Code. Moneys on deposit in the Rebate Fund shall be remitted to the United States Treasury by the Trustee at the times and in the amounts set forth in the Tax Certificates. If the moneys on deposit in the Rebate Fund are insufficient for the purpose thereof, the Commission shall direct the Trustee to transfer moneys in the amount of the insufficiency to the Rebate Fund from any amounts in any of the Funds and Accounts in excess of the amount necessary to be on deposit therein and otherwise from amounts then on deposit in the Funds and Accounts described in clauses *Ninth* through *Eleventh* of Section 5.07(a) in such order of priority; provided, that such transfer shall not be made from amounts on deposit in the Taxes and Insurance Fund, the FF&E Reserve Fund or the Working Capital Reserve Fund (but only if such transfer would result in the remaining balance in the Working Capital Reserve Fund being less than the Working Capital Reserve Requirement) without the prior written consent of Manager, or the Debt Service Account if such transfer would result in a shortfall in the amount on deposit therein to pay Debt Service on any Bonds then due. Upon receipt by the Commission of a Certificate of a Rebate Analyst to the effect that the amount in the Rebate Fund is in excess of the amount required to be contained therein, such excess shall be transferred to the Revenue Fund.

Section 5.14 Subordinate Management Fee Fund. The Trustee shall apply amounts on deposit in the Subordinate Management Fee Fund to pay to Manager the Subordinate Management Fee then due and payable, including any accrued but unpaid Subordinate Management Fees. The Trustee shall apply amounts from the Subordinate Management Fee Fund to the extent necessary to cure any deficiency in the Debt Service Account pursuant to Section 5.11.

Section 5.15 Working Capital Reserve Fund.

(a) If the amount on deposit in the Working Capital Reserve Fund exceeds the Working Capital Reserve Requirement, amounts in excess of the Working Capital Reserve Requirement shall be deposited into the Revenue Fund.

(b) Unless the Management Agreement has been terminated, pursuant to the Cash Management Agreement, the Trustee shall make disbursements of moneys in the Working Capital Reserve Fund in accordance with a Request of Manager in substantially the form of Exhibit F to this Trust Agreement for the purposes of paying Operating Expenses, Capital Expenses, other expenses and items expressly provided for in the Management Agreement and/or any other expenses which, if not included in the Annual Plan, shall be subject to the prior written consent of the Authorized Commission Representative and the Asset Manager, at any time during which such expenses exceed Total Operating Revenues for such month plus the amount otherwise available to pay such expenses in the Lockbox Fund, the FF&E Reserve Fund, the Capital Reserve Fund and the Revenue Stabilization Fund (to the extent amounts in such Funds are authorized to be used for such purposes); provided, that if payment of such Operating Expenses, Capital Expenses or other expenses would require the consent of the Authorized Commission

Representative under the Management Agreement or the Cash Management Agreement, such Request shall be subject to the prior written consent of the Authorized Commission Representative and the Asset Manager.

(c) Unless the Management Agreement has been terminated, the Trustee shall also apply amounts in the Working Capital Reserve Fund, upon a written request of Manager: (i) for repair or replacement of the Hotel in the event of any Casualty, or (ii) for the payment of amounts reasonably determined by Manager to be required to protect life, health or property from imminent danger or to comply with Applicable Laws, at any time during which such expenses exceed Total Operating Revenues for such month plus the amount otherwise available in the Lockbox Fund, the FF&E Reserve Fund, the Capital Reserve Fund and the Revenue Stabilization Fund to pay such expenses (to the extent amounts in such Funds are authorized to be used for such purposes).

(d) Notwithstanding anything to the contrary in this Trust Agreement or any other Principal Transaction Document, if any amount transferred into the Working Capital Reserve Fund pursuant to Section 5.07 causes the balance in the Working Capital Reserve Fund to exceed the Working Capital Reserve Requirement, then the Trustee shall transfer such excess to the Lockbox Fund.

Section 5.16 FF&E Reserve Fund.

(a) The Trustee shall apply amounts from the FF&E Reserve Fund to the extent necessary to cure any deficiency in the Debt Service Account pursuant to Section 5.11.

(b) Unless a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement or the Management Agreement has been terminated, pursuant to the Cash Management Agreement, the Trustee shall make disbursements of moneys in the FF&E Reserve Fund pursuant to and in accordance with a Request of Manager in substantially the form attached to this Trust Agreement as Exhibit G for the purposes of paying (i) for FF&E and Capital Expenses included in the Capital Budget or otherwise expressly authorized by the Management Agreement, (ii) if funds in the Revenue Stabilization Fund and the Capital Reserve Fund are insufficient to make such payment, amounts reasonably determined by Manager to be required to protect life, health or property from imminent danger or to comply with Applicable Laws, and (iii) FF&E and Capital Expenses not included in the Capital Budget with the prior written consent of the Asset Manager and the Authorized Commission Representative. If a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement, the Trustee shall make disbursements pursuant to and in accordance with a Request of Manager (with the prior written consent of the Authorized Commission Representative and the Asset Manager) in substantially the form attached to this Trust Agreement as Exhibit G for the purposes and in the manner described in the immediately preceding sentence; provided, that Manager shall provide a weekly report summarizing all amounts paid out of the FF&E Reserve Fund during each week to the Trustee and the Commission.

Section 5.17 Capital Reserve Fund.

(a) The Trustee shall apply amounts from the Capital Reserve Fund to the extent necessary to cure any deficiency in the Debt Service Account pursuant to Section 5.11.

(b) Unless a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement or the Management Agreement has been terminated, pursuant to the Cash Management Agreement, the Trustee shall make disbursements of moneys in the Capital Reserve Fund pursuant to and in accordance with a Request of Manager in substantially the form attached to this Trust Agreement as Exhibit H for the purposes of paying (i) for FF&E and Capital Expenses included in the Capital Budget or otherwise expressly authorized by the Management Agreement, (ii) if funds in the Revenue Stabilization Fund are insufficient to make such payment, amounts reasonably determined by Manager to be required to protect life, health or property from imminent danger or to comply with Applicable Laws, and (iii) FF&E and Capital Expenses not included in the Capital Budget with the prior written consent of the Asset Manager and the Authorized Commission Representative. If a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement, the Trustee shall make disbursements pursuant to and in accordance with a Request of Manager (with the prior written consent of the Authorized Commission Representative and the Asset Manager) in substantially the form attached to this Trust Agreement as Exhibit H for the purposes and in the manner described in the immediately preceding sentence; provided, that Manager shall provide a weekly report summarizing all amounts paid out of the Capital Reserve Fund during each week to the Trustee and the Authorized Commission Representative.

Section 5.18 Revenue Stabilization Fund.

(a) The Trustee shall apply amounts from the Revenue Stabilization Fund to the extent necessary to cure any deficiency in the Debt Service Account pursuant to Section 5.11.

(b) Unless an Event of Default under this Trust Agreement has occurred and is continuing, and provided that the amounts on deposit in the Funds and Accounts set forth in clauses *First* through *Tenth* of Section 5.07(a) are then equal to the amounts required to be on deposit therein, upon receipt of a Request of the Commission in substantially the form attached to this Trust Agreement as Exhibit I, the Trustee shall apply amounts in the Revenue Stabilization Fund to pay any unpaid expenses or obligations incurred with respect to the Hotel or any unpaid expenses or obligations owed by the Commission to third parties that are not otherwise payable as Administrative Expenses, including any amounts the Commission is obligated to pay under the Management Agreement, including any Unamortized Key Money due to Hyatt upon a termination of the Management Agreement, or any expenses or obligations which the Management Agreement provides will be paid out of the Revenue Stabilization Fund.

(c) Unless the Management Agreement has been terminated, pursuant to the Management Agreement and the Cash Management Agreement, the Trustee shall apply moneys on deposit in the Revenue Stabilization Fund pursuant to and in accordance with a Request of Manager in substantially the form attached to this Trust Agreement as Exhibit I (i) to pay amounts reasonably determined by Manager to be required to protect life, health or property from imminent danger or to comply with Applicable Laws, and (ii) not less than three (3) Business Days after such Request, to pay Operating Expenses, Capital Expenses within the Capital Budget, Taxes and Insurance Costs, or any other expenses upon prior written notice to the Commission and the Asset

Manager, at any time during which such Operating Expenses, Capital Expenses and other expenses exceed Total Operating Revenues for such month plus the amount otherwise available in the Lockbox Fund, the FF&E Reserve Fund and the Capital Reserve Fund (to the extent amounts in such Funds are authorized to be used for such purposes); provided, that if the payment of such Operating Expenses, Capital Expenses or other expenses is not authorized under the Management Agreement or requires the consent or approval of the Authorized Commission Representative under the Management Agreement or the Cash Management Agreement, such Request shall be conditioned upon the prior written approval by the Authorized Commission Representative and the Asset Manager.

(d) Unless an Event of Default under this Trust Agreement has occurred and is continuing, and provided that the amounts on deposit in the Funds and Accounts set forth in clauses *First* through *Tenth* of Section 5.07(a) are then equal to the amounts required to be on deposit therein, upon receipt of a Request of the Commission in substantially the form attached to this Trust Agreement as Exhibit I, the Trustee shall apply amounts in the Revenue Stabilization Fund to pay any unpaid expenses or obligations incurred with respect to the Hotel or any unpaid expenses or obligations owed by the Commission to third parties that are not otherwise payable as Administrative Expenses that the Commission is obligated to pay under the Pre-Opening Services Agreement or the Design-Build Agreement.

(e) The Trustee shall apply all amounts in the Revenue Stabilization Fund, together with amounts available for such purpose in the Funds and Accounts under the circumstances and as set forth in Section 5.12(c), at the Direction of the Commission, to pay the principal and Redemption Price of and interest on all Outstanding Bonds in the manner as set forth in Section 5.12(c).

(f) Amounts on deposit in the Revenue Stabilization Fund shall be transferred by the Trustee to the Commission for use by the Commission for any purpose whatsoever in the Commission's sole and absolute discretion, including the redemption of the Bonds pursuant to this Trust Agreement. A form of Request of the Commission to redeem any Bonds from amounts on deposit in the Revenue Stabilization Fund is attached to this Trust Agreement as Exhibit L.

Section 5.19 Insurance and Condemnation Proceeds Fund.

(a) The Trustee shall deposit the proceeds of insurance with respect to the Hotel maintained or caused to be maintained by the Commission against loss or damage by fire, lightning, and all other risks covered by the extended coverage insurance endorsement, as required pursuant to Section 7.16, the proceeds of any performance and payment bond or guaranty with respect to the Hotel, and the proceeds of any Taking with respect to the Hotel, immediately upon receipt by the Trustee, as assignee of the Commission, in the Insurance and Condemnation Proceeds Fund; provided, that if such amount is less than \$50,000, then, subject to Section 7.18, such amount shall be distributed immediately to or at the Direction of the Commission and shall be applied to the cost of the repair or replacement of the property damaged, destroyed or taken. After deducting therefrom the reasonable charges and expenses of the Trustee in connection with the collection of such moneys, moneys in the Insurance and Condemnation Proceeds Fund shall be disbursed or applied by the Trustee in accordance with and subject to Section 7.18 and in compliance with the procedures for Disbursements from the Hotel Account to the extent such procedures are applicable.

(b) If pursuant to Section 7.18, Available Amounts (as such term is defined in Section 7.18(a)) are not to be applied to repair or replace the property damaged, destroyed or taken, the Trustee, upon a Request of the Commission, shall transfer amounts in the Insurance and Condemnation Proceeds Fund on account of such damage, destruction or condemnation to the Debt Service Account in order to redeem the Bonds in accordance with Section 4.03(b).

(c) After completion of the repairs or replacement of the property damaged, destroyed or taken, and after all costs associated therewith have been paid, the Trustee shall deposit any amounts remaining in the Insurance and Condemnation Proceeds Fund into the Revenue Fund to be applied on the first Business Day of the next succeeding month in the manner set forth in Section 5.07.

(d) The proceeds of business interruption insurance maintained pursuant to Section 7.16 shall be deposited by the Trustee when and as received in a segregated account (the "Business Interruption Account") within the Insurance and Condemnation Proceeds Fund, which Account shall be established by the Trustee upon receipt of notice that the carrier of such insurance will be paying claims thereon to the Trustee. The Trustee shall hold the Business Interruption Account in trust under this Trust Agreement separate and apart from any other Funds and Accounts. Amounts deposited in the Business Interruption Account shall be immediately transferred and applied in the following order of priority:

(i) to the Debt Service Account, an amount for payment of debt service on the Bonds when due;

(ii) to the Lockbox Fund, an amount for payment of Operating Expenses (including the Base Management Fee to the extent covered by such business interruption insurance) when due;

(iii) to the Taxes and Insurance Fund, an amount for payment of Taxes or insurance premiums when due with respect to the ownership and operation of the Hotel;

(iv) to the Administrative Fee Fund, an amount for payment of Administrative Expenses when due; and

(v) to the Lockbox Fund, the balance, if any, for application by the Trustee as provided in this Article.

Notwithstanding the foregoing, amounts required to be transferred pursuant to any given order of priority in this subsection shall be reduced to the extent the insurance carrier has directly paid business interruption insurance proceeds to parties other than the Trustee for such purposes. The Trustee shall be entitled to rely on a Certificate of the Commission in making the transfers set forth in this subsection.

(e) Notwithstanding anything to the contrary in this Trust Agreement, if proceeds of insurance relate to any loss or damage to any property not constituting the Hotel, such proceeds shall be disbursed directly to the Persons legally entitled to such insurance proceeds.

Section 5.20 Right of Access to Funds by Manager and the Commission.

(a) Notwithstanding anything to the contrary in this Trust Agreement, so long as the Management Agreement has not expired or terminated, Manager is entitled to submit Requests and receive funds as described elsewhere in this Article for the purposes and in the manner described therein, notwithstanding any Event of Default (as defined in this Trust Agreement), the breach of any provision of this Trust Agreement, or the occurrence of any event or condition which with the giving of notice, the passage of time or both would constitute an Event of Default (as defined in this Trust Agreement).

(b) If the Management Agreement has expired or terminated and a new Management Agreement has not been entered into, until a replacement Manager has entered into a Management Agreement with the Commission, the Commission shall be entitled to submit Requests and receive funds as described elsewhere in this Article as if the Commission were Manager.

**ARTICLE VI
MONEYS HELD IN TRUST, SECURITY FOR DEPOSITS,
AND INVESTMENT OF FUNDS**

Section 6.01 Moneys Held in Trust. All moneys held by the Trustee under the provisions of this Trust Agreement shall be deposited with the Trustee, and held in the name of the Trustee, in such capacity under this Trust Agreement. All moneys deposited under the provisions of this Trust Agreement with the Trustee shall be held in trust and applied only in accordance with the provisions of this Trust Agreement and the Cash Management Agreement, and each of the Funds and Accounts established by this Trust Agreement shall be a trust fund for the purpose of this Trust Agreement subject to application thereof as set forth in this Trust Agreement and in the Cash Management Agreement.

Section 6.02 Deposits and Transfers.

(a) All moneys held by the Trustee under this Trust Agreement may be placed on demand or time deposit, if and as directed by the Commission; provided, that such deposits shall permit the moneys so held to be available for use at the time when needed.

(b) All moneys held under this Trust Agreement by the Trustee (other than moneys held in the Rebate Fund) shall be held in trust for the benefit of the Commission and the Registered Owners of the Bonds and, to the extent available to Manager under this Trust Agreement and the Cash Management Agreement, Manager.

(c) All moneys deposited with the Trustee shall be credited to the particular Fund or Account as provided in this Trust Agreement.

(d) Except as otherwise provided by Supplemental Trust Agreement, any transfer required to be made from one Fund or Account to another Fund or Account held by the same Person may be made by book transfer of any moneys or investments or portions of investments without liquidating any investments in order to make such transfer unless the funds

required to be transferred are needed to make payments out of the Fund or Account to which such funds were transferred at the time of transfer.

Section 6.03 Investment of Funds.

(a) Investments shall be made in accordance with Applicable Law. Moneys held in any Fund or Account shall be invested and reinvested by the Trustee as promptly as practicable, in accordance with a Letter of Instructions of the Commission, in Investment Securities; provided, however, that the weighted average maturity of investments in the Debt Service Reserve Fund at any time may not exceed ten (10) years. If the Trustee fails to receive such directions at least one (1) Business Day before the day on which any amounts are required to be invested, the Trustee shall hold such amounts uninvested. Notwithstanding anything to the contrary in this Trust Agreement, Investment Securities in all Funds and Accounts shall mature, or the principal of and accrued interest on such Investment Securities shall be available for withdrawal without penalty, not later than such times as shall be necessary to provide moneys when needed for payment to be made from such Funds and Accounts. The Trustee shall not be responsible for determining whether or not any Investment Securities constitute Investment Securities or are legal investments under the laws of the State. The Trustee shall not be responsible for any loss in any investment in any Fund or Account.

(b) Except as otherwise provided in this subsection or by Supplemental Trust Agreement, interest earned or profits realized from investing any moneys deposited in the Funds and Accounts or any subaccount thereof shall be transferred to the Revenue Fund and applied pursuant to Section 5.07(a). Notwithstanding the foregoing:

(i) interest and profits from the Rebate Fund shall be retained in such Fund;

(ii) interest and profits from the Hotel Account of the Construction Fund shall be deposited in the Hotel Account of the Construction Fund if received prior to the Opening Date; and

(iii) interest and profits from the Series 2018 Capitalized Interest Account of the Construction Fund shall be deposited into the Series 2018 Capitalized Interest Account.

Section 6.04 Valuation and Sale of Investments.

(a) Investment Securities acquired as an investment of moneys in any Fund or Account shall be at all times a part of such Fund or Account, and any profit or loss realized from the liquidation of such investment shall be applied as provided in Section 6.03(b).

(b) For the purpose of determining the amount in any Fund, all Investment Securities credited to such Fund shall be valued at fair market value. The Trustee shall determine the fair market value based on accepted industry standards and from accepted industry providers. Certificates of deposit and bankers' acceptances shall be valued at the face amount thereof, plus accrued interest thereon. Any other investment shall be valued at the value thereof established by prior agreement among the Commission and the Trustee.

(c) Except as otherwise provided in this Trust Agreement, the Trustee shall sell, or present for redemption, any Investment Security purchased as an investment whenever requested in writing by an Authorized Commission Representative or whenever it shall be necessary in order to provide moneys to meet any payment or transfer from any Fund or Account. The Trustee shall not be liable or responsible for any loss resulting from any such sale.

(d) When funded, the Trustee is required to determine the value of the Debt Service Reserve Fund no less frequently than semi-annually on each Interest Payment Date (and monthly from the date of any deficiency until such deficiency is cured).

(e) The Commission acknowledges that to the extent regulations of the United States Comptroller of the Currency or other applicable federal regulatory entity grant the Commission the right to receive brokerage commission confirmations of security transactions made by the Trustee as they occur, the Commission waives the receipt of such confirmations to the extent permitted by law. The Trustee shall provide the Commission with periodic account statements which shall include details for all investment transactions made by the Trustee under this Trust Agreement.

ARTICLE VII PARTICULAR COVENANTS OF THE COMMISSION

Section 7.01 Payment of Bonds. The Commission shall duly and punctually pay or cause to be paid, but solely from the Revenues and other assets pledged therefor by this Trust Agreement, the principal of, Redemption Price, if any, and interest on the Bonds, at the times and in the amounts and in the manner set forth in this Trust Agreement and in the Bonds, according to the true intent and meaning thereof.

Section 7.02 Preserve Revenues. The Commission shall at all times, to the extent permitted by law, defend, preserve and protect its title to the Revenues and other assets pledged under this Trust Agreement and all the rights of the Registered Owners under this Trust Agreement against all claims and demands of all persons whomsoever.

Section 7.03 Compliance With Principal Transaction Documents.

(a) The Commission shall duly and punctually perform, observe and comply, or cause the due and punctual performance, observance and compliance, in all material respects with all of the terms, provisions, conditions, covenants and agreements on its part to be performed, observed and complied with under this Trust Agreement and under the other Principal Transaction Documents and all other agreements entered into or assumed by the Commission in connection with the Site or the Hotel or any part thereof, and will not suffer or permit any default or event of default (giving effect to any applicable notice requirements and cure periods) to exist under any of the foregoing.

(b) The Commission shall diligently enforce its rights under each Principal Transaction Document and ensure due performance by each other party thereto of its obligations thereunder if the failure to perform by such party is reasonably likely to have a Material Adverse Effect.

Section 7.04 Installation and Construction of the Hotel. The Commission shall proceed with due diligence with the installation and construction of the Hotel. The Commission hereby grants to the Trustee all rights of access necessary for the Trustee to carry out its obligations and to enforce its rights under this Trust Agreement. It is expressly understood and agreed that the Trustee shall be under no liability of any kind or character whatsoever for the payment of any Costs of the Hotel and that all such costs shall be paid by the Commission from proceeds of the Bonds, from other amounts held pursuant to this Trust Agreement for such purpose, and from other funds, if any, received by the Commission. The acquisition, installation and construction of the Hotel shall be in accordance with all Applicable Laws and all applicable zoning, planning and building regulations, and the Commission shall obtain or cause to be obtained and shall comply with and cause compliance with all Approvals necessary to be obtained for the acquisition, installation, construction and operation of the Hotel.

Section 7.05 Money for Bond Payments to Be Held in Trust. The Trustee shall serve as Paying Agent for the Bonds. As Paying Agent, the Trustee agrees that it will (i) hold all sums held by it for the payment of principal or Redemption Price of or interest on Bonds in trust for the benefit of the Registered Owners entitled thereto, until such sums shall be paid to such Registered Owners or otherwise disposed of as provided in this Trust Agreement; and (ii) give the Commission written notice of any default in the making of any such payment of principal, Redemption Price or interest.

Section 7.06 Limitation on Encumbrances. The Commission covenants and agrees that it will not directly or indirectly create, assume or suffer to exist any mortgage, deed of trust, pledge, security interest, encumbrance, lien or charge of any kind upon the Hotel or the Total Operating Revenues, whether such property is now owned or hereafter acquired, other than (a) Permitted Encumbrances or (b) to further secure Bonds.

Section 7.07 Limitation on Indebtedness. The Commission shall not create, issue, incur, execute, assume or suffer to exist any bonds, notes, loans, installment purchase agreements, lease purchase agreements, certificates of participation, obligations for borrowed money, or other Indebtedness that is secured by the Revenues and other assets pledged under this Trust Agreement except as provided in this Trust Agreement.

Section 7.08 Limitation on Disposition of Assets. With the exception of (a) security interests permitted under Section 7.06, (b) Hotel assets sold, leased or disposed of in the ordinary course of business not to exceed \$1,000,000 in any Operating Year, (c) the disposal of FF&E that is damaged, dilapidated or obsolete and replacement thereof with FF&E determined by Manager to be of comparable quality, utility and value, or (d) a disposition of the Hotel that contemporaneously permits the defeasance of all of the Bonds, the Commission shall not cause or suffer to occur any sale, lease, transfer or other disposition of the Commission's right, title and interest in and to the Hotel or any part thereof, including the Property. The Commission also covenants and agrees that it will not sell, pledge, factor or otherwise dispose of any accounts receivable relating to Total Operating Revenues under any circumstances.

Section 7.09 Design-Build Agreement. The Commission shall diligently enforce its rights under the Design-Build Agreement and ensure due performance by the Design-Builder of its obligations thereunder. If the Hotel is not substantially complete by the latest permitted date of substantial completion or finally complete by the latest permitted date of final completion, the

Commission shall proceed to collect from the Design-Builder, damages to the fullest extent permitted under the Design-Build Agreement. The Commission shall enforce the payment of such damages for the benefit of the Commission. All such damages received by the Commission shall be paid to the Trustee for deposit in the Debt Service Account and the Taxes and Insurance Fund, as appropriate.

Section 7.10 Tax Covenant. The Commission shall at all times do and perform all acts and things permitted by law and this Trust Agreement which are necessary or desirable in order to assure that interest paid on the Tax-Exempt Bonds (or any of them) will be excluded from gross income for federal income tax purposes and shall take no action that would result in such interest not being excluded from gross income for federal income tax purposes. Without limiting the generality of the foregoing, the Commission shall comply with the provisions of the Tax Certificates. This covenant shall survive payment in full or defeasance of the Bonds.

Section 7.11 Books of Account. The Commission shall maintain or cause to be maintained with respect to the Hotel systems of accounting established and administered in accordance with sound business practices and the laws of the State and sufficient in all respects to permit preparation of financial statements in accordance with Generally Accepted Accounting Principles and the Uniform System of Accounts. All financial statements with respect to the Hotel shall be prepared in accordance with Generally Accepted Accounting Principles and the Uniform System of Accounts, consistently applied.

Section 7.12 Maintenance of the Hotel. The Commission shall maintain or cause to be maintained the Hotel in good and substantial repair, working order and condition; provided, that if all or any of the Hotel shall be destroyed or damaged by Casualty, the Casualty Proceeds shall be applied in accordance with the terms of Section 7.18 and Section 5.19. Without limiting the generality of the foregoing, the Commission shall maintain, use and operate or cause the maintenance, use and operation of the Hotel and all engines, boilers, pumps, machinery, apparatus, furniture, fixtures, fittings and equipment, including FF&E, of any kind in or that shall be placed in any building or structure now or hereafter at any time constituting part of the Hotel, in good repair, working order and condition, and the Commission shall from time to time make or cause to be made all needful and proper replacements, repairs, renewals and improvements, in each case to the extent necessary so that the value of the Hotel shall not be impaired in any manner that could result in a Material Adverse Effect on the Commission or the Hotel.

Section 7.13 Compliance With Law; Maintenance of Approvals.

(a) The Commission shall comply with all Applicable Laws in connection with the Hotel, except those that shall be contested in good faith and by appropriate proceedings diligently conducted by the Commission. Without limiting the generality of the foregoing, the Commission shall operate, use and maintain, or shall cause the operation, use and maintenance of, the Hotel in accordance with all Applicable Laws (except for such instances of inadvertent or unintentional noncompliance that would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on the use, operation or maintenance of the Hotel) and the applicable Annual Plan and shall not alter or change or permit the change or alteration of the Hotel from its intended use as the Hotel.

(b) The Commission will (i) maintain or cause to be maintained in full force and effect all Approvals now held or hereafter acquired with respect to the Commission or the Hotel, the loss, suspension, or revocation of which, or failure to renew, could have a Material Adverse Effect on the Commission or the Hotel and (ii) perform, observe, fulfill and comply (or cause the performance, observance, fulfillment and compliance of and with) all of its obligations, covenants and conditions contained in such Approvals.

Section 7.14 Environmental Laws.

(a) The Commission shall at all times comply or cause compliance at the Hotel and Site in all material respects with all applicable Environmental Laws. The Commission shall not, and shall not suffer, consent or permit any other Person to: (i) violate any applicable Environmental Law in any material respect at the Hotel; (ii) generate, use, treat, recycle, reclaim, transport, handle, store, release or dispose of any Hazardous Materials in or into, on, under or onto, or from any real property owned, leased or operated by the Commission (except for such generation, use, transport, handling, or storage of those Hazardous Materials in such quantities and under such circumstance as are reasonably necessary for the construction, use, maintenance and operation of the Hotel; provided, that the Commission complies (and causes other Persons to comply with) applicable Environmental Laws and except for such air emissions and wastewater discharges to sewer systems made in strict compliance with all Applicable Environmental Laws and permits); or (iii) permit any Lien imposed pursuant to any Environmental Law to be imposed or to remain on the Site or the Hotel or any other real property owned, leased or operated by the Commission.

(b) The Commission shall promptly take and diligently prosecute or cause to be prosecuted any and all necessary Remedial Actions upon obtaining knowledge of the presence, storage, use, disposal, transportation, active or passive migration, release or discharge of any Hazardous Materials on, from, in, under or about the Site or the Hotel. Upon obtaining knowledge of any condition of or affecting the Site or the Hotel, that is in violation of any applicable Environmental Law, the Commission shall promptly correct such condition or cause it to be corrected. In the event the Commission undertakes or causes to be undertaken any Remedial Action with respect to any Hazardous Material on, from, in, under or about the Site, the Hotel, the Commission shall conduct and complete such Remedial Action in compliance with all applicable Environmental Laws and in accordance with the applicable policies, orders and directives of all Governmental Authorities.

Section 7.15 Taxes, Assessments, Governmental Charges and Adverse Judgments.

The Commission shall pay and discharge or cause to be paid and discharged (but solely from Total Operating Revenues and amounts on deposit in the Taxes and Insurance Fund) all taxes, assessments, governmental charges of any kind whatsoever, adverse judgments, utility rates, meter charges and other utility charges (collectively, "Impositions") that may be or have been assessed or rendered or that have or may become liens upon the Hotel, the Total Operating Revenues, or any portion of the Revenues or other assets pledged under this Trust Agreement or the interests therein of the Trustee or of the Registered Owners of the Bonds and will make such payments or cause such payments to be made, respectively, in due time to prevent any delinquency thereon or any forfeiture or sale of the Hotel, the Revenues or other assets pledged under this Trust Agreement or any part of thereof, and, upon request, shall furnish to the Trustee receipts for all such payments, or other evidences satisfactory to the Trustee; provided, that the Commission shall not be required

to pay any Imposition as long as it shall in good faith contest the validity thereof, if (a) the Commission shall have deposited with the Trustee adequate reserves in the Taxes and Insurance Fund (or such other special fund or account as shall be established to set aside amounts necessary to pay any adverse judgments) in an amount equal to at least one hundred twenty-five percent (125%) (or such higher amount as may be required by Applicable Law) of the total of (i) the balance of such Imposition then remaining unpaid, and (ii) all interest, penalties, costs and charges accrued or accumulated thereon; (b) no risk of sale, forfeiture or loss of any interest in the Hotel, the Revenues or other assets pledged under this Trust Agreement or any part thereof arises, in the Trustee's reasonable judgment, during the pendency of such contest; (c) such contest does not, in the Trustee's reasonable judgment, have a Material Adverse Effect; and (d) such contest is based on bona fide, material, and reasonable claims or defenses. Any such contest shall be prosecuted with due diligence, and the Commission shall promptly pay or cause to be paid the amount of such Imposition as finally determined, together with all interest and penalties payable in connection therewith. The Trustee shall have full power, but no obligation, to apply any amount deposited with the Trustee under this Section to the payment of any unpaid Imposition to prevent the sale, forfeiture or loss of the Hotel, the Revenues or other assets pledged under this Trust Agreement or any interest therein or part thereof for non-payment of such Imposition, if the Trustee reasonably believes that such sale, forfeiture or loss is threatened. Any surplus retained by the Trustee after payment of the Imposition for which a deposit was made shall be transferred to the Revenue Fund for disposition in accordance with Section 5.07(a). Notwithstanding any provision of this Section to the contrary, the Commission shall pay any Imposition that it might otherwise be entitled to contest if an Event of Default shall occur or if the Hotel, the Revenues or other assets pledged under this Trust Agreement or any interest therein or any part thereof is in jeopardy or in danger of being sold, forfeited, foreclosed or otherwise lost. If the Commission fails to pay any such Imposition, the Trustee may (but shall not be obligated to) make such payment and the Commission shall reimburse the Trustee on demand for all such advances.

Section 7.16 Insurance.

(a) Required Insurance. The Commission shall maintain or cause to be maintained the insurance set forth in Exhibit K to this Trust Agreement. The Commission shall deliver or cause to be delivered to the Trustee prior to commencement of construction, installation and equipping of the Hotel, evidence of insurance in the form of Accord Certificate No. 25-S and a statement of the insurance maintained pursuant to this Section.

(b) Changes in Insurance Industry. If changes in the insurance industry shall make any description of the required insurance coverages inaccurate or otherwise inappropriate, then the Commission shall have the right, by notice to the Trustee, to revise such requirement to accurately describe, in accordance with then current industry practice, the type of insurance which would be comparable to the required insurance coverage described in this Trust Agreement.

(c) Insurance Consultant. The Commission shall employ or cause to be employed for the benefit of the Trustee and the Commission an Insurance Consultant to review the insurance requirements relating to the Hotel from time to time (but not less frequently than once every twenty-four (24) months). As of the Closing Date and thereafter not less than annually, the Commission shall cause the Insurance Consultant to provide a certificate to the Trustee certifying that the requirements of this Section 7.16 are satisfied. The cost of such Insurance Consultant will be paid as an Operating Expense by Manager from amounts on deposit in the

Lockbox Fund. If the Insurance Consultant recommends increases in any of the coverages or modifications in any of the terms of such insurance requirements and the Commission approves such increases or modifications, the Commission shall obtain or cause to be obtained the approved increases or modifications, to the extent such insurance is available at and on commercially reasonable rates and terms. Notwithstanding anything to the contrary in this Section, if the Insurance Consultant recommends any reduction in the insurance coverage required pursuant to Exhibit K and the Commission approves such reduction, the Commission shall maintain or cause to be maintained insurance at such reduced coverage; provided, that the Insurance Consultant shall have provided a statement to the Commission and the Trustee to the effect that such reduced coverage provides the greatest amount of coverage available, in the judgment of the Insurance Consultant, at and on commercially reasonable rates and terms. A copy of any such statement shall be furnished to the Trustee.

Section 7.17 Insurers; Policy Forms and Loss Payees. All insurance policies provided for in this Article shall be from financially responsible insurers rated no less than “A-/XII” by A.M. Best and shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved except to the extent otherwise required by this Trust Agreement. Without in any way limiting the foregoing, the insurance shall conform to all subsections of this Section.

(a) Named Insureds. The insurance policies required by this Article, if obtained by Manager, shall name Manager as the named insured and the Commission and the Trustee (for the benefit of the Registered Owners of the Bonds) as their interests may appear as additional insureds or, if such policies are obtained by the Commission, shall name the Commission as named insured and Manager and the Trustee (for the benefit of the Registered Owners of the Bonds) as their interests may appear as additional insureds.

(b) Amounts of Coverage. When maintained by the Commission, amounts and types of coverages and amounts of deductibles shall be subject to the reasonable approval of Manager; provided, however, if the coverages and amounts conform to the requirements of this Trust Agreement, including Exhibit K, then the coverages and amounts shall be deemed approved by Manager.

(c) Waiver of Subrogation Requirements. Where appropriate and obtainable (including the insurance provided for in Exhibit K), all policies shall waive subrogation rights against Manager, the Commission, the Trustee and the Registered Owners of the Bonds.

(d) Term; Notice of Termination. Each insurance policy shall be for a term of not less than one (1) year; provided, that policies may be obtained for a lesser period to the extent necessary for the term thereof to end concurrently with other related coverages. Each insurance policy shall include a requirement that the insurer provide at least thirty (30) days’ written notice of cancellation or material change in the terms and provisions of the policy to Manager, the Commission and the Trustee.

(e) Severability of Interests. Each insurance policy where obtainable shall include a severability of interest clause.

(f) Insurance Primary. All insurance policies obtained by Manager shall be primary and without a right of contribution of any other insurance carried by or on behalf of the Commission or the Trustee with respect to their respective interests in the Total Operating Revenues and the Hotel. All insurance policies obtained by the Commission shall be primary and without a right of contribution of any other insurance carried by or on behalf of Manager or the Trustee with respect to their respective interests in the Total Operating Revenues and the Hotel.

(g) Occurrence Policies. Each insurance policy shall be written on occurrence, rather than claims made, basis; provided, that boiler and machinery coverage may be on an accident basis and employment practices and directors and officers insurance may be on a claims made basis.

(h) Agreed Value. All property insurance policies shall contain an agreed value clause updated by the Insurance Consultant as provided in Exhibit K.

Section 7.18 Disposition of Insurance and Condemnation Proceeds.

(a) The Commission shall provide the Trustee with immediate written notice of (i) any material loss or damage to the Hotel or any part thereof (each, a “Casualty”), or (ii) any actual or threatened action or proceeding relating to any condemnation or other taking, direct or indirect, or sale or transfer in lieu of a condemnation or taking (each, a “Taking”) of the Hotel or any part thereof. To the extent of Casualty or Taking only, the Commission hereby irrevocably authorizes and empowers the Trustee as the Commission’s attorney-in-fact to make the proof of loss, adjust and compromise any claim under insurance policies and to appear in and prosecute or defend any action arising from such insurance policies or any Taking. The Trustee shall be entitled to collect, and the Commission hereby assigns to the Trustee for deposit into the Insurance and Condemnation Proceeds Fund, all Casualty Proceeds or the proceeds of any award, payment or claim for damages, direct or consequential, in connection with any Taking of the Hotel and is further entitled to deduct therefrom the Trustee’s reasonable out-of-pocket expenses incurred in the collection of such proceeds (such proceeds after such deductions, the “Available Amount”).

(b) The Trustee, upon the Request of the Commission, shall cause the Available Amount, together with all other amounts deposited with the Trustee as a result of a Shortfall (as defined below), to be applied to the cost of restoration and reconstruction of the Hotel so long as the Commission has certified that the following conditions have been met: (i) no Event of Default then exists; (ii) the Available Amount together with all investment income earned or expected to be earned thereon and other proceeds deposited with the Trustee will be sufficient to restore the Hotel to its Pre-Existing Condition (as defined below), or if such proceeds are not sufficient (a “Shortfall”), the Commission shall have deposited or caused to be deposited, into the Insurance and Condemnation Proceeds Fund the full amount of such Shortfall within thirty (30) days after the Trustee’s written notice of such Shortfall, (iii) the Hotel can be restored and repaired as nearly as is reasonably practicable to the condition it was in immediately prior to a Casualty in the case of any Casualty or to a condition, in the case of any Taking, that permits the Hotel’s use in the manner contemplated by this Trust Agreement and for which the Hotel was originally constructed, in each case in compliance with all Hotel Requirements (the “Pre-Existing Condition”); (iv) the Commission shall have received and approved, in its reasonable judgment, plans and detailed specifications of the contemplated repair or restoration of the Hotel, together with a statement of an architect that the Hotel can be restored to its Pre-Existing Condition in the time and for the cost

specified in such plans and specifications; and (v) if more than 15% of the Hotel is damaged, destroyed or taken, the Commission shall have furnished to the Trustee a guaranteed maximum or fixed price contract for the restoration or repair of the Hotel to the Pre-Existing Condition for an amount not in excess of the Available Amount together with all investment income earned or expected to be earned thereon and all other amounts deposited with the Trustee as a result of a Shortfall. If the foregoing conditions are not satisfied, then the Trustee shall apply the Available Amount in accordance with Section 5.19(b).

(c) Following a Casualty or Taking affecting the Hotel, if the Available Amount together with all investment income earned or expected to be earned thereon and all other amounts deposited with the Trustee as a result of a Shortfall is made available for repair or restoration and is sufficient for such purpose, the Commission shall cause the restoration of the Hotel to substantially its Pre-Existing Condition, and the Commission shall cause the commencement of such restoration or repair as soon as practicable after the Casualty or Taking and at all times thereafter the diligent prosecution thereof to completion. Subject to satisfaction of conditions set forth in Section 7.18(b) and provided that no Event of Default has occurred and is continuing, the Trustee will disburse any Casualty Proceeds or condemnation awards collected by it in accordance with the applicable procedures and upon satisfaction of the terms and conditions specified in Section 5.04.

(d) Any amount of insurance proceeds remaining in the Trustee's possession after full and final payment and discharge of all Bonds shall be refunded to the Commission or otherwise paid in accordance with Applicable Law.

(e) Notwithstanding the provisions of this Section 7.18(b), all condemnation proceeds resulting from a temporary Taking that are not attributable to compensation for alterations or physical damage to the real or personal property used in the operation of the Hotel, as reasonably determined by the Commission, shall be deemed Total Operating Revenues and shall be deposited by the Trustee upon the Direction of the Commission in the Lockbox Fund.

(f) Subsections (a) through (e) of this Section shall apply only after the Date of Final Completion. Prior to the Date of Final Completion, in the event of any Casualty or Taking affecting the Hotel, the Commission shall cause the Hotel to be restored or rebuilt in accordance with the Design-Build Agreement.

Section 7.19 Manager. The Commission hereby covenants and agrees that it will at all times cause to be delegated the duties and responsibilities of operating the Hotel, pursuant to an operating agreement consistent with the terms of the Management Agreement, to a nationally recognized hotel management company (or a regional or national hotel management company so long as the Hotel is under franchise by a national hotel franchisor of First-Class Hotels) having the experience and qualifications to operate and manage a first-class hotel of the size and character of the Hotel; provided, that if the Commission is unable to retain such a management company on terms substantially consistent with the terms of the Management Agreement, then the Commission shall have the right to operate and manage the Hotel. The Commission covenants to use commercially reasonable efforts to enforce or cause to be enforced all of its rights and remedies under the Management Agreement (except as limited by this Trust Agreement), and, if the Commission fails to do so, the Trustee shall have the right to do so. To the extent permitted under the Management Agreement, the Commission shall have the right to cure Manager's defaults

thereunder. The Commission shall provide written notice to the Trustee at least sixty (60) days prior to the proposed early termination of the Management Agreement describing the reasons for such early termination. In addition, the Commission shall provide written notice to the Trustee of any Manager Events of Default (as defined in the Management Agreement) that have occurred and are continuing under the Management Agreement and the proposed remedy to be pursued with respect to such Manager Event of Default. Nothing in this Trust Agreement shall restrict Manager's ability to assign the Management Agreement as provided therein.

Section 7.20 Operation of the Hotel.

(a) Management of the Hotel. The Commission shall cause the Hotel to be managed and operated as a First-Class Hotel affiliated with either (i) a national hotel chain with experience in managing First-Class Hotels or (ii) a hotel operator with a national chain affiliation through a franchise agreement with national hotel franchisor of First-Class Hotels. The Commission shall cause to be in full force and effect at all times a Management Agreement with respect to the Hotel with terms and conditions substantially the same as those of the initial Management Agreement (except any changes required by Bond Counsel in order for Bond Counsel to deliver its opinion required by subsection (g) of this Section, or any changes that are based upon the advice of a Hotel Consultant), and which requires Manager to maximize over the term of such Management Agreement the financial return to the Commission from the operation of the Hotel as a full-service, first-class, luxury hotel. The Commission may amend, modify, waive or otherwise alter the Management Agreement in compliance with the terms of such Management Agreement and this Trust Agreement. Each Management Agreement for the Hotel or any part thereof shall expressly permit the assignment thereof to the Trustee for the benefit of Registered Owners and entitle the Trustee to the benefits thereof upon the occurrence of an Event of Default.

(b) Maintain License. The Commission shall at all times, where required by the laws of the jurisdiction, maintain or cause to be maintained in full force and effect the applicable Approvals necessary to operate the Hotel as a First-Class Hotel and Hotel in accordance with the Operating Standards. Without limiting the generality of the foregoing, the Commission shall obtain or cause to be obtained, and maintain or cause to be maintained, in good standing, all liquor licenses, food service licenses and other permits or licenses necessary for the lawful operation of bars, restaurants and other facilities offering food or beverages, alcoholic or otherwise, at the Hotel.

(c) Equip the Hotel. The Commission shall, pursuant to applicable licensing regulations (including requirements imposed by the Agreed Scope of the Hotel) from time to time in effect, suitably equip the Hotel to permit its overall operation in a manner reasonably expected for the Hotel to constitute a First-Class Hotel (including the operations of all restaurants, bars, lounges, food service facilities and other guest service facilities), but solely from moneys on deposit in the Construction Fund and Total Operating Revenues other moneys available for such purpose pursuant to this Trust Agreement.

(d) Acquisition of Services, Supplies and Materials. The Commission shall make no payment from the Construction Fund for services, supplies or materials without complying with the requirements for disbursements from the Construction Fund pursuant to this Trust Agreement.

(e) Asset Manager. The Commission shall hire or cause to be hired not later than the first anniversary date of the Closing Date an Asset Manager to assist the Commission in overseeing the operations of the Hotel for the benefit of and on behalf of the Commission and the Trustee. If the Person then serving as Asset Manager is terminated or resigns, the Commission shall hire or cause to be hired a replacement within sixty (60) days after such termination or resignation. The Asset Manager shall signify acceptance of such position by executing a certificate at or prior to employment that such Person agrees to perform the duties of Asset Manager as described in the Principal Transaction Documents and which include: (i) reviewing and recommending to the Trustee approval or disapproval of the proposed Capital Budget and Operating Budget for the upcoming Operating Year (collectively, the “Proposed Annual Plan”), (ii) reviewing all reports required to be delivered by Manager pursuant to the Management Agreement, (iii) providing reports to the Commission on a quarterly basis summarizing the Asset Manager’s findings for the preceding quarter regarding Manager’s compliance with the Management Agreement, (iv) approving the list of potential replacement Hotel Consultants supplied by Manager, and (v) commenting on the recommendations submitted by any Hotel Consultant. Notwithstanding anything to the contrary in this Trust Agreement or in the Management Agreement, the Asset Manager shall not have any additional or different rights with respect to Manager, the Hotel or any part thereof than those of the Commission.

(f) Each Management Agreement entered into by the Commission shall first require the written opinion of Bond Counsel that such Management Agreement will not, in and of itself, result in the inclusion of interest on the Tax-Exempt Bonds in the exclusion from gross income for federal income tax purposes. Any amendment or extension of the Management Agreement or change in the identity of Manager shall require the written opinion of Bond Counsel that such amendment or extension of the Management Agreement will not, in and of itself, cause the interest on any of the Tax-Exempt Bonds to become includible in gross income for federal income tax purposes.

Section 7.21 Annual Plans.

(a) Review and Adjustment of Annual Plans. On or before May 1 of each Operating Year and on or before sixty (60) days prior to the Opening Date, the Commission shall cause Manager to prepare and deliver to the Commission and its designees and consultants (including the Trustee) for the Commission’s review, a preliminary Proposed Annual Plan for the next Operating Year or, in connection with the opening of the Hotel, for the period of time from the Opening Date to the following June 30. The Commission shall cause Manager to deliver its final Proposed Annual Plan for the next Operating Year or, in connection with the opening of the Hotel, for the period of time from the Opening Date to the following June 30, by May 15 of the applicable prior Operating Year or forty-five (45) days prior to the Required Opening Date, as applicable.

(b) Approval of Annual Plans. The Commission and Manager shall meet within fifteen (15) days after the Commission’s receipt of the final Proposed Annual Plan for any Operating Year. The Commission shall cause Manager to provide to the Commission at such time its final Proposed Annual Plan for the applicable Operating Year. The Commission shall not disapprove expenditures set forth in the Proposed Annual Plan that are reasonably necessary in order for the Hotel to comply with the Operating Standards, provided, that there are Sufficient Funds therefor, except as provided in subsection (e) below. If the Commission and Manager are

unable to agree upon the final Proposed Annual Plan within fifteen (15) days after such initial fifteen (15) day period, then within ten (10) days after the expiration of such second fifteen (15) day period, the Commission shall deliver to Manager its written objections to the Proposed Annual Plan, subject, however, to the provisions of Section 7.21(h). The Commission's objections to a Proposed Annual Plan shall include the specific items disapproved. During the fifteen (15) day period following Manager's receipt of the Commission's objections, the Commission and Manager shall meet and confer regarding the disapproved items. Within five (5) days after the expiration of such third fifteen (15) day period, Manager shall submit to the Commission a revised Proposed Annual Plan incorporating such revisions as the Commission and Manager agreed upon during such third fifteen (15) day period. The Commission shall provide a copy of each Annual Plan to the Trustee promptly following the approval thereof together with any subsequent amendments thereto.

(c) Referral to Hotel Consultant. If the parties do not agree on the Commission's revisions, then either Party may submit the matter for resolution by the Hotel Consultant.

(d) Interim Annual Plan. Until such time as the parties have agreed on all line items of the Proposed Annual Plan, Manager shall have the right to operate the Hotel in accordance with: (i) any line items in the Proposed Annual Plan that do not require Commission approval under the Management Agreement; and (ii) those line items in the Proposed Annual Plan that have been agreed upon by the Commission and Manager, and (iii) with respect to those line items in the Proposed Annual Plan not yet approved by the Commission and until resolution by a Hotel Consultant, the corresponding line items in the Annual Plan in effect during the preceding Operating Year (but without duplication of any individual Capital Expenditures, expenditures for FF&E or other "one-time" expenditures), in each case as adjusted for the change in the immediately preceding calendar year in the Bay Area CPI.

(e) Commission Approval Rights. Without limiting the Commission's approval rights, the Commission shall have the right to object to any aspect of any Proposed Annual Plan if (among other reasons):

(i) the objection and proposed change would not materially (A) impair Manager's ability to achieve a performance test, (B) interfere with Manager's operation of the Hotel in a manner consistent and in compliance with the Operating Standards, or (C) interfere with Manager's performance and satisfaction of its duties and obligations under the Management Agreement;

(ii) as to a proposed Capital Budget, there are not Sufficient Funds available to make the proposed Capital Improvement set forth therein;

(iii) as to a proposed Operating Budget, there are not Sufficient Funds available therefor;

(iv) as to a proposed Operating Budget, it shall result in a Debt Service Coverage Ratio of less than the Debt Service Coverage Requirement;

(v) as to a proposed Capital Budget, all or some of the proposed Capital Improvements represent material upgrades to the quality or facilities of the Hotel (as distinct from repairs, maintenance or replacements required to prevent any diminution in quality) that are not, in the Commission's reasonable opinion, required to satisfy the Operating Standards; or

(vi) as to a proposed Capital Budget, any proposed upgrade to the quality or the facilities of the Hotel would (A) require material alterations to the Building as a result of any modifications in Manager's brand standards made by Manager after the effective date of the Management Agreement, except as necessary to correct an Emergency or to comply with Applicable Law; (B) require purchase of new or replacement FF&E as a result of any modifications in Manager's brand standards made by Manager after the effective date of the Management Agreement, prior to the earlier of five (5) years from the date of purchase of such FF&E or the end of the useful life of such FF&E; (C) be imprudent based upon a reasonable weighing of the costs and benefits to the Hotel of the upgrades (taking into account the cost and impact on Hotel revenue and expense of the upgrades, the useful life of the upgrades, and the remaining term of the Management Agreement); or (D) render funds in the Capital Reserve Fund, the FF&E Reserve Fund, the Working Capital Reserve Fund, or the Revenue Stabilization Fund inadequate for other necessary Capital Expenses or funding of other amounts as contemplated by the Management Agreement or an existing approved Capital Budget. The foregoing shall not in any way limit the Commission's right to approve a proposed Capital Budget as to reasonableness of specifications and cost of implementing any upgrade set forth therein.

(f) Referral to Hotel Consultant. If the parties do not agree upon the Commission's revisions, then the Management Agreement shall provide that either party may submit the matter for resolution by a Hotel Consultant pursuant to the provisions of subsection (h) below.

(g) Debt Service Coverage. In addition, the Management Agreement shall provide that under each of the following circumstances, the Commission may require the appointment of a Hotel Consultant (within thirty (30) days after the receipt of the following information) to make written recommendations as to the operations, management, marketing, improvement, condition or use of the Hotel or any part thereof:

(i) if the Commission determines that a proposed Operating Budget will not result in the Debt Service Coverage Requirement being met;

(ii) if the Commission determines that the actual Debt Service Coverage Ratio for any four consecutive quarters is less than the Debt Service Coverage Requirement; and

(iii) if the Certified Annual Financial Statements delivered to the Commission pursuant to the Management Agreement reflects that the Debt Service Coverage Requirement was not achieved.

(h) Hotel Consultant. The Management Agreement shall provide that the following provisions shall apply to a matter to be referred to a Hotel Consultant for resolution:

(i) The use of the Hotel Consultant shall be the exclusive means of resolution by the parties of the matter referred, and the decision of the Hotel Consultant shall be final and binding on the parties.

(ii) Manager and the Commission shall agree to reasonably cooperate with the Hotel Consultant in order to permit the Hotel Consultant to effectively perform its duties and responsibilities in connection with such engagement.

(iii) Each party shall be entitled to make written submissions to the Hotel Consultant, and if a party makes any submission it shall also provide a copy to the other party and the other party shall have the right to comment on such submission.

(iv) The parties shall make available to the Hotel Consultant all books and records reasonably related to the matter in dispute and shall render to the Hotel Consultant any assistance reasonably requested of the parties.

(v) Each party shall deliver to the other at no additional charge copies of any information, correspondence or documents delivered to the Hotel Consultant contemporaneously with delivering such information, correspondence or documents to the Hotel Consultant.

(vi) Each party shall also, upon the request of the other party or the Trustee, meet with the Hotel Consultant to discuss the Hotel Consultant's reports, findings and written recommendations.

(vii) The Hotel Consultant shall make its recommendation with respect to the matter referred for determination by taking into consideration the Commission's obligations with respect to the Bonds, then-existing market and economic conditions, and operation of the Hotel in a manner that is consistent with the Operating Standards.

(viii) Each party shall consider in good faith the recommendations of the Hotel Consultant and shall implement those recommendations to the extent: (A) such recommendations do not cause the Hotel to fail to meet the Operating Standards, including Manager's brand standards, (B) there are Sufficient Funds available therefor, (C) such recommendations do not cause Manager to fail to meet any performance tests, (D) such recommendations will not cause a Manager Event of Default under the Management Agreement, and (E) such recommendations do not, in the opinion of Bond Counsel, adversely affect the tax-exempt status of the interest on the Tax-Exempt Bonds.

(ix) The terms of engagement of the Hotel Consultant shall include an obligation on the part of the Hotel Consultant to: (1) notify the parties in writing of its findings and recommendation(s) within thirty (30) days from the date on which the Hotel Consultant has been selected (or such other period as the parties may agree); and (2) establish a timetable for the making of submissions and replies.

(x) The fees and expenses of the Hotel Consultant shall be paid as an Operating Expense from amounts on deposit in the Lockbox Fund.

The Management Agreement with Hyatt shall be deemed to comply with the requirements in this Section.

Section 7.22 Deposit of Total Operating Revenues; Cash Management Agreement.

The Commission covenants and agrees that it shall deposit or cause to be deposited all Total Operating Revenues calculated on a cash basis (less the Petty Cash Amount) in the Lockbox Fund pursuant to the terms of the Cash Management Agreement. The Commission shall cause Manager to be a party to the Cash Management Agreement. The Commission covenants and agrees to maintain or cause to be maintained the Lockbox Fund during the period of time from at least seven (7) days prior to the Opening Date until no Bonds are Outstanding pursuant to an agreement substantially in the form of the Cash Management Agreement. The Commission covenants and agrees to execute a substitute or replacement Cash Management Agreement with any successor Depository Bank provided, that unless consented to in writing by Manager, which consent shall not be unreasonably withheld, conditioned or delayed, such Cash Management Agreement shall not materially or substantively modify Manager's rights, duties or obligations under the Cash Management Agreement or this Trust Agreement or have a material adverse effect on the rights or obligations of Manager.

(a) The Commission shall include in each Management Agreement a covenant requiring Manager to deliver to the Commission and the Trustee within ninety (90) days after the end of each Operating Year Certified Annual Financial Statements prepared by an Independent Accountant for the preceding Operating Year (including a calculation of the Debt Service Coverage Ratio).

(b) Nothing in this Section shall be construed as in any way limiting or conditioning any other obligation of the Commission under this Trust Agreement.

Section 7.23 Subordination to the Commission Agreements With the United States.

This Trust Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the Commission and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the Commission for airport purposes, and the expenditure of federal funds for the operation, extension, expansion or development of the Airport.

Section 7.24 Further Assurances. At any and all times the Commission shall, so far as it may be authorized by law, make, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, granting, pledging, assigning and confirming the Revenues and other assets pledged under this Trust Agreement, the cash and Investment Securities held in any Fund or Account under this Trust Agreement, and the Trustee's right, title and interest in and to the foregoing, and all other moneys, securities and funds hereby pledged or assigned, or which the Commission may become bound to pledge or assign.

**ARTICLE VIII
DISCHARGE AND DEFEASANCE**

Section 8.01 Discharge of Trust Agreement. If the Commission shall well and truly pay, or cause to be paid, all of the principal and Redemption Price of and interest on the Bonds, at the times and in the manner provided in this Trust Agreement and in the Bonds according to the true intent and meaning hereof and thereof, and shall cause the payments to be made into the Funds and Accounts established under this Trust Agreement and in the amounts required hereby, or shall provide, as permitted hereby, for the payment thereof by depositing with or for the account of the Trustee an amount sufficient to provide for payment of the entire amount due or to become due thereon (including any amount due or to become due with respect to the Bonds under Section 148 of the Code), and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Trust Agreement to be kept, performed and observed by it on or prior to the date such payments are made, and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then, upon such payment and performance, this Trust Agreement and the rights, pledges and liens hereby granted shall cease, determine and be void; provided, that the Commission's obligations under Section 7.10, the Trustee's obligation under Sections 3.04 and 4.03 and the Trustee's rights and protections under this Trust Agreement shall survive such discharge; otherwise, this Trust Agreement is to be and shall remain in full force and effect. In the event that this Trust Agreement is discharged as provided in this Trust Agreement, the Trustee shall cause an accounting for such period or periods as shall be requested by the Commission to be prepared and filed with the Commission and, upon the Request of the Commission, shall execute and deliver to the Commission all such instruments as may be desirable to evidence such discharge and satisfaction, and the Agents shall pay over or deliver to the Commission all moneys or securities held by them pursuant to this Trust Agreement which are not required for the payment of principal or Redemption Price of and interest on the Bonds.

Section 8.02 Defeasance. Any Outstanding Bonds shall, prior to the maturity or Redemption Date thereof, be deemed to have been paid within the meaning and with the effect expressed in Section 8.01 if (a) in case any of such Bonds are to be redeemed on any date prior to their maturity, the Commission shall have given to the Trustee in form satisfactory to it a Letter of Instructions containing irrevocable instructions to give notice of redemption of such Bonds as provided in Article IV, (b) there shall have been deposited with the Trustee, in trust, either money in an amount which shall be sufficient, or Defeasance Securities that are not callable or prepayable prior to maturity the principal of and interest on which without any reinvestment thereof when due will provide money which, together with the money, if any, deposited with the Trustee at the same time for such purposes, shall be sufficient, as verified by an Accountant, to pay when due the principal or Redemption Price of and interest due and to become due on such Bonds on or prior to the Redemption Date or maturity date thereof, as the case may be, (c) in the event such Bonds are not to be redeemed within the next succeeding sixty (60) days, the Commission shall have given the Trustee in form satisfactory to it a Letter of Instructions containing irrevocable instructions to mail, as soon as practicable, notice to the Registered Owners of all such Bonds that the deposit required by clause (b) above has been made with the Trustee and that such Bonds are deemed to have been paid in accordance with this Section and stating such maturity or Redemption Date upon which money is to be made available for the payment of the principal or Redemption Price of and interest on such Bonds, and (d) there shall be delivered to the Trustee a written opinion of Bond

Counsel to the effect that (i) the provisions of this Section have been complied with so that such Bonds are no longer entitled to the benefits of this Trust Agreement and (ii) such defeasance will not, in and of itself, result in the inclusion of interest on any Tax-Exempt Bonds in gross income for federal income tax purposes. Neither Defeasance Securities nor money deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or Redemption Price of and interest on such Bonds; provided, that any cash received from such principal or interest payment on such Defeasance Securities, (x) to the extent such cash will not be required at any time for such purpose, shall be paid over to the Commission as received, free and clear of any trust, lien, security interest, pledge or assignment securing such Bonds or otherwise existing under this Trust Agreement, if all Bonds have been redeemed or discharged, otherwise such cash shall be deposited as Available Revenues, and (y) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in the Defeasance Securities maturing at times and in amounts sufficient to pay when due the principal or Redemption Price of and interest to become due on such Bonds, on or prior to such Redemption Date or maturity date thereof, as the case may be, and interest earned from such reinvestment shall be paid over to the Commission, as received, free and clear of any trust, lien or pledge, if all Bonds have been redeemed or discharged, otherwise such cash shall be deposited as Available Revenues. Bonds defeased under this Trust Agreement shall no longer be subject to redemption at the option of the Commission, except to the extent that such Bonds are called for redemption at the time provision is made for the defeasance thereof, as provided in this Section.

ARTICLE IX DEFAULT AND REMEDIES

Section 9.01 Rights and Remedies, Generally. Subject to the provisions of this Trust Agreement, the Registered Owners of the Bonds and the Trustee acting for all of the Registered Owners of the Bonds shall be entitled to all of the rights and remedies provided or permitted in this Trust Agreement or at law or in equity.

Section 9.02 Events of Default. Each of the following events is hereby declared an “Event of Default” under this Trust Agreement:

(a) failure to make due and punctual payment of the principal or Redemption Price of any Bond when and as the same shall become due and payable, whether at maturity or by call for redemption, or otherwise;

(b) failure to make due and punctual payment of any installment of interest on any Bond or the unsatisfied balance of any Mandatory Sinking Fund Installment therefor (except when such Mandatory Sinking Fund Installment is due on the maturity date of such Bond), when and as such interest installment or Mandatory Sinking Fund Installment shall become due and payable;

(c) failure by the Commission in the performance or observance of any other of the covenants, agreements or conditions on its part contained in this Trust Agreement or any Supplemental Trust Agreement or in the Bonds, and such failure shall continue for a period of sixty (60) days after written notice thereof to the Commission by the Trustee or to the Commission and to the Trustee by the Registered Owners of at least twenty-five percent (25%) in aggregate

principal amount of the Bonds then Outstanding; provided, that if the failure stated in the notice was due to the failure of another Person in its performance or observance of one or more of its covenants, agreements or conditions on its part contained in another Principal Transaction Document, then instead of such sixty (60) day grace period, no Event of Default shall have occurred so long as corrective action is instituted by the Commission after any applicable grace period permitted under such Principal Transaction Document for such Person and diligently pursued until corrected for a maximum time period of thirty (30) days following the applicable grace period for such Person;

(d) the entry of a decree or order by a court having jurisdiction in the premises for relief in respect of the Commission, or adjudging the Commission a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, adjustment or composition of or in respect of the Commission under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar the Trustee official) of or for the Commission or any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of sixty (60) consecutive days;

(e) the commencement by the Commission of a voluntary case under the United States Bankruptcy Code, or the filing by it of a petition or answer or consent seeking reorganization, arrangement or relief under the United States Bankruptcy Code or any other applicable federal or state law, or the consent or acquiescence by it to the filing of any such petition or the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Commission or any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability or its failure to pay its debts generally as they become due, or the taking of corporate action by the Commission in furtherance of any such action;

(f) any representation made by the Commission in this Trust Agreement or in any document, instrument or certificate furnished to the Trustee in connection with the issuance of any Bonds shall at any time prove to have been incorrect in any material respect as of the time made; provided, that if it can be corrected by the Commission and such default was unintentional, the Commission shall have a sixty (60) day period to make such correction prior to an Event of Default occurring;

(g) the Management Agreement has terminated and a new Management Agreement has not been delivered to the Trustee within sixty (60) days after the effective date of such termination; provided, that, if the Commission is unable to locate a new Manager in accordance with Section 7.20 within such sixty (60) day period, such failure shall not become an Event of Default so long as the Commission is diligently proceeding to locate such a Manager, the Debt Service Coverage Requirement is being met and the Commission has retained a Hotel Consultant to provide advice to the Commission in operating the Hotel;

(h) if the City formally commences condemnation proceedings against all or any part of the Hotel (other than fines or penalties assessed against the Hotel for non-compliance with an Applicable Law);

(i) any Principal Transaction Document for any reason ceases to be in full force and effect or is declared to be null and void and the same has a Material Adverse Effect on the Hotel; or

(j) failure of the Commission to maintain or cause Manager to maintain the insurance required by Section 7.16, and continuance of such failure for a period of five (5) Business Days after there has been given to the Commission and Manager by the Trustee written notice of such failure.

No Event of Default shall be deemed to have occurred hereunder unless (i) the circumstances or events constituting an Event of Default have occurred, (ii) all applicable cure periods have lapsed and (iii) the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding direct the Trustee to declare that an Event of Default has occurred.

Upon the occurrence of an Event of Default, the Trustee shall promptly provide written notice by first class mail to the Registered Owners of the Bonds then Outstanding of (i) such Event of Default and (ii) the action or remedy, if any, then proposed to be taken by the Trustee.

Section 9.03 Notice of Default; Cure. Upon obtaining knowledge of the existence of any Event of Default, the Trustee shall notify the Commission and Manager in writing as soon as practicable; provided, that the Trustee need not provide notice of any Event of Default if the Commission has expressly acknowledged the existence of such Event of Default in a writing delivered to the Trustee. The Trustee shall recognize any cure of a Manager Event of Default.

Section 9.04 Specific Remedies.

(a) If an Event of Default occurs and is continuing, then, subject to subsection (b) of this Section 9.04, the Trustee shall, upon the Request of the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding, and may, having been indemnified to its satisfaction take all or any combination of the following actions:

(i) [Reserved]

(ii) by mandamus or other suit, action or proceeding at law or in equity require the Commission to perform its covenants, representations and duties with respect to the Bonds under this Trust Agreement;

(iii) by action or suit in equity require the Commission to account as if it were the trustee of an express trust for the Registered Owners of the Bonds;

(iv) by action or suit in equity enjoin any acts or things that may be unlawful or in violation of the rights of the Registered Owners of the Bonds;

(v) prohibit the Commission from withdrawing moneys from any Funds or Accounts (except the Rebate Fund, the Taxes and Insurance Fund, the Working Capital Reserve Fund and the FF&E Reserve Fund);

(vi) request that a court of competent jurisdiction appoint, to the extent permitted by law, a receiver or receivers of the Revenues and other assets pledged under this Trust

Agreement, and the income, revenues, profits and use thereof, it being the intent hereof that, to the extent permitted by law, the Trustee shall be entitled to appointment of such a receiver as a matter of right;

(vii) upon the occurrence of an Event of Default described in Section 9.02(a) or (b), transfer moneys from any Funds or Accounts (other than amounts necessary to pay Operating Expenses and amounts on deposit in the Taxes and Insurance Fund and the Rebate Fund) to the Debt Service Account of the Debt Service Fund;

(viii) enter into such agreements or other arrangements as the Trustee may determine, in its discretion, to be necessary or appropriate either to retain Manager under the existing Management Agreement or make modifications to the Management Agreement; provided, that there shall first be delivered an opinion of Bond Counsel to the effect that such agreements, arrangements or modifications will not, in and of themselves, cause the interest on any of the Tax-Exempt Bonds to be includible in gross income for federal income tax purposes;

(ix) enforce all rights of the Commission under the Management Agreement, including the right to terminate and replace such parties under a new Qualified Management Agreement that is reasonable under the circumstances and necessary and appropriate to (A) maximize the current and long term value of the Hotel, and (B) maximize Net Revenues;

(x) take such actions, including the filing and prosecution of lawsuits as may be required to enforce for the benefit of the Registered Owners of the Bonds the terms of any agreements or instruments relating to the Hotel, or any part thereof, which the Trustee may be entitled to enforce, including (A) the Management Agreement, (B) any construction contracts, design contracts or consulting contracts or operating agreements, (C) any insurance policies or completion guaranties and (D) any other agreements or instruments that the Trustee may be entitled to enforce;

(xi) exercise any right of the Commission to give any consent or notice, to take any act or refrain from taking any act, and otherwise act in the full place and stead of the Commission in any Principal Transaction Document, either in its name or in the name of the Trustee or the Commission; provided, that if the Event of Default is an Event of Default as set forth in Section 9.02(c) or (i), then such right to exercise the remedy set forth in this clause (xi) shall be restricted solely to curing such Event of Default unless such Event of Default results in a Material Adverse Effect with respect to the Hotel or any part thereof; or

(xii) take such other steps to protect and enforce its rights and the rights of the Registered Owners of the Bonds, whether by action, suit or proceeding in aid of the execution of any power granted in this Trust Agreement or for the enforcement of any other appropriate legal or equitable remedy, including proceeding by suit or suits, at law or in equity or by any other appropriate legal or equitable remedy, to enforce payment of the principal and Redemption Price of and interest then due on the Bonds.

Section 9.05 Application of Proceeds. After payment or provision for payment of Operating Expenses (including the Base Management Fee) then due and payable and making the deposits to the Funds and Accounts and such disbursements therefrom as required to be made pursuant to the Cash Management Agreement (which Manager shall, if the Management

Agreement remains in effect, continue to have access to as set forth in the Cash Management Agreement), the proceeds received by the Trustee pursuant to the exercise of any right or remedy under this Article, together with all securities and other moneys which may then be held by the Trustee as a part of the Revenues and other assets pledged under this Trust Agreement, subject to the application of amounts in specific Funds and Accounts which are pledged solely to the repayment of Bonds shall be applied in order, as follows:

(a) First, To the payment of the reasonable and proper charges, expenses and liabilities of the Trustee and its attorneys, agents and advisors;

(b) Second,

First, to the payment to the Registered Owners entitled thereto of all installments of interest (together with interest due on overdue installments of interest to the extent allowed by law) then due on the Bonds in the order of their due dates, and, if the amount available shall not be sufficient to pay in full any installment or installments due on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the Registered Owners entitled thereto, without any discrimination or preference; and

Second, to the payment to the Registered Owners entitled thereto of the unpaid principal or Redemption Price of the Bonds with respect to which such remedy was exercised which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full the unpaid principal or Redemption Price of all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal or Redemption Price due on such date, to the Registered Owners entitled thereto, without any discrimination or preference.

Section 9.06 Trustee May Act Without Possession of Bonds. All rights of action under this Trust Agreement or under any Bonds may be enforced by the Trustee without possession of any of the Bonds or the production thereof in any trial or other proceedings relative thereto, and any such suit or proceedings instituted by the Trustee shall be brought in its name, as Trustee for the ratable benefit of the Registered Owners of the Bonds, subject to the provisions of this Trust Agreement.

Section 9.07 Trustee as Attorney-in-Fact. The Trustee is hereby irrevocably appointed (and the Registered Owners of the Bonds, by taking and holding same from time to time, shall be deemed to have so appointed the Trustee) the true and lawful attorney-in-fact of the Registered Owners of the Bonds, or on behalf of all Registered Owners of the Bonds as a class, with respect to any proof of debt, amendment to proof of debt, petition or other document, and to do and perform any and all acts and things for and in the name of the Registered Owners of the Bonds against the Commission allowed in any equity receivership, insolvency, liquidation, bankruptcy, reorganization or other proceedings to which the Commission shall be a party and to receive payment of or on account of such claims. Any such receiver, assignee, liquidator or trustee is hereby authorized by each of the Registered Owners of the Bonds to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Registered Owners of the Bonds, to pay to the Trustee any amount due for compensation and expenses of the Trustee, including counsel fees, incurred up to the date of such distribution, and the Trustee shall have full power of substitution and delegation in respect of any such powers.

Section 9.08 Remedies Not Exclusive. No remedy conferred upon or reserved to the Trustee or the Registered Owners of the Bonds in this Trust Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Trust Agreement or under the Bonds or now or hereafter existing at law or in equity or by statute.

Section 9.09 Limitation on Suits. All rights of action in respect of this Trust Agreement shall be exercised only by the Trustee, and the Registered Owner of any Bond shall not have any right to institute any suit, action or proceedings at law or in equity for the appointment of a receiver or for any other remedy under this Trust Agreement or by reason hereof, unless and until the Trustee shall have received a Request of the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding, and shall have been furnished reasonable indemnity and shall have refused or neglected for thirty (30) days thereafter to institute such suit, action or proceedings, and no direction inconsistent with such Request has been given to the Trustee during such thirty (30) day period by the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding. The making of such request and the furnishing of such indemnity shall in each and every case be conditions precedent to the execution and enforcement by any Registered Owner of any Affected Bond of the powers and remedies given to such Registered Owner under this Trust Agreement and to the institution and maintenance by any such Registered Owner of any action or cause of action for the appointment of a receiver or for any other remedy under this Trust Agreement, but the Trustee may, in its discretion, and when duly requested in writing by the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding and when furnished indemnity satisfactory to protect it against expenses, charges and liability shall take such appropriate action by judicial proceedings otherwise in respect of any existing default on the part of the Commission as the Trustee may deem desirable in the interest of the Registered Owners of the Bonds. The rights of the Registered Owners under this Section are in all events subject to the provisions of Section 9.04.

Nothing contained in this Article shall affect or impair the right of any Registered Owner of any Bonds, which shall be absolute and unconditional, to enforce the payment of the principal of, Redemption Price, if any, and interest on the Bonds of such Registered Owner, but only out of the moneys for such payment as provided in this Trust Agreement, or the obligation of the Commission, which shall also be absolute and unconditional, to make payment of the principal of, Redemption Price, if any, and interest on the Bonds, but only out of the funds provided in this Trust Agreement for such payment, to the respective Registered Owners thereof at the time and place stated in this Trust Agreement, and subject in all cases to the rights of Manager under the Management Agreement, this Trust Agreement and the Cash Management Agreement.

Section 9.10 Right of Registered Owners to Direct Proceedings. Notwithstanding anything to the contrary in this Trust Agreement, other than as specifically set forth in Section 9.04, the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Trust Agreement, or for the pursuit or exercise of any remedy available to the Trustee or any trust or power conferred on the Trustee or any other proceedings under this Trust Agreement; provided, that the Trustee shall have been satisfactorily indemnified and that such direction shall not be contrary to law or the provisions

of this Trust Agreement, and, unless such direction relates to the acceleration of all or a portion of the Bonds, the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall determine that the proceedings so directed would involve it in personal liability for which it has not received adequate indemnity. The rights of the Registered Owners under this Section are in all events subject to the provisions of Section 9.04.

Section 9.11 Restoration of Rights and Remedies. If the Trustee or the Registered Owners of the Bonds have instituted any proceeding to enforce any right or remedy under this Trust Agreement and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or the Registered Owners of the Bonds, then and in every such case, the Commission, the Trustee and the Registered Owners of the Bonds shall, subject to any determination in such proceeding, be restored severally and respectively to their former positions under this Trust Agreement, and thereafter all rights and remedies of the Trustee and the Registered Owners of the Bonds shall continue as though no such proceeding had been instituted.

Section 9.12 Waiver of Stay or Extension Laws. To the extent that it may lawfully do so, the Commission covenants that it will not at any time insist upon, plead or in any manner whatsoever claim or take the benefit or advantage of any stay or extension law, whenever or wherever enacted, which may affect the covenants under or the performance of this Trust Agreement. The Commission also covenants that it will not otherwise hinder, delay or impede the execution of any power granted to the Trustee in this Trust Agreement.

Section 9.13 Delay or Omission Not Waiver. No delay or omission of the Trustee or the Registered Owners of the Bonds to exercise any right or remedy accruing upon any Event of Default under this Trust Agreement shall impair any such right or remedy or constitute a waiver of any such Event of Default or acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or the Registered Owners of the Bonds may be executed from time to time, and as often as may be deemed expedient, by the Trustee or the Registered Owners of the Bonds, as the case may be.

Section 9.14 Rights of Manager. Notwithstanding anything to the contrary in this Article, so long as the Management Agreement has not expired or terminated, the exercise of the rights and remedies by the Trustee and the Registered Owners shall not affect the rights of Manager as set forth in this Trust Agreement, the Cash Management Agreement and the Management Agreement.

ARTICLE X CONCERNING THE TRUSTEE

Section 10.01 Trustee; Appointment and Acceptance of Duties.

(a) U.S. Bank National Association is hereby appointed as the initial Trustee. The initial Trustee is appointed to serve as Trustee under this Agreement for an initial term of ten (10) years from the dated date hereof. The Commission shall have the option to extend such initial term for additional ten (10)-year terms by providing written notice of its intention to do so to the Trustee at least one hundred twenty (120) days prior to the expiration of the then-existing term. Unless the Trustee provides written notice to the Commission of its rejection of such extension at least sixty (60) days prior to the expiration of the then-existing term, the then-existing term shall

be deemed to be extended for an additional ten (10) years. Notwithstanding anything to the contrary in this Trust Agreement, the current Trustee shall continue to serve under this Agreement until the appointment and acceptance of a successor Trustee pursuant to Section 10.10.

(b) The Trustee hereby accepts and agrees to execute the trusts hereby created, but only upon the additional terms set forth in this Article, to all of which the Commission agrees and the respective Registered Owners agree by their acceptance of delivery of any of the Bonds. The Trustee shall be deemed to have accepted such trusts with respect to all the Bonds hereafter to be issued, but only upon the terms and conditions set forth in this Trust Agreement. The Trustee may execute any of the trusts or powers set forth in this Trust Agreement and perform the duties required of it or imposed on it under this Trust Agreement by or through attorneys, agents or receivers, and shall be entitled to advice of counsel concerning all matters of trusts and its duties in this Trust Agreement.

Section 10.02 Registrars and Other Agents; Appointment and Acceptance of Duties.

(a) The Commission may appoint one or more Registrars or other Agents to perform any of the duties and obligations imposed under this Trust Agreement or any Supplemental Trust Agreement, and separate appointments may be made for the Bonds of each Series.

(b) Each Registrar or other Agent, other than the Trustee, shall signify its acceptance of the duties and obligations imposed upon it by this Trust Agreement or any Supplemental Trust Agreement by executing and delivering to the Commission and to the Trustee a written acceptance thereof.

Section 10.03 Responsibilities of the Trustee.

(a) The recitals of fact contained in this Trust Agreement and in the Bonds shall be taken as the statements of the Commission, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Trust Agreement or of any Bonds issued thereunder or as to the security afforded by this Trust Agreement, and the Trustee shall not incur any liability in respect thereof. The Trustee shall, however, be responsible for its representations contained in any authentication on the Bonds. The Trustee shall not be under any responsibility or duty with respect to the application of any money paid to the Commission or money collected by the Commission prior to the delivery thereof to the Trustee. The Trustee shall not be under any obligation or duty to perform any act, whether requested by the Registered Owners or otherwise, which would involve it in liability or to institute or defend any suit in respect hereof, or to advance any of its own money, unless it has been satisfactorily indemnified against such liability other than liability resulting from its negligence or willful misconduct. Subject to the provisions of subsection (b) of this Section, the Trustee shall not be liable in connection with the performance of its duties under this Trust Agreement except for its own negligence or willful misconduct.

(b) 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 Trust Agreement, and no implied covenants or obligations shall be read into this Trust Agreement against the Trustee. In case an Event of Default

has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers vested in it by this Trust Agreement, and use the same degree of care and skill in their exercise, as an ordinary prudent corporate trustee would exercise or use under the circumstances. The Trustee shall not be required to take notice or be deemed to have notice or knowledge of any default under this Trust Agreement except an Event of Default under subsection (a), (b), (c) or (g) of Section 9.02, or any other default or Event of Default of which the Trustee has knowledge, or any Manager Event of Default (as defined in the Management Agreement) or any termination of the Management Agreement unless a Responsible Officer of the Trustee shall be specifically notified in writing of the default or termination by the Commission or by the Registered Owners of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding. All notices or other instruments required by this Trust Agreement to be delivered to the Trustee must, to be effective, be delivered at the Principal Office of the Trustee, and in the absence of the notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid. Any provision of this Trust Agreement relating to action taken or to be taken by the Trustee or the evidence upon which the Trustee may rely shall be subject to the provisions of this Section.

(c) Absent manifest error or defects, the Trustee is not required to make any inquiry or investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, approval, bond, debenture or other paper or document (other than to establish compliance with the requirements of this Trust Agreement) but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit and, if the Trustee determines to make such further inquiry or investigation, it is entitled to examine the books, records and premises of the Commission, in person or by agent or attorney.

(d) The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Trust Agreement shall extend to the non-negligent acts and actions taken on behalf of the Trustee by the Trustee's officers, directors, agents, attorneys and employees. Such immunities and protections and right to indemnification, together with the Trustee's right to compensation, shall survive the Trustee's resignation or removal, the discharge of this Trust Agreement and final payment of the Bonds.

(e) The permissive right of the Trustee to take the actions permitted by this Trust Agreement shall not be construed as an obligation or duty to do so.

(f) To the extent the Trustee is required to provide approval or consent under this Trust Agreement or in connection with the Bonds, the Trustee shall provide such approval or consent if directed to do so by the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding.

(g) Promptly after receiving appropriate notification thereof, the Trustee shall be responsible for sending notifications required to be sent to the Registered Owners under this Trust Agreement and requesting consents of the Registered Owners when required under this Trust Agreement.

(h) Except for information provided by the Trustee concerning the Trustee, the Trustee shall have no responsibility for any information in any offering memorandum or other disclosure material distributed with respect to the Bonds, and the Trustee shall have no

responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(i) The Trustee shall provide prior written notice of any name change of the Trustee to the Commission.

(j) No provision of this Trust Agreement shall require the Trustee to risk or advance its own funds for the payment of any amounts due by the Commission or Manager hereunder.

Section 10.04 Evidence on Which the Trustee May Act.

(a) The Trustee, upon receipt of any notice, resolution, request, consent, order, certificate, report, opinion, bond, or other paper or document furnished to it pursuant to any provision of this Trust Agreement, shall be protected in acting upon any such instrument believed by it to be genuine (and in the absence of obvious defects therein) and to have been signed or presented by the proper party or parties and consented to by such other parties where required. The Trustee may consult with counsel, who may or may not be counsel to the Commission, or any Consultant, and the opinion of such counsel or Consultant, if selected with due care, shall be full and complete authorization and protection in respect of any action taken or suffered by it under this Trust Agreement in good faith and in accordance therewith.

(b) Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Trust Agreement, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of an Authorized Commission Representative, and such shall be full warrant by the Commission for any action taken or suffered in good faith under the provisions of this Trust Agreement upon the faith thereof; but in its discretion the Trustee may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable.

(c) Except as otherwise expressly provided in this Trust Agreement, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof by the Commission to the Trustee shall be sufficiently executed if executed in the name of the Commission by an Authorized Commission Representative.

(d) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, receivers, agents or employees but shall not be answerable for the conduct of attorneys and receivers who have been selected by it with reasonable care, and may in all cases pay reasonable compensation to all attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof, and the Trustee shall not be responsible for any misconduct or negligence of any agent or attorney appointed with due care by it.

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

Section 10.05 Preservation and Inspection of Documents. All documents received by the Trustee under the provisions of this Trust Agreement shall be retained in its possession and shall be subject at all reasonable times upon reasonable notice to the inspection of the Commission, and any Registered Owner and their agents and their representatives, any of whom may make copies thereof at the expense of the party so requesting.

Section 10.06 Compensation. The Commission shall pay to the Trustee from time to time, from amounts rightfully on deposit in the Administrative Fee Fund (and upon the occurrence of an Event of Default, from other funds held by the Trustee as provided in this Trust Agreement), reasonable compensation for all services rendered under this Trust Agreement, including reasonable default administrative fees of the Trustee upon the occurrence of an Event of Default under this Trust Agreement, and also all reasonable expenses, costs, charges, counsel fees, Consultant fees and other disbursements, including those of the Trustee's attorneys, agents, Consultants and employees, incurred in and about the execution of the trusts created by this Trust Agreement, and in and about the exercise and performance of the powers and duties of the Trustee under this Trust Agreement and for the reasonably necessary costs and expenses incurred in defending any liability in the premises of any character whatsoever (unless such liability is adjudicated to have resulted from the negligence or willful misconduct of the Trustee) under this Trust Agreement. The Trustee shall have the right to select and retain counsel of its own choosing to represent it in any such proceedings. In the event the Trustee incurs expenses or renders services in any proceedings which result from the occurrence or continuance of an Event of Default under Section 9.02(g) or (h), or from the occurrence of any event which, by virtue of the passage of time, would become such an Event of Default, the expenses so incurred and compensation for services so rendered are intended to constitute expenses of administration under the United States Bankruptcy Code or equivalent law.

Section 10.07 Certain Permitted Acts. The Trustee may become the Registered Owner of any Bonds with the same rights it would have if it were not the Trustee. To the extent permitted by law, the Trustee may act as depository for, and may 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 Registered Owners or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Trust Agreement, whether or not any such committee shall represent the Registered Owners of a majority in principal amount of the Bonds Outstanding. The provisions of this Section shall extend to affiliates of the Trustee.

Section 10.08 Resignation of Trustee. Except as otherwise provided by a Supplemental Trust Agreement, the Trustee may at any time resign and be discharged of the duties and obligations created by this Trust Agreement, by giving not less than sixty (60) days' written notice to the Commission of the date it desires to resign and mailing written notice to the Registered Owners of all Bonds, and such resignation shall take effect immediately on the appointment and acceptance of a successor Trustee pursuant to Section 10.10.

Section 10.09 Removal of Trustee. So long as an Event of Default has not occurred and is not continuing, the Trustee may be removed, with or without cause, at any time by an instrument or concurrent instruments in writing, filed with the Trustee and signed by the Commission or its attorney-in-fact duly authorized. Notwithstanding the foregoing, any removal of the Trustee shall not be effective until a successor Trustee has been appointed and has assumed the duties and responsibilities of successor Trustee under this Trust Agreement.

Section 10.10 Appointment of Successor Trustee.

(a) In case at any time the Trustee 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 the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee, or of its property or affairs, a successor may be appointed by the Commission, by an instrument in writing signed and acknowledged by the Commission or by its attorney-in-fact duly authorized and delivered to such successor Trustee, notification thereof being given to the predecessor Trustee. The successor Trustee shall mail notice of the appointment of the successor Trustee to the Registered Owners of all Bonds.

(b) If no appointment of a successor Trustee shall be made within forty-five (45) days after the Trustee shall have given to the Commission written notice as provided in Section 10.08 or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, its removal, or for any other reason whatsoever, the Trustee (in the case of a resignation under Section 10.08) or the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

(c) Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a bank or trust company or national or state banking association and duly authorized to exercise trust powers and subject to examination by federal or state the Commission and having (or whose parent holding company shall have) reported capital and surplus of not less than \$50,000,000.

Section 10.11 Transfer of Rights and Property to Successor Trustee. Any successor Trustee appointed under this Trust Agreement shall execute, acknowledge and deliver to its predecessor Trustee and to the Commission 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 originally named as Trustee; but the Trustee ceasing to act shall nevertheless, on the Request of the Commission or of the successor Trustee, execute, acknowledge and deliver such instruments of assignment and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor Trustee all rights, powers, duties and obligations in and to any property held by it under this Trust Agreement, and shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions set forth in this Trust Agreement. Should any instrument in writing from the Commission be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such estates, rights, powers and duties, any and all such instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the Commission. Any such successor Trustee shall promptly notify any Registrars and other Agents of its appointment as Trustee.

Section 10.12 Merger or Consolidation. Any bank or trust company into which the Trustee may be merged or converted or with which it may be consolidated or any bank or trust company resulting from any merger, conversion or consolidation to which it shall be a party or any bank or trust company to which the Trustee may sell or transfer all or substantially all of its

corporate trust business; provided, that such entity shall be a bank or trust company organized under the laws of any state of the United States or a national banking association, and shall be authorized by law to perform all duties imposed upon it by this Trust Agreement, shall be the successor Trustee without the execution or filing of any paper or the performance of any further act. The successor Trustee shall mail notice to the Registered Owners of all Outstanding Bonds of the successor Trustee.

Section 10.13 Adoption of Authentication. If any of the Bonds contemplated to be issued under this Trust Agreement shall have been authenticated but not delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee so authenticating such Bonds and deliver such Bonds so authenticated; and if any such Bonds shall not have been authenticated, any successor Trustee may authenticate such Bonds in the name of the predecessor Trustee, or in the name of the successor Trustee, and in all such cases such certificate shall be of full force and effect.

Section 10.14 Resignation or Removal of Agents and Appointment of Successors.

(a) Any Registrar or other Agent may at any time resign and be discharged of the duties and obligations created by this Trust Agreement or any Supplemental Trust Agreement by giving at least sixty (60) days' written notice to the Commission, the Trustee and the other Agents, if any. Any such Agent may be removed at any time by an instrument filed with such Agent and the Trustee and signed by the Authorized Commission Representative. Any successor Agent shall be appointed by the Commission with the approval of the Trustee and shall be willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it in such capacity by this Trust Agreement.

(b) In the event of the resignation or removal of any Agent, such Agent shall pay over, assign and deliver any money held by it to its successor, or if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Registrar appointed by the Commission, the Trustee shall act as such Registrar.

(c) The provision of this Section may be modified by a Supplemental Trust Agreement in respect of any Series of Bonds, authorized thereby, and in the event of any conflict with the provisions hereof the provisions of such Supplemental Trust Agreement shall control in respect of any Series of Bonds authorized thereby.

Section 10.15 Cash Management Agreement. The Trustee is hereby authorized and directed to enter into the Cash Management Agreement (which Cash Management Agreement shall set forth Manager's rights to and the manner of any disbursement of funds by the Depository Bank or the Trustee and which provisions shall be consistent with those set forth in this Trust Agreement and shall include a provision that incorporates Section 5.20). Notwithstanding the foregoing, in the event of any inconsistencies between such agreement and this Trust Agreement, the provisions of this Trust Agreement shall control. The Trustee shall not enter into new, substitute or replacement Cash Management Agreement inconsistent with this Trust Agreement. In executing and performing its obligations under the Cash Management Agreement, the Trustee shall be entitled to its protections, immunities and limitations from liability set forth in this Trust Agreement.

**ARTICLE XI
SUPPLEMENTAL TRUST AGREEMENTS AND
AMENDMENT OF BOND DOCUMENTS**

Section 11.01 Supplemental Trust Agreements and Amendments of Bond Documents Effective Without Consent of Registered Owners. The Commission and the Trustee may, as appropriate, from time to time and at any time, without the consent of but with notice to the Registered Owners, enter into Supplemental Trust Agreements or amendments to the Bond Documents as follows:

(a) to cure any formal defect, omission, inconsistency or ambiguity in this Trust Agreement or in the applicable Bond Document;

(b) to insert such provisions clarifying matters or questions arising under this Trust Agreement or in the applicable Bond Document as are necessary or desirable and are not contrary to or inconsistent with this Trust Agreement or the applicable Bond Document as theretofore in effect;

(c) to grant to or confer upon the Trustee for the benefit of the Registered Owners any additional rights, remedies, powers, authority or security which may lawfully be granted or conferred and which are not contrary to or inconsistent with this Trust Agreement or the Bond Documents as theretofore in effect;

(d) to authorize Bonds of a Series and, in connection therewith, to specify and determine the matters and things referred to in Article III and also any other matters and things relative to such Bonds which are not in conflict with this Trust Agreement as theretofore in effect, or to amend, modify, or rescind any such authorization, specification or determination at any time prior to the first delivery of such Bonds; provided, that such supplement or amendment shall be limited to the specific terms of the Additional Bonds and shall not otherwise amend this Trust Agreement;

(e) to provide limitations and restrictions in addition to the limitations and restrictions contained in this Trust Agreement or any Supplemental Trust Agreement or the Bond Documents on the delivery of Bonds or the issuance of other evidences of indebtedness;

(f) to add to the covenants and agreements of the Commission in this Trust Agreement or any Supplemental Trust Agreement or the Bond Documents, other covenants and agreements to be observed by the Commission or the other parties thereto which are not in conflict with this Trust Agreement or the applicable Supplemental Trust Agreements or in the applicable Bond Document as theretofore in effect;

(g) to add to the limitations and restrictions in this Trust Agreement or any Supplemental Trust Agreement or the Bond Documents other limitations and restrictions to be observed by the Commission or the other parties thereto which are not in conflict with this Trust Agreement or the applicable Supplemental Trust Agreements or in the applicable Bond Documents as theretofore in effect;

(h) to confirm, as further assurance, any pledge under, and the subjection to any lien or security interest created or to be created by, this Trust Agreement or any Supplemental Trust Agreement, of the Revenues and other assets pledged under this Trust Agreement or of any other moneys, securities or funds, or to subject to the pledge, lien and security interest of this Trust Agreement additional revenues, properties or collateral;

(i) to provide for additional duties of the Trustee in connection with the Revenues and other assets pledged under this Trust Agreement or the Hotel;

(j) to modify, amend or supplement this Trust Agreement or any Supplemental Trust Agreement in such manner as to permit, if presented, the qualification hereof and thereof under the Trust Indenture Act of 1939 or any similar federal statute hereafter in effect or under any state blue sky law;

(k) to surrender any right, power or privilege reserved to or conferred upon the Commission by the terms of this Trust Agreement; provided, that the surrender of such right, power or privilege is not in conflict with the covenants and agreements of the Commission contained in this Trust Agreement;

(l) to establish or increase the required balance to be accumulated or maintained in the FF&E Reserve Fund;

(m) to designate Registrars and other Agents for the Bonds of any Series;

(n) to evidence the appointment or a succession of a new Trustee under this Trust Agreement;

(o) to modify, amend or supplement this Trust Agreement or any Supplemental Trust Agreement in order to provide for or eliminate book-entry registration of all or any of the Bonds to the extent not inconsistent with the provisions hereof;

(p) to make any change (including changes to reflect any amendment to the Code or interpretations by the Internal Revenue Service of the Code) that does not materially adversely affect the rights of any Registered Owner; and

(q) to amend a prior Supplemental Trust Agreement in accordance with the provisions thereof.

Section 11.02 Supplemental Trust Agreements and Amendments to Bond Documents Requiring Registered Owner Consent. Except as provided in Section 11.01 and in the immediately following sentence, any modification or amendment of this Trust Agreement or to any Bond Document and of the rights and obligations of the Commission and of the Registered Owners of the Bonds under this Trust Agreement or thereunder may only be made by a Supplemental Trust Agreement or an amendment to the applicable Bond Document in each instance with the prior written consent of the Registered Owners of a majority in aggregate principal amount of Bonds then Outstanding affected by such amendment. No such modification or amendment shall, without the prior written consent of the Registered Owner of each Bond affected thereby, permit (i) a change in the terms of redemption or maturity of the principal of any

Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon, (ii) creation of a lien upon or a pledge of or payment priority from the Total Operating Revenues ranking prior to or on a parity with the lien or pledge created by this Trust Agreement, (iii) a preference or priority of any Bond or Bonds over any other Bond or Bonds of the same lien priority, (iv) a reduction in the percentages or otherwise affect the classes of Bonds of which the consent of the Registered Owners is required to effect any such modification or amendment, (v) an impairment of the exclusion from gross income for federal income tax purposes of interest on any Tax-Exempt Bond, (vi) a deprivation to any Registered Owners of the pledge, lien and security interest created by this Trust Agreement or (vii) a change or modification of any of the rights or obligations of any Agent without its prior written consent thereto. For the purposes of this Section, a Series of Bonds shall be deemed to be affected by a modification or amendment of this Trust Agreement or an amendment to the applicable Bond Document if the same materially adversely affects or diminishes the rights of the Registered Owners of Bonds of such Series. The Trustee may in its discretion determine whether or not, in accordance with the foregoing powers of amendment, Bonds of any particular Series, lien priority or maturity would be affected by any modification or amendment of this Trust Agreement or an amendment to the applicable Bond Document and any such determination shall be binding and conclusive on the Commission and all Registered Owners.

Section 11.03 Consent of Registered Owners. The Commission and the Trustee, as applicable, may at any time enter into a Supplemental Trust Agreement or an amendment to the applicable Bond Document making a modification or amendment permitted by the provisions of Section 11.02, to take effect when and as provided in this Section. A copy of such Supplemental Trust Agreement or amendment to a Bond Document (or brief summary thereof or reference thereto), together with a request to Registered Owners for their consent thereto in form satisfactory to the Trustee, shall be mailed to Registered Owners as provided in Section 11.08. Such Supplemental Trust Agreement or amendment to such Bond Document requiring the consent of all or any of the Registered Owners will be effective when: (a) there shall have been filed with the Trustee the written consent of such Registered Owners of the percentages of Outstanding Bonds specified in Section 11.02 required to consent to such amendment, and an opinion of Bond Counsel to the effect that such Supplemental Trust Agreement has been duly and lawfully entered into by the Commission in accordance with the provisions of this Trust Agreement, is authorized or permitted by this Trust Agreement, is valid and binding upon the Commission, is in accordance with this Trust Agreement and will not, in and of itself, cause interest on any Tax-Exempt Bonds to be includible in gross income for federal income tax purposes; provided, that such opinion may take exception for limitations imposed by or resulting from bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights generally and principles of law and equity; and (b) a notice shall have been mailed as hereinafter provided in this Section. Each such written consent 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 12.01. A certificate or certificates by the Trustee filed with the Trustee that it has examined such proof and that such proof is sufficient in accordance with Section 12.01 shall be conclusive that the consents have been given by the Registered Owners of the Bonds described in such certificate or certificates of the Trustee. Any such consent shall be binding upon the Registered Owner of the Bonds giving such consent and, notwithstanding anything to the contrary in Section 12.01, upon any subsequent Registered Owner of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Registered Owner thereof has notice thereof)

unless such consent is revoked in writing by the Registered Owner of such Bonds giving such consent or a subsequent Registered Owner thereof by filing such revocation with the Trustee prior to the time when the written statement of the Trustee hereinafter provided in this Section is filed. The fact that a consent has not been revoked likewise may be proved by a certificate of the Trustee to the effect that no revocation thereof is on file with the Trustee. At any time after the Registered Owners of the required percentages of Bonds shall have filed their consents to the Supplemental Trust Agreement or amendment to a Bond Document, the Trustee shall make and file with the Commission a written statement that the Registered Owners of such required percentages of Bonds have filed such consents. Such written statement shall be conclusive evidence that such consents have been so filed. Upon receipt of the requisite consents, filing of the written statement of the Trustee required under this Trust Agreement and the execution of such amendment by the parties thereto, notice, stating in substance that the Supplemental Trust Agreement (which may be referred to as a Supplemental Trust Agreement entered into by the Commission and the Trustee as of a stated date, a copy of which is on file with the Trustee) or other amendment to the Bond Documents has been consented to by the Registered Owners of the required percentages of Bonds and will be effective as provided in this Section, shall be given by the Trustee to Registered Owners by mailing such notice to Registered Owners immediately thereafter. Proof of the mailing of such notice shall be filed with the Trustee. 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 Trust Agreement or amendment to a Bond Document making such amendment or modification shall be deemed conclusively binding upon the Commission, the Agents and the Registered Owners of all Bonds after the filing with the Trustee of the proof of the mailing of such last mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Trust Agreement or amendment to a Bond Document in a legal action or equitable proceeding for such purpose commenced prior to such mailing; provided, that any Agent and the Commission prior to such mailing and any such further period during which any such action or proceeding may be pending shall be entitled in their absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Trust Agreement or amendment to a Bond Document as they may deem expedient.

Section 11.04 Amendment of Particular Bonds. The provisions of this Article shall not prevent any Registered Owner from accepting any amendment as to the particular Bonds held by such Registered Owner; provided, that due notation thereof is made on such Bonds.

Section 11.05 Exclusion of Bonds. If the Commission is not the holder of all Outstanding Bonds, then Bonds owned or held by or for the account of the Commission or the City shall not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Bonds provided for in this Article, and the Commission and the City shall not be entitled with respect to such Bonds to give any consent or take any other action provided in this Article. At the time of any consent or other action taken under this Article while the Commission is not the holder of all Outstanding Bonds, the Commission shall furnish the Trustee a certificate of an Authorized Commission Representative, upon which the Trustee may rely, describing all Bonds to be so excluded.

Section 11.06 General Provisions.

(a) This Trust Agreement and the Bond Documents shall not be modified or amended in any respect except as provided in, in accordance with and subject to provisions of this Article.

(b) Any Supplemental Trust Agreement or amendment to a Bond Document referred to and permitted or authorized by Section 11.01 may be entered into by the Commission and the Trustee, as applicable, without the consent of any of the Registered Owners, but shall become effective only (i) after the parties thereto have duly executed such Supplemental Trust Agreement or Bond Document, (ii) following written notice of the proposed supplement or amendment provided to the Registered Owners and (iii) if such Supplemental Trust Agreement or amendment meets the conditions, and to the extent provided, in Section 11.01. Prior to entering into any Supplemental Trust Agreement or amendment to a Bond Document, the Trustee shall receive an opinion of Bond Counsel to the effect that such Supplemental Trust Agreement or amendment to a Bond Document has been duly and lawfully entered into by the Commission in accordance with the provisions of this Trust Agreement, is authorized or permitted by this Trust Agreement, and is valid and binding upon the Commission, will not be materially adverse to the interests of the Registered Owners and will not, in and of itself, cause the interest on any of the Tax-Exempt Bonds to be includible in gross income for federal income tax purposes.

(c) Unless the Management Agreement has been terminated, Manager's prior written consent shall be required to any Supplemental Trust Agreement or amendment or other modification to a Bond Document which is in contravention of the rights of Manager contained in this Trust Agreement or in any other Bond Document, or which adversely affects or could adversely affect, modify or otherwise change any of Manager's rights, recourses, remedies, entitlements, benefits, liabilities, burdens, obligations or other agreements under this Trust Agreement, the Cash Management Agreement or the Management Agreement, or otherwise.

(d) Copies of all Supplemental Trust Agreements or amendments to Bond Documents shall be given to all Rating Agencies then rating the Series 2018 Bonds.

Section 11.07 Notation on Bonds. Bonds authenticated and 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 Trustee as to such action, and in that case upon demand of the Registered Owner of any Bond Outstanding at such effective date and presentation of such Registered Owner's Bond for the purpose at the Principal Office of the Trustee or other Agent responsible for transferring Bonds or upon any transfer of any Bond Outstanding at such effective date, suitable notation shall be made on such Bond or upon any Bond issued upon any such transfer by the Trustee or other Agent responsible for transferring Bonds as to any such action. If the Trustee shall so determine, new Bonds so modified as directed by the Trustee to conform to such action shall be prepared, authenticated and delivered, and upon demand of the Registered Owner of any Bond Outstanding shall be exchanged, without cost to such Registered Owner, for Bonds Outstanding, upon surrender of such Bonds, for Bonds of the same Series and maturity then Outstanding.

Section 11.08 Mailing. Any provision in this Article for the mailing of a notice or other instrument to Registered Owners shall be fully complied with if it is mailed postage prepaid to

each Registered Owner of Bonds at the address, if any, appearing upon the Register and to the Trustee.

ARTICLE XII MISCELLANEOUS

Section 12.01 Evidence of Signatures of Registered Owners and Ownership of Bonds.

(a) Any request, consent, revocation of consent or other instrument which this Trust Agreement may require or permit to be signed and executed by the Registered Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such Registered Owners in person or by their attorneys appointed in writing. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, shall be sufficient for any purpose of this Trust Agreement (except as otherwise expressly provided in this Trust Agreement) 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:

(i) The fact and date of the execution by any Registered Owner or such Registered Owner's attorney of such instruments may be proved by a guarantee of the signature thereon by a bank or trust company or member of a national securities exchange or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds, that the person signing such request or other instrument acknowledged the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution by an officer of a corporation or association or a member of a partnership, purports to be on behalf of such corporation, association or partnership, such signature guarantee, certificate or affidavit shall also constitute sufficient proof of such officer's or member's authority.

(ii) The amount of Bonds transferable by delivery held by any Person executing any instrument as a Registered Owner, the date of such Person's holding such Bonds, and the numbers and other identification of such Bonds, may be proved by a certificate, which need not be acknowledged or verified, in form satisfactory to the Trustee, executed by the Trustee or by a member of a financial firm or by an officer of a bank, trust company, insurance company or financial corporation or other depository wherever situated, showing at the date mentioned that such person exhibited to such member or officer or had on deposit with such depository the Bonds described in such certificate. Such certificate may be given by a member of a financial firm or by an officer of any bank, trust company, insurance company or financial corporation or depository with respect to Bonds owned by it, if acceptable to the Trustee. In addition to the foregoing provisions, the Trustee may from time to time make such reasonable regulations as it may deem advisable permitting other proof of holding of Bonds transferable by delivery.

(b) The ownership of Bonds and the amount, numbers and other identification, and date of holding the same shall be provided by the Registrar.

(c) Any request or consent by the Registered Owner of any Bond shall bind all future Registered Owners of such Bond in respect of anything done or suffered to be done by the Commission or any Agent in accordance herewith.

(d) In determining whether the Registered Owners of the requisite percentage of the Series of Bonds have been met for any request, consent, approval or other action required under this Trust Agreement from such Registered Owners, such requisite percentage shall be based upon the principal amount of all of the Bonds of such Series then Outstanding, excluding any Bonds then registered in the name of the Commission and the City.

Section 12.02 Money Held for Particular Bonds. Subject to the provisions of Section 12.03, the amounts held by the Trustee for the payment of the interest or principal or Redemption Price due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Registered Owners of the Bonds entitled thereto.

Section 12.03 Failure to Present Bonds. Notwithstanding anything to the contrary in this Trust Agreement, but subject to any applicable escheat or unclaimed property laws of the State, any money held by an Agent in trust for the payment and discharge of any of the Bonds which remain unclaimed for such period of time, after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, that the Registered Owner thereof shall no longer be able to enforce the payment thereof, the Agent shall at the Request of the Commission received at least forty-five (45) days prior to the expiration and/or running of any applicable escheat or unclaimed property laws, pay such money to the Commission as its absolute property and free from trust, and the Agent shall thereupon be released and discharged with respect thereto and the Registered Owners shall look only to the Commission for the payment of such Bonds; provided, that before being required to make any such payment to the Commission, the Agent shall, at the Direction and expense of the Commission, cause to be mailed to the Registered Owners of the Bonds entitled to such money, a notice that such money remains unclaimed and that, after a date named in said notice at the Commission's Direction, which date shall be not less than thirty (30) days after the date of the mailing of such notice, the balance of such money then unclaimed will be returned to the Commission.

Section 12.04 Filing of Security Instruments. The Commission hereby covenants that it will cause to be filed all documents, security instruments and financing statements as they may reasonably deem necessary to protect and maintain in force the lien and pledge of, and the security interests created by, this Trust Agreement. Without limiting the generality of the foregoing, the Commission shall execute and file with County of San Francisco and with the Secretary of State of the State financing statements meeting the requirements of the Uniform Commercial Code of California with respect to the Available Revenues, the Lockbox Fund and the other Funds, Accounts, properties and interests therein comprising the Revenues and other assets pledged under this Trust Agreement. The Trustee and the Commission shall execute and file with County of San Francisco and the Secretary of State of the State such financing or continuation statements or other documents as in the opinion of counsel to the Commission may be necessary to maintain the perfection of the lien hereof. Within ten (10) days after any filing required by this Section (other than in connection with the issuance of the Series 2018 Bonds issued under this Trust Agreement), the Commission shall deliver to the Trustee a letter of counsel to the Commission stating that such filing has been accomplished and setting forth the particulars thereof. Not more than six months nor less than one month prior to each fifth anniversary of the date of delivery of the Series 2018 Bonds under this Trust Agreement (or such other date on which financing statements will expire), the Commission shall deliver to the Trustee a letter of such counsel, addressed to the Trustee,

stating that no recording or filing (including any re-filing) of any instrument is necessary during the five-year period immediately succeeding such fifth anniversary date or expiration date in order to comply with this Section or, if such recording or filing is necessary, setting forth the requirements to be met and promptly thereafter shall deliver to the Trustee an opinion of such counsel to the Commission to the effect that they have been met. If the Commission fails to deliver such opinion of counsel within such period, the Trustee shall notify the Registered Owners and shall file such continuation statements and such other instruments as are required in order to protect and maintain in force the lien and pledge of, and the security interest created by, this Trust Agreement and the Bond Documents.

Section 12.05 Parties Interested Herein. Nothing in this Trust Agreement or any Supplemental Trust Agreement expressed or implied is intended or shall be construed to confer upon, or to give to, any person, other than the Commission, the Trustee and the Registered Owners, any right, remedy or claim under or by reason of this Trust Agreement or any Supplemental Trust Agreement or any covenant, condition or stipulation hereof or thereof; and all the covenants, stipulations, promises and agreements in this Trust Agreement and each Supplemental Trust Agreement contained by and on behalf of the Commission shall be for the sole and exclusive benefit of the Commission, the Trustee and the Registered Owners thereunto appertaining; provided, that to the extent that this Trust Agreement confers upon or gives or grants to Manager or the Design-Builder any right or claim under or by reason of this Trust Agreement, Manager and the Design-Builder are hereby expressly recognized as being third-party beneficiaries under this Trust Agreement and, as third-party beneficiaries of this Trust Agreement, shall have all rights, remedies and recourses available as if they were parties to and signatories of this Trust Agreement, including the right by mandamus or other suit, action or proceeding at law or in equity to require the Trustee or the Commission to perform its covenants, representations, duties, obligations and other agreements with respect to Manager or the Design-Builder under this Trust Agreement, the Cash Management Agreement, the Management Agreement or the Development Agreements; by action or suit in equity to enjoin any omissions, acts or things which may be unlawful or in violation of any of the rights of Manager or the Design-Builder; and take such other steps to protect and enforce their rights whether by action, suit or proceeding in aid of the execution of any power granted in this Trust Agreement or for the enforcement of any other appropriate legal or equitable remedy, including an action for specific performance. No remedy conferred upon or reserved to Manager or the Design-Builder in this Trust Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Trust Agreement, under the Cash Management Agreement, the Management Agreement, the Development Agreements or the other Principal Transaction Documents now or hereafter existing at law or in equity or by statute. The parties to this Trust Agreement acknowledge and agree that the inclusion of the aforesaid third party beneficiary rights conferred to Manager and Design-Builder under this Trust Agreement and the intentions of the parties to this Trust Agreement to permit and grant same are a material inducement to Manager's agreement to permit this Trust Agreement to control in the event of any inconsistencies between it and the Cash Management Agreement, to Manager's agreement to enter into the Cash Management Agreement and the Management Agreement and to the Design-Builder's agreement to permit this Trust Agreement to control in the event of any inconsistencies between it and the Development Agreements and to enter into the Development Agreements.

Section 12.06 No Recourse on the Bonds. No recourse shall be had for the payment of the principal or Redemption Price of or interest on the Bonds or for any claim based thereon or for any other obligation under this Trust Agreement or on any Supplemental Trust Agreement against any officer or employee of the Commission or the Trustee or any person executing or authenticating the Bonds.

Section 12.07 No Individual Liability. NOTWITHSTANDING ANY OTHER PROVISIONS OF OR INFERENCES IN THIS TRUST AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT, NO COVENANT OR AGREEMENT CONTAINED IN THE BONDS, THIS TRUST AGREEMENT OR ANY SUPPLEMENTAL TRUST AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT SHALL BE DEEMED TO BE THE COVENANT OR AGREEMENT OF ANY MEMBER OF THE BOARD OR ANY OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF THE COMMISSION OR THE TRUSTEE, AND NEITHER THE OFFICERS, AGENTS, EMPLOYEES OR REPRESENTATIVES OF THE COMMISSION OR THE TRUSTEE NOR ANY PERSON EXECUTING OR AUTHENTICATING THE BONDS SHALL BE PERSONALLY LIABLE THEREON OR BE SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE THEREOF, WHETHER BY VIRTUE OF ANY CONSTITUTIONAL PROVISION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING EXPRESSLY RELEASED AND WAIVED AS A CONDITION OF AND IN CONSIDERATION FOR THE EXECUTION OF THIS TRUST AGREEMENT, ANY SUPPLEMENTAL TRUST AGREEMENT AND THE ISSUANCE OF THE BONDS.

Section 12.08 Trust Agreement and Supplemental Trust Agreements to Constitute Contracts. In consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued under this Trust Agreement by those who shall hold the same from time to time, this Trust Agreement and each Supplemental Trust Agreement shall be deemed to be and shall constitute a contract among the Commission, the Trustee and the Registered Owners, and as provided in Section 12.05, Manager and the Design-Builder shall be considered third-party beneficiaries of this Trust Agreement and each Supplemental Trust Agreement to the extent set forth in such Section 12.05; and the pledge made in this Trust Agreement and the covenants and agreements in this Trust Agreement to be performed by or on behalf of the Commission shall be for the equal benefit, protection and security of the Registered Owners of any and all of the Bonds, all of which, regardless of the time or times of their authentication and delivery or maturity, shall be of equal rank within preference, priority or distinction of any of the Bonds over any other thereof, except as otherwise provided in or permitted by this Trust Agreement or Supplemental Trust Agreement.

Section 12.09 Notice. Any notice, demand, direction, request or other instrument authorized or required by this Trust Agreement to be given to or filed with the Commission, the City, the Trustee, the Design-Builder or Manager shall be deemed to have been given only upon receipt. Any notice shall be sent by registered or certified mail or by overnight delivery, postage prepaid, to the address specified below or to such other address as may be designated in writing by the parties:

Commission: San Francisco International Airport
International Terminal, 5th Floor

P.O. Box 8097
San Francisco, California 94128
Attention: Anwar Elgonemy
Hotel & Special Projects
Director
Telephone: (650) 821-5804
Facsimile: (650) 821-5005

With a copy to: San Francisco International Airport
P.O. Box 8097
San Francisco, California 94128
Attention: Ronda Chu
Capital Finance Director
Telephone: (650) 821-2823
Facsimile: (650) 821-5005

With a copy to: San Francisco International Airport
Legal Division
International Terminal, 5th Floor
San Francisco, California 94128
Attention: Sheryl L. Bregman
Airport General Counsel
Telephone: (650) 821-5083
Facsimile: (650) 821-5086

City Treasurer: Office of the Treasurer and Tax Collector
City and County of San Francisco
Attn: Treasury Accounting and Banking Section
City Hall – Room 140
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Trustee: U.S. Bank National Association
Global Corporate Trust Services
One California Street, Suite 1000
San Francisco, California 94111
Attention: Andrew Fung
Vice President
Telephone: (415) 677-3593
Facsimile: (415) 677-3769

Design-Builder: Webcor Construction LP dba Webcor Builders
207 King Street
San Francisco, California 94107
Attention: Dave Zarubin, Project Manager
Telephone: (415) 978-1005
Email: davez@webcor.com

Manager: Hyatt Corporation
150 North Riverside Plaza
Chicago, Illinois 60606
Attention: General Counsel
Telephone: (312) 780-5527
Facsimile: (312) 780-5284

Section 12.10 Opinion of Bond Counsel. Notwithstanding anything to the contrary in this Trust Agreement, any requirement in this Trust Agreement to obtain an Opinion of Bond Counsel to the effect that a specified action will not, in and of itself, cause the interest on any of the Tax-Exempt Bonds to become includable in gross income for federal income tax purposes shall only be required if any Tax-Exempt Bonds are then Outstanding.

Section 12.11 Effect of Purchase of Bonds. No purchase of Bonds pursuant to this Trust Agreement shall be deemed to be a payment or redemption of such Bonds or any portion thereof and such purchase shall not operate to extinguish or discharge the indebtedness evidenced by such Bonds, unless such Bonds are submitted to the Trustee for cancellation.

Section 12.12 Contracting Provisions. The Trustee agrees to observe and perform the covenants set forth in Exhibit J to this Trust Agreement, which are incorporated in this Trust Agreement by this reference.

Section 12.13 Governing Law. This Trust Agreement and each Supplemental Trust Agreement shall be governed in all respects, including validity, interpretation and effect, by, and shall be enforceable in accordance with, the laws of the State without regard to conflict of laws provisions.

Section 12.14 Severability of Invalid Provisions. If any one or more of the covenants or agreements provided in this Trust Agreement or any Supplemental Trust Agreement on the part of the Commission or the Trustee to be performed shall be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Trust Agreement or any Supplemental Trust Agreement.

Section 12.15 Successors. Whenever in this Trust Agreement or any Supplemental Trust Agreement the Commission or the Trustee is named or referred to, it shall be deemed to include any entity succeeding to the principal functions and powers of the Commission or the Trustee, as appropriate, and all the covenants and agreements in this Trust Agreement and each Supplemental Trust Agreement by or on behalf of the Commission or the Trustee shall bind and inure to the benefit of said successor whether so expressed or not.

Section 12.16 Business Days. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Trust Agreement, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Trust Agreement, and no interest shall accrue for the period after such nominal date.

Section 12.17 Execution in Several Counterparts. This Trust Agreement may be simultaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

[EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the Commission and the Trustee have caused this Trust Agreement to be executed and sealed on their behalf by their duly authorized representatives, all as of the day and year first written above.

**AIRPORT COMMISSION OF THE CITY
AND COUNTY OF SAN FRANCISCO**

By: _____
Ivar C. Satero
Airport Director

Approved as to form:
DENNIS J. HERRERA
City Attorney

By: _____
Brooke D. Abola
Deputy City Attorney

U.S. BANK NATIONAL ASSOCIATION

By: _____
Its: _____

EXHIBIT A

DESCRIPTION OF HOTEL

The Hotel is anticipated to include the following:

- 1) 351 soundproofed guest rooms (including 22 suites);
- 2) 15,167 net square feet of meeting space, including:
 - (a) 5,879 square-foot grand ballroom;
 - (b) 2,645 square-foot junior ballroom;
 - (c) Nine (9) meeting rooms (total of 6,058 square feet);
 - (d) One (1) boardrooms (total of 585 square feet); and
- 3) Grand Club (with 16-seat dining room);
- 4) 102-seat three-meal restaurant;
- 5) 13-seat main bar and 26-seat lounge;
- 6) “Grab & go” market with 9 seats;
- 7) 24-hour in-room dining;
- 8) 1,500 square-foot fitness center;
- 9) Massage treatment room;
- 10) Yoga room;
- 11) 215-space surface parking lot; and
- 12) Other agreed-upon facilities and amenities.

EXHIBIT B

FORM OF AMENDED AND RESTATED SERIES 2018 BONDS

REGISTERED

REGISTERED

No. RA-1

\$260,000,000

**AMENDED AND RESTATED AIRPORT COMMISSION OF THE CITY AND COUNTY
OF SAN FRANCISCO
SPECIAL FACILITY REVENUE BONDS (SAN FRANCISCO INTERNATIONAL
AIRPORT HOTEL), SERIES 2018**

THE PAYMENT OBLIGATIONS OF THE COMMISSION UNDER THE TRUST AGREEMENT AND WITH RESPECT TO THE SERIES 2018 BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE COMMISSION PAYABLE SOLELY FROM THE TOTAL OPERATING REVENUES OF THE HOTEL, AMOUNTS HELD BY THE TRUSTEE PURSUANT TO THE TRUST AGREEMENT AND AVAILABLE PROCEEDS OF THE SERIES 2018 BONDS AS PROVIDED IN THE TRUST AGREEMENT. THE SERIES 2018 BONDS SHALL NOT IN ANY MANNER OR TO ANY EXTENT CONSTITUTE GENERAL OBLIGATIONS OF THE COMMISSION OR THE CITY AND COUNTY OF SAN FRANCISCO. THE SERIES 2018 BONDS ARE NOT A CHARGE UPON THE REVENUES OR GENERAL FUND OF THE COMMISSION OR THE CITY AND COUNTY OF SAN FRANCISCO OR UPON ANY MONEYS OR OTHER PROPERTY OF THE COMMISSION OR THE CITY AND COUNTY OF SAN FRANCISCO OTHER THAN THE TOTAL OPERATING REVENUES OF THE HOTEL, AMOUNTS HELD BY THE TRUSTEE PURSUANT TO THE TRUST AGREEMENT AND AVAILABLE PROCEEDS OF THE SERIES 2018 BONDS. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY AND COUNTY OF SAN FRANCISCO ARE PLEDGED TO THE PAYMENT OF THE SERIES 2018 BONDS. THE SERIES 2018 BONDS ARE NOT SECURED BY A LEGAL OR EQUITABLE PLEDGE OF, OR CHARGE, LIEN, OR ENCUMBRANCE UPON, ANY OF THE PROPERTY OF THE COMMISSION OR OF THE CITY AND COUNTY OF SAN FRANCISCO OR ANY OF ITS OR THEIR INCOME, REVENUES OR RECEIPTS, EXCEPT TOTAL OPERATING REVENUES OF THE HOTEL.

Maturity Date	Dated Date	CUSIP No.
_____ 1, 20____	June __, 2018	N/A

REGISTERED OWNER:

PRINCIPAL AMOUNT: Two Hundred and Sixty Million Dollars

The Airport Commission of the City and County of San Francisco (the "Commission"), for value received, hereby promises to pay upon surrender hereof at the designated corporate trust

office of U.S. Bank National Association, or any successor thereto (the “Trustee”), solely from the sources and as herein and in the Trust Agreement provided and permitted, to the Registered Owner hereof, or the registered assigns or legal representatives, the principal amount stated above on the maturity date stated above, subject to prior redemption as provided herein, and to pay, solely from such sources, interest hereon semiannually on October 1, 2018, April 1, 2019, October 1, 2019, April 1, 2020, and thereafter, April 1 and October 1 of each year, commencing on October 1, 2023 (each, an “Interest Payment Date”), at the Interest Rates and for the periods stated below.

Dates	Interest Rate
	%

Interest is payable on each Interest Payment Date (1) by check or draft mailed on such date to the Registered Owner hereof at such Registered Owner’s address as it appears on the Register, as defined in the Trust Agreement, as hereafter defined, as of the close of business on the 15th day of the calendar month (whether or not a Business Day) preceding such Interest Payment Date (the “Record Date”), or (2) by wire transfer in accordance with a written notice and completed wire instructions for a wire transfer address in the United States provided by the Registered Owner hereof to the Trustee not less than fifteen (15) days prior to such Interest Payment Date (which notice may provide that it will remain in effect with respect to subsequent Interest Payment Dates unless and until changed or revoked by subsequent notice); provided, that such wire transfer shall only be made for a registered owner of \$1,000,000 or more in aggregate principal amount of the Series 2018 Bonds as of the close of business on the Record Date for such Interest Payment Date. Notwithstanding the foregoing, the Record Date for defaulted interest shall be the fifth (5th) day preceding payment thereof. This Series 2018 Bond shall be payable as to principal and Redemption Price, as defined in the Trust Agreement, and interest in any 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.

This Series 2018 Bond is one of an issue of \$260,000,000 Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel), Series 2018 (the “Series 2018 Bonds”).

This Series 2018 Bond and the premium, if any, and the interest hereon are limited obligations of the Commission and are payable from the Revenues, as defined in the Trust Agreement, including the Available Revenues, as defined in the Trust Agreement, and other assets pledged under the Trust Agreement, all in accordance with the Trust Agreement. Upon deposit of Available Revenues with the Trustee pursuant to the Trust Agreement, such Revenues are pledged to the payment of the Series 2018 Bonds to the extent and as provided in the Trust Agreement.

The Series 2018 Bonds are issued under an Amended and Restated Trust Agreement dated as of [_____] 1, 2020 (as amended, supplemented or otherwise modified from time to time, the “Trust Agreement”), between the Commission and the Trustee. Reference is hereby made to the Trust Agreement for a description of the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Commission, the rights of the Registered Owners, as defined in the Trust Agreement, of the Series 2018 Bonds and the terms

upon which the Series 2018 Bonds are issued and secured. Additional Bonds ranking on parity with the Series 2018 Bonds may be issued on the terms provided in the Trust Agreement. The Series 2018 Bonds and all Additional Bonds ranking on a parity with the Series 2018 Bonds are collectively referred to as the “Bonds.”

The Series 2018 Bonds are subject to redemption in the manner provided in the Trust Agreement.

No Registered Owner of any Series 2018 Bond shall have any right to institute any suit, action or proceedings at law or in equity for the appointment of a receiver or for any other remedy under the Trust Agreement or by reason thereof, except to the extent and in the circumstances permitted by the Trust Agreement.

The Commission and the Trustee may deem and treat the person in whose name this Series 2018 Bond shall be registered in the Register as the absolute owner of this Series 2018 Bond, whether this Series 2018 Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price of and interest on this Series 2018 Bond and for all other purposes, and all such payments so made to any such Registered Owner or upon the Registered Owner’s order shall be valid and effectual to satisfy and discharge the liability upon this Series 2018 Bond to the extent of the sum or sums so paid, and the Commission and the Trustee shall not be affected by any notice to the contrary. Notwithstanding the foregoing, interest on this Series 2018 Bond, other than interest payable at maturity or on a Redemption Date, shall be paid to the Person, as defined in the Trust Agreement, in whose name this Series 2018 Bond is registered on the Register at the close of business on the Record Date for such Interest Payment Date.

All acts, conditions and things required to happen, exist or be performed precedent to and in the issuance of this Series 2018 Bond have happened, exist and have been performed.

This Series 2018 Bond shall not be valid or entitled to any security or benefit under the Trust Agreement until the Trustee shall have manually executed the Certificate of Authentication appearing hereon and inserted the date of authentication hereon.

IN WITNESS WHEREOF, the Airport Commission of the City and County of San Francisco has caused this Series 2018 Bond to be signed by the manual or facsimile signature of its Authorized Commission Representative and attested to by the manual or facsimile signature of its [Secretary][Assistant Secretary] on this _____ day of _____, 2020.

AIRPORT COMMISSION OF THE CITY AND
COUNTY OF SAN FRANCISCO

By: _____
Authorized Commission Representative

Attest:

By: _____
[Secretary][Assistant
Secretary]

CERTIFICATE OF AUTHENTICATION

This Series 2018 Bond is one of the Series 2018 Bonds of the issue described in the within-mentioned Trust Agreement.

Dated: [_____] __, 2020

U.S. BANK NATIONAL ASSOCIATION
as Trustee

By: _____
Authorized Signatory

ASSIGNMENT

For value received the undersigned do(es) hereby sell, assign and transfer unto _____ the within-mentioned Series 2018 Bond and hereby irrevocably constitute(s) and appoint(s) _____ attorney to transfer the same on the registration books maintained by the Commission with full power of substitution in the premises.

Dated: _____

Note: The signature(s) to this Assignment must correspond with the Registered Owner of the within Series 2018 Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

Social Security Number, Taxpayer
Identification Number or Other
Identifying Number of Assignee:

NOTICE: Signature must be guaranteed by a member firm of the New York Stock Exchange, the National Association of Securities Dealers or a commercial bank or trust company.

EXHIBIT C
[RESERVED]

EXHIBIT D

FORM OF PRE-OPENING EXPENSES ACCOUNT REQUEST REQUISITION

PRE-OPENING EXPENSES ACCOUNT

REQUEST NO. _____

This request is being delivered to U.S. Bank National Association, as trustee (the “Trustee”) under the Amended and Restated Trust Agreement, dated as of [_____] 1, 2020 (as amended, supplemented or modified from time to time, the “Trust Agreement”), between the Airport Commission of the City and County of San Francisco (the “Commission”), and the Trustee pursuant to Section 5.05 of the Trust Agreement. The Trustee is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Trust Agreement.

Pursuant to Section 5.05 of the Trust Agreement, you are hereby authorized and directed to disburse from the Pre-Opening Expenses Account the amounts set forth in Appendix I attached hereto to the persons named therein in payment of expenditures permitted to be paid from the Pre-Opening Expenses Account pursuant to said Section 5.05 of the Trust Agreement. The total amount to be disbursed pursuant to this request is \$[_____].

Hyatt Corporation (the “Pre-Opening Services Manager”) hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the Pre-Opening Expenses Account in accordance with the Pre-Opening Budget, (3) no part of any such amounts shall be applied to any item that has been previously paid from the Pre-Opening Expenses Account or any other Fund or Account, (4) all conditions precedent to such disbursements have been complied with and satisfied, and (5) all consents, if any, required in connection with the submission hereof have been obtained and are attached hereto. The Pre-Opening Services Agreement has not been terminated.

Dated: _____

HYATT CORPORATION,
as Pre-Opening Services Manager

By: _____

Name: _____

Title: _____

APPENDIX I
DISBURSEMENTS

To

Amount

EXHIBIT E

FORM OF TAXES AND INSURANCE FUND REQUISITION

TAXES AND INSURANCE FUND

REQUEST NO. ____

This request is being delivered to U.S. Bank National Association, as trustee (the "Trustee") under the Amended and Restated Trust Agreement, dated as of [_____] 1, 2020 (as amended, supplemented or modified from time to time, the "Trust Agreement"), between the Airport Commission of the City and County of San Francisco (the "Commission") and the Trustee pursuant to Section 7(a) of the Cash Management and Lockbox Agreement, dated as of June 1, 2018 (as amended, supplemented or modified from time to time, the "Cash Management Agreement"), among the Depository Bank, the Trustee, the Commission and Hyatt Corporation (the "Manager"). The Trustee is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Trust Agreement or the Cash Management Agreement.

Pursuant to Section 7(a) of the Cash Management Agreement and Section 5.08 of the Trust Agreement, you are hereby authorized and directed to disburse from the Taxes and Insurance Fund the [Taxes/Insurance Costs] set forth in Appendix I attached hereto to the persons named therein in payment of [taxes/insurance premiums] due and payable with respect to the ownership and operation of the Hotel. The total amount to be disbursed pursuant to this request is \$[_____].

The [Commission/Manager] hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the Taxes and Insurance Fund, (3) no part of any such amounts shall be applied to any item which has been previously paid from the Taxes and Insurance Fund or any other Fund or Account, (4) all conditions precedent to such disbursements have been complied with and satisfied and (5) all consents, if any, required in connection with the submission hereof, have been obtained and are attached hereto. The Management Agreement has not been terminated.

Dated: _____

[HYATT CORPORATION]

[By: _____
Name: _____
Title: _____]

**[AIRPORT COMMISSION OF THE CITY
AND COUNTY OF SAN FRANCISCO]**

By: _____
Name: _____
Title: _____]

APPENDIX I
DISBURSEMENTS

To

Amount

EXHIBIT F

FORM OF WORKING CAPITAL RESERVE FUND REQUEST

WORKING CAPITAL RESERVE FUND

REQUEST NO. ____

This request is being delivered to U.S. Bank National Association, as trustee (the "Trustee") under the Amended and Restated Trust Agreement, dated as of [_____] 1, 2020 (as amended, supplemented or modified from time to time, the "Trust Agreement"), between the Airport Commission of the City and County of San Francisco (the "Commission") and the Trustee pursuant to Section 7(b) of the Cash Management and Lockbox Agreement, dated as of June 1, 2018 (as amended, supplemented or modified from time to time, the "Cash Management Agreement"), among the Depository Bank, the Trustee, the Commission and Hyatt Corporation (the "Manager"). The Trustee is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Trust Agreement or the Cash Management Agreement.

Pursuant to Section 7(b) of the Cash Management Agreement and Section 5.15 of the Trust Agreement, you are hereby authorized and directed to disburse from the Working Capital Reserve Fund the amounts set forth in Appendix I attached hereto to the persons named therein in payment of expenditures permitted to be paid from the Working Capital Reserve Fund pursuant to Section 7(b) of the Cash Management Agreement and Section 5.15 of the Trust Agreement. The total amount to be disbursed pursuant to this request is \$[_____].

Manager hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the Working Capital Reserve Fund, (3) no part of any such amounts shall be applied to any item which has been previously paid from the Working Capital Reserve Fund or any other Fund or Account, (4) all conditions precedent to such disbursements have been complied with and satisfied and (5) all consents, if any, required in connection with the submission hereof have been obtained and are attached hereto. Manager further certifies that the Management Agreement has not been terminated.

Dated: _____

HYATT CORPORATION,
as Manager

By: _____
Name: _____
Title: _____

APPENDIX I
DISBURSEMENTS

To

Amount

EXHIBIT G

FORM OF FF&E RESERVE FUND REQUEST

FF&E RESERVE FUND

REQUEST NO. ____

This request is being delivered to U.S. Bank National Association, as trustee (the “Trustee”) under the Amended and Restated Trust Agreement, dated as of [_____] 1, 2020 (as amended, supplemented or modified from time to time, the “Trust Agreement”), between the Airport Commission of the City and County of San Francisco (the “Commission”) and the Trustee pursuant to Section 7(c) of the Cash Management and Lockbox Agreement, dated as of June 1, 2018 (as amended, supplemented or modified from time to time, the “Cash Management Agreement”), among the Depository Bank, the Trustee, the Commission and Hyatt Corporation (the “Manager”). The Trustee is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Trust Agreement or the Cash Management Agreement.

Pursuant to Section 7(c) of the Cash Management Agreement and Section 5.16 of the Trust Agreement, you are hereby authorized and directed to disburse from the FF&E Reserve Fund the amounts set forth in Appendix I attached hereto to the persons named therein in payment of Hotel expenditures permitted to be paid from the FF&E Reserve Fund under Section 7(c) of the Cash Management Agreement and Section 5.16 of the Trust Agreement. The total amount to be disbursed pursuant to this Request from the FF&E Reserve Fund is \$[_____].

Manager hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the FF&E Reserve Fund, (3) no part of any such amounts shall be applied to any item which has been previously paid from the FF&E Reserve Fund or any other Fund or Account, (4) all conditions precedent to such disbursements have been complied with and satisfied and (5) all consents, if any, required in connection with the submission hereof have been obtained and are attached hereto. Manager further certifies that the Management Agreement has not been terminated.

Dated: _____

HYATT CORPORATION,
as Manager

By: _____
Name: _____
Title: _____

APPENDIX I
DISBURSEMENTS

To

Amount

EXHIBIT H

FORM OF CAPITAL RESERVE FUND REQUEST

CAPITAL RESERVE FUND

REQUEST NO. ____

This request is being delivered to U.S. Bank National Association, as trustee (the “Trustee”) under the Amended and Restated Trust Agreement, dated as of [_____] 1, 2020 (as amended, supplemented or modified from time to time, the “Trust Agreement”), between the Airport Commission of the City and County of San Francisco (the “Commission”), and the Trustee pursuant to Section 7(c) of the Cash Management and Lockbox Agreement, dated as of June 1, 2018 (as amended, supplemented or modified from time to time, the “Cash Management Agreement”), among the Depository Bank, the Trustee, the Commission and Hyatt Corporation (the “Manager”). The Trustee is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Trust Agreement or the Cash Management Agreement.

Pursuant to Section 7(c) of the Cash Management Agreement and Section 5.17 of the Trust Agreement, you are hereby authorized and directed to disburse from the Capital Reserve Fund the amounts set forth in Appendix I attached hereto to the persons named therein in payment of Hotel expenditures permitted to be paid from the Capital Reserve Fund under Section 7(c) of the Cash Management Agreement and Section 5.17 of the Trust Agreement. The total amount to be disbursed pursuant to this Request from the Capital Reserve Fund is \$[_____].

Manager hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the Capital Reserve Fund, (3) no part of any such amounts shall be applied to any item which has been previously paid from the Capital Reserve Fund or any other Fund or Account, (4) all conditions precedent to such disbursements have been complied with and satisfied and (5) all consents, if any, required in connection with the submission hereof have been obtained and are attached hereto. Manager further certifies that the Management Agreement has not been terminated.

Dated: _____

HYATT CORPORATION,
as Manager

By: _____
Name: _____
Title: _____

APPENDIX I
DISBURSEMENTS

To

Amount

EXHIBIT I

FORM OF REVENUE STABILIZATION FUND REQUEST

REVENUE STABILIZATION FUND

REQUEST NO. ____

This request is being delivered to U.S. Bank National Association, as trustee (the “Trustee”) under the Amended and Restated Trust Agreement, dated as of [_____] 1, 2020 (the “Trust Agreement”), between the Airport Commission of the City and County of San Francisco (the “Commission”) and the Trustee pursuant to Section 7(d) of the Cash Management and Lockbox Agreement, dated as of June 1, 2018 (as amended, supplemented or modified from time to time, the “Cash Management Agreement”), among the Depository Bank, the Trustee, the Commission and Hyatt Corporation (the “Manager”). The Trustee is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Trust Agreement or the Cash Management Agreement.

Pursuant to Section 7(d) of the Cash Management Agreement and Section 5.18 of the Trust Agreement, you are hereby authorized and directed to disburse from the Revenue Stabilization Fund the amounts set forth in Appendix I attached hereto to the persons named therein in payment of expenditures permitted to be paid from the Revenue Stabilization Fund pursuant to Section 7(d) of the Cash Management Agreement and Section 5.18 of the Trust Agreement. The total amount to be disbursed pursuant to this request is \$[_____].

[Manager/the Commission] hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the Revenue Stabilization Fund, (3) no part of any such amounts shall be applied to any item which has been previously paid from the Revenue Stabilization Fund or any other Fund or Account, (4) all conditions precedent to such disbursements have been compiled with and satisfied and (5) all consents, if any, required in connection with the submission hereof, have been obtained and are attached hereto. [Manager further certifies that the Management Agreement has not been terminated.]

HYATT CORPORATION

By:

Name:

Title:

**AIRPORT COMMISSION OF THE CITY
AND COUNTY OF SAN FRANCISCO**

By:

Name:

Title:

APPENDIX I
DISBURSEMENTS

To

Amount

EXHIBIT J

MANDATORY CONTRACTING PROVISIONS

1. Nondiscrimination Requirements

a. Nondiscrimination in Contracts

Trustee shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Trustee shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. 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. Trustee does not as of the date of this Agreement, and will not during the term of this Agreement, 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.

2. Minimum Compensation Ordinance

Trustee shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P. Trustee is subject to the enforcement and penalty provisions in Chapter 12P. By signing and executing this Agreement, Trustee certifies that it is in compliance with Chapter 12P.

3. Health Care Accountability Ordinance

Trustee shall comply with San Francisco Administrative Code Chapter 12Q. Trustee shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3. Trustee is subject to the enforcement and penalty provisions in Chapter 12Q.

4. Conflict of Interest

By executing this Agreement, 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 Agreement.

5. Airport Intellectual Property

Pursuant to Resolution No. 01-0118, adopted by the Airport Commission on April 18, 2001, the Airport Commission affirmed that it will not tolerate the unauthorized use of its intellectual property, including the SFO logo, CADD designs, and copyrighted publications. All proposers, bidders, contractors, tenants, permittees, and others doing business with the Commission at the Airport (including subcontractors and subtenants) may not use the Airport intellectual property, or any intellectual property confusingly similar to Commission intellectual property, without the Airport Director's prior consent.

6. Nondisclosure of Private, Proprietary or Confidential Information

If this Agreement requires City to disclose "Private Information" to Trustee within the meaning of San Francisco Administrative Code Chapter 12M, Trustee and any subcontractor shall use such information consistent with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the services under this Agreement. Trustee is subject to the enforcement and penalty provisions in Chapter 12M.

In the performance of services under this Agreement, Trustee may have access to City's proprietary or confidential information, the disclosure of which to third parties may damage City. If City discloses proprietary or confidential information to Trustee, such information must be held by Trustee in confidence and used only in performing the Agreement. 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.

7. 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 Agreement. 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.

8. MacBride Principles—Northern Ireland

The provisions of San Francisco Administrative Code §12F are incorporated by this reference and made part of this Agreement. By signing this Agreement, Trustee confirms that Trustee 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.

9. Prohibition on Use of Public Funds for Political Activity

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

10. Tropical Hardwood and Virgin Redwood Ban

Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product.

11. Compliance with Americans with Disabilities Act

Trustee shall provide the services under this Agreement 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.

12. Sunshine Ordinance

Trustee acknowledges that this Agreement and all records related to its formation, Trustee's performance of services under this Agreement, and 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.

13. Limitations on Contributions

By executing this Agreement, 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 Trustee's board of directors; 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 Trustee; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Trustee. 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.

14. Alcohol and Drug-Free Workplace Policy

City reserves the right to deny access to, or require Trustee to remove from, City facilities personnel of any Trustee or subcontractor who City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. 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.

15. Audit and Inspection of Records

Trustee agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement; provided, however, that Trustee shall not be required to provide any of Trustee's confidential, privileged or proprietary information under this Section. Trustee will permit City to audit, examine, and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records, or personnel, and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Trustee shall maintain such data and records in an accessible location and condition for a period of not less than five (5) years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this section.

16. Subcontracting

Trustee may subcontract portions of the services under this Agreement only upon prior written approval of City. Trustee is responsible for its subcontractors throughout the course of the work required to perform the services under this Agreement. In addition to any other provisions required to be incorporated under this Agreement into Subcontracts, all Subcontracts must incorporate the terms of Article 10 "Additional Requirements Incorporated by Reference," unless inapplicable. Neither Party shall, on the basis of this Agreement, contract on behalf of, or in the name of, the other Party. Any agreement made in violation of this provision shall be null and void. City's execution of this Agreement constitutes its approval of the subcontractors listed below.

17. Food Service Waste Reduction Requirements

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.

18. Consideration of Criminal History in Hiring and Employment Decisions

- a. Trustee agrees to comply fully with and be bound by all of the provisions of Chapter 12T, “City Trustee/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 Agreement. The text of the Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. A partial listing of some of Trustee’s obligations under Chapter 12T is set forth in this Section. Trustee is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.
- b. The requirements of Chapter 12T shall only apply to Trustee’s or a subcontractor’s operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, 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 Airport 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.

19. Cooperative Drafting

This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, 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 Agreement.

20. Sugar-Sweetened Beverage Prohibition

[Not applicable – Waiver Obtained.]

21. Laws Incorporated by Reference

The full text of the laws listed in this Exhibit C, including enforcement and penalty provisions, are incorporated into this Agreement by reference. The full text of the San

Francisco Municipal Code provisions incorporated by reference in this Appendix A are available at www.sfgov.org under “Open Gov.”

22. Airport Commission Rules and Regulations

To the extent Trustee is at San Francisco International Airport while performing its obligations under this Agreement, Trustee agrees to comply with the Airport Commission’s Rules and Regulations for the San Francisco International Airport as amended from time to time. A copy of the current Rules and Regulations can be found at: <http://www.flysfo.com/about-sfo/the-organization/rules-and-regulations>.

23. Federal Fair Labor Standards Act

This Agreement incorporates by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. Trustee has full responsibility to monitor compliance to the referenced statute or regulation. Trustee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

24. Occupational Safety and Health Act of 1970

This Agreement incorporates by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Trustee must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Trustee retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Trustee must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

25. Federal Nondiscrimination Requirements

During the performance of this Agreement, Trustee, for itself, its assignees, and successors in interest (hereinafter referred to as “Trustee”) agrees as follows:

- a. **Compliance with Regulations.** Trustee (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
- b. **Nondiscrimination.** Trustee, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Trustee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities,

including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

- c. **Solicitations for Subcontracts.** Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by Trustee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Trustee of Trustee's obligations under this Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
- d. **Information and Reports.** Trustee will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Airport or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Airport or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- e. **Sanctions for Noncompliance.** In the event of a contractor's noncompliance with the Non-discrimination provisions of this Agreement, the Airport will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - (i) Withholding payments to the contractor under the contract until the contractor complies; and/or
 - (ii) Cancelling, terminating, or suspending a contract, in whole or in part.
- f. **Incorporation of Provisions.** Trustee will include the provisions of paragraphs 26 through 30 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Trustee will take action with respect to any subcontract or procurement as the Airport or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Trustee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Trustee may request the Airport to enter into any litigation to protect the interests of the Airport. In addition, Trustee may request the United States to enter into the litigation to protect the interests of the United States.
- g. **Title VI List of Pertinent Nondiscrimination Acts and Authorities.** During the performance of this Agreement, Trustee, for itself, its assignees, and successors in interest (hereinafter referred to as the "Trustee") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38 and the Department of Justice regulations at 28 CFR, parts 35 and 36;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

EXHIBIT K

INSURANCE REQUIREMENTS

The Commission shall maintain or cause to be maintained, and shall pay or cause to be timely paid the premiums for, the following insurance when and as such insurance is available at and on commercially reasonable rates and terms:

1. **Property.** Commencing on the Date of Substantial Completion, property insurance on an all risk policy form, including coverage for the perils of fire, lightning, windstorm, flood, explosion, earthquake, subsidence, aircraft, vehicle damage, smoke, vandalism and malicious mischief and other risks covered by extended coverage endorsements, including water damage and collapse, on the Improvements and contents in an amount equal to the full replacement value thereof, subject to reasonable deductibles not to exceed \$250,000 for any one loss. The replacement value of the Hotel shall be determined from time to time at the written request of the Commission or the Trustee (but not less frequently than once every five (5) years) by the Insurance Consultant.

2. **Builders All-Risk.** During the course of construction of the Hotel, builder's risk insurance in the amount of the full completed value of such construction work, subject to reasonable deductibles per accident or casualty, covering, at a minimum, loss by fire, lightning and removal from the premises endangered by fire and lightning, and other risks covered by the extended coverage endorsement then in use in the State.

3. **Business Interruption.** Business interruption insurance on an all risk policy form, including coverage for business interruption resulting from the perils of fire, windstorm, flood, and accidental damage to or the explosion of boilers, pressure vessels and pipes, electrical apparatus and air conditioning systems, including refrigeration and heating apparatus, and other risks covered by extended coverage endorsements, for full recovery of the Total Operating Revenues of the Hotel for the entire period of any business interruption less charges and expenses that do not continue during such interruption (subject to the terms and conditions of the policy and the policy limit), with limits equal to the sum of (i) Debt Service for the next twelve months, (ii) the Management Fee for the next twelve months, (iii) a reasonable estimate of the Centralized Services Fees and Reimbursable Expenses that will be payable to Manager under this Trust Agreement for the next twelve months, (iv) a reasonable estimate of the Taxes and Insurance Costs for the Hotel during the next twelve months, and (v) a reasonable estimate of the Administrative Expenses during the next twelve months.

4. **Boiler.** Broad form insurance against loss from accidental damage to or the explosion of boilers, pressure vessels and pipes, electrical apparatus and air conditioning systems, including refrigeration and heating apparatus, in an amount equal to the full replacement value of such items; provided, that it shall be in an amount not less than \$1,000,000, subject to reasonable deductibles not exceeding \$250,000 per occurrence.

5. **Commercial General Liability and Automobile Liability.** Commencing on or before Manager places Hotel Personnel on Site, broad form commercial general liability and automobile liability insurance, including coverage for owned, non-owned and leased

automobiles, garage keepers liability, products and completed operations, contractual liability, liquor liability and innkeepers' liability, in an amount not less than \$100,000,000 per occurrence and in the aggregate. This coverage shall be satisfied by any combination of the primary general liability and excess and/or umbrella policies.

6. **Crime.** Comprehensive crime insurance, including coverage for Key Personnel and all Hotel Personnel handling cash or receipts of the Hotel or with access to the funds in the Lockbox Fund, in an amount not less than \$5,000,000.

7. **Terrorism.** Insurance against acts of terrorism.

8. **Workers Compensation and Employer's Liability.** Commencing on or before Manager places Hotel personnel on Site, workers' compensation insurance as required by Applicable Law providing statutory benefits and employers' liability insurance in an amount not less than \$1,000,000 each accident/disease - policy limit/disease - each employee.

9. **Employment Practices.** Commencing on or before Manager places Hotel personnel on Site, employment practices liability insurance, including for employment discrimination, harassment and wrongful discharge, in an amount not less than \$25,000,000 per occurrence and in the aggregate.

10. **Cyber Risks.** Cyber security liability insurance, including for network security, privacy and e-commerce, in an amount not less than \$25,000,000.

11. **Environmental.** Environmental liability insurance, including for pollution, asbestos, lead and under- and above-ground storage tanks, in an amount not less than \$25,000,000.

12. **Other Coverages.** Following the Date of Substantial Completion, such other insurance coverages, if any, in such amounts as customarily carried and insured against by others in connection with the ownership, operation, maintenance and use of facilities of similar size and character to the Hotel.

EXHIBIT L

**FORM OF REQUEST OF THE COMMISSION TO REDEEM BONDS FROM THE
REVENUE STABILIZATION FUND**

REVENUE STABILIZATION FUND

REQUEST NO. ____

This request is being delivered to U.S. Bank National Association, as trustee (the “Trustee”) under the Amended and Restated Trust Agreement, dated as of [_____] 1, 2020 (the “Trust Agreement”), between the Airport Commission of the City and County of San Francisco (the “Commission”) and the Trustee pursuant to Section 5.19(f) of the Trust Agreement. The Trustee is hereby directed to use \$[_____] on deposit in the Revenue Stabilization Fund to redeem \$[_____] principal amount of the Series 2018 Bonds maturing on April 1, 20[___], plus interest accrued thereon, to the redemption date of [redemption date] pursuant to 4.02(a) of the Trust Agreement. This request shall constitute written notice to the Trustee of its election and Direction to redeem such Series 2018 Bonds pursuant to Section 4.02(b) of the Trust Agreement, and is being provided at least 10 days prior to the date on which notice of redemption is required to be given to the Registered Owners of the Series 2018 Bonds to be redeemed or with such shorter period as may be agreed to by the Trustee.

All capitalized terms not otherwise defined herein shall have the meanings given such terms in the Trust Agreement.

Dated: _____

**AIRPORT COMMISSION OF THE CITY
AND COUNTY OF SAN FRANCISCO**

By:

Name:

Title:

EXHIBIT M

FORM OF PURCHASING AGENT ACCOUNT REQUEST

PURCHASING AGENT ACCOUNT

REQUEST NO. ____

This request is being delivered to U.S. Bank National Association, as trustee (the "Trustee") under the Amended and Restated Trust Agreement, dated as of [____] 1, 2020 (as amended, supplemented or modified from time to time, the "Trust Agreement"), between the Airport Commission of the City and County of San Francisco (the "Commission") and the Trustee. Pursuant to Section 5.05(f) of the Trust Agreement, you are hereby authorized and directed to disburse from the Purchasing Agent Account the amounts set forth in Appendix I attached hereto to the persons named therein in payment of FF&E and/or operating supplies and equipment. The total amount to be disbursed pursuant to this Request from the Purchasing Agent Account is \$[_____].

The undersigned Authorized Commission Representative hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the Purchasing Agent Account, (3) no part of any such amounts shall be applied to any item which has been previously paid from the Purchasing Agent Account or any other Fund or Account, (4) all conditions precedent to such disbursements have been complied with and satisfied and (5) all consents, if any, required in connection with the submission hereof have been obtained and are attached hereto.

All capitalized terms not otherwise defined herein shall have the meanings given such terms in the Trust Agreement.

Dated: _____

**AIRPORT COMMISSION OF THE CITY
AND COUNTY OF SAN FRANCISCO**

By:

Name:

Title:

APPENDIX I
DISBURSEMENTS

To

Amount

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **20-0221**

APPROVAL OF AMENDED AND RESTATED TRUST AGREEMENT, RELATING TO \$260,000,000 AGGREGATE PRINCIPAL AMOUNT OF SPECIAL FACILITY REVENUE BONDS (SAN FRANCISCO INTERNATIONAL AIRPORT HOTEL), SERIES 2018, AND RELATED MATTERS

- WHEREAS, on December 3, 1991, by Resolution No. 91-0210 (as previously supplemented and amended, the 1991 Resolution), the Commission provided for the issuance of San Francisco International Airport Second Series Revenue Bonds; and
- WHEREAS, the 1991 Resolution provides for the issuance by the Commission from time to time of its San Francisco International Airport Second Series Revenue Bonds (1991 Resolution Bonds) for any lawful purpose of the Commission; and
- WHEREAS, as part of the implementation of the Airport Master Plan approved by the Commission in 1992, the Commission undertook the development of an On-Airport Hotel owned by the Commission (the Hotel) along with a new AirTrain station to connect the Hotel with the AirTrain system; and
- WHEREAS, on September 22, 2015, by Resolution No. 15-0182, the Commission designated the planned Hotel as a “Special Facility” as defined in the 1991 Resolution and determined that revenues from the Hotel would constitute “Special Facility Revenues” as defined in the 1991 Resolution and would not be included as “Revenues” under the 1991 Resolution, and authorized the issuance of bonds issued by the Commission and secured solely by Hotel revenues (Hotel Special Facility Bonds), and on March 7, 2017, by Resolution No. 17-0045, the Commission increased the maximum aggregate principal amount of the authorized Hotel Special Facility Bonds to \$260,000,000; and
- WHEREAS, on April 3, 2018, by Resolution No. 18-0089, in order to finance the Hotel at the lowest available interest rates, among other reasons, the Commission authorized the sale of 1991 Resolution Bonds to investors and the use of a portion of the proceeds of such 1991 Resolution Bonds to purchase the Hotel Special Facility Bonds, thereby combining the desirable features of 1991 Resolution Bonds and Hotel Special Facility Bonds; and
- WHEREAS, the Board of Supervisors, by Resolution Nos. 433-15 and 269-17, adopted on December 1, 2015 and June 27, 2017, respectively, approved the issuance of the Hotel Special Facility Bonds and the purchase of the Hotel Special Facility Bonds by the Commission using proceeds of 1991 Resolution Bonds; approved the appointment of U.S. Bank National Association, as trustee for the Hotel Special Facility Bonds (the Hotel Bonds Trustee); and authorized the execution and delivery of a Trust Agreement with the Hotel Bonds Trustee (the Hotel Trust Agreement), as well as other certificates and agreements relating to the Hotel Special Facility Bonds; and

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **20-0221**

- WHEREAS, on June 6, 2018, the Commission issued \$260,000,000 aggregate principal amount of Hotel Special Facility Bonds, pursuant to the Hotel Trust Agreement, to finance the Hotel; and
- WHEREAS, on June 6, 2018, the Commission also issued \$276,340,000 aggregate principal amount of 1991 Resolution Bonds, Series 2018B and Series 2018C, to finance the construction of the Hotel and certain related projects; and
- WHEREAS, using a portion of the proceeds of the 1991 Resolution Bonds, the Commission invested in the Hotel Special Facility Bonds by causing the Hotel Special Facility Bonds to be purchased by a separate trust entity created under Delaware law for the purpose of making such purchase, with the Commission as trust beneficiary; and
- WHEREAS, as Hotel Special Facility Bonds investor and trust beneficiary, the Commission has authority to direct The Bank of New York Mellon Trust Company, N.A (BNY Mellon Trust), as trustee of the separate trust entity that is the bondholder of the Hotel Special Facility Bonds, to take actions and give directions to the Hotel Bonds Trustee on the Commission's behalf; and
- WHEREAS, the Hotel opened on October 4, 2019 and has been operating at a loss since the onset of the Coronavirus (COVID-19) pandemic in March 2020 due to substantially reduced guest reservations and event facility bookings; and
- WHEREAS, the Commission, as issuer of the Hotel Special Facility Bonds, did not have sufficient Hotel revenues available to fund the \$3.9 million interest payment due on October 1, 2020 on the Hotel Special Facility Bonds; and
- WHEREAS, on September 15, 2020, by Resolution No. 20-0153, the Commission authorized and, by such authority, the Airport Director executed, an instruction to cause BNY Mellon Trust to instruct the Hotel Bonds Trustee: (1) to temporarily suspend the payment of the interest due on the Hotel Special Facility Bonds due on October 1, 2020, (2) not to make certain related transfers of funds held by the Hotel Bond Trustee pursuant to the Hotel Trust Agreement, (3) not to exercise certain related remedies, with such instruction explicitly acknowledging that there is no waiver of the right to receive the suspended interest payment and that the non-payment of such interest payment and the actions directed in the instruction shall not constitute or result in a default or Event of Default under the Hotel Trust Agreement by the Commission, the Hotel Bonds Trustee or Hyatt Corporation, as manager of the Hotel; and
- WHEREAS, the Commission now desires to amend the Hotel Trust Agreement to reduce Hotel Special Facility Bonds debt service requirements, including lowered interest rates and a retroactive amendment to remove the October 1, 2020 interest payment and to require no debt service set-asides until April 1, 2023; and

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 20-0221

WHEREAS, a form of Amended and Restated Trust Agreement (the Amended Trust Agreement), by and between the Commission and the Hotel Bonds Trustee, has been presented to the Commission and is on file with the Commission Secretary; now, therefore, be it

RESOLVED, that this Commission finds that the above recitals are true and correct; and, be it further

RESOLVED, that this Commission approves the Amended Trust Agreement, and the Airport Director is authorized and directed, for and on behalf of and in the name of the Commission, as issuer of the Hotel Special Facility Bonds, to execute and deliver the Amended Trust Agreement, with such changes as are approved by the Airport Director, in consultation with the City Attorney, evidenced by the execution and delivery of the Amended Trust Agreement in final form; if necessary, amended Hotel Special Facility Bonds shall be executed by the manual or facsimile signature of the President of the Commission and attested by the Secretary of the Commission; and, be it further

RESOLVED, that the Airport Director is authorized and directed, for and on behalf of and in the name of the Commission, as Hotel Special Facility Bonds investor and trust beneficiary, to direct and instruct BNY Mellon Trust, as trustee of the separate trust entity that is bondholder of the Hotel Special Facility Bonds, to consent to and approve the Amended Trust Agreement; and, be it further

RESOLVED, that the Airport Director shall not direct BNY Mellon Trust, as trustee of the separate trust entity that is bondholder of the Hotel Special Facility Bonds, to declare an Event of Default with respect to the Hotel Special Facility Bonds pending execution and delivery of the bondholder consent and the Amended Trust Agreement; and, be it further

RESOLVED, that the Airport Director and the other officers, agents and employees of the Commission are authorized and directed: (1) to execute such documents, agreements, instructions, directions, notices, consents and certificates, including without limitation, conforming amendments to the Cash Management and Lockbox Agreement, dated as of June 1, 2018, between the Commission and U.S. Bank National Association, the Hotel Special Facility Bonds, and the trust agreement with BNY Mellon Trust; and (2) to take such other actions, in consultation with the City Attorney; as may be necessary or desirable to accomplish the purposes set forth in this Resolution and the transactions contemplated by this Resolution; and, be it further

RESOLVED, that the Commission Secretary, for and on behalf of and in the name of the Airport Commission, is authorized and directed to seek the approval of the San Francisco Board of Supervisors of the Amended Trust Agreement.

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 20-0221

ADOPTED by the Airport Commission of the City and County of San Francisco this 1 day of December 2020, by the following vote:


Ayes: 5

Noes: 0

Absent: 0

Approved as to Form:

DENNIS J. HERRERA
City Attorney

By: 
Brooke D. Abola
Deputy City Attorney

I hereby certify that the foregoing resolution was adopted by the Airport Commission
at its meeting of DEC 1 2020


Secretary



San Francisco International Airport

MEMORANDUM

December 1, 2020

TO: AIRPORT COMMISSION
Hon. Larry Mazzola, President
Hon. Eleanor Johns, Vice President
Hon. Richard J. Guggenlime
Hon. Everett A. Hewlett, Jr.
Hon. Malcolm Yeung

20-0221

DEC 1 2020

FROM: Airport Director

SUBJECT: Approval of Amended and Restated Trust Agreement, Relating to \$260,000,000 Aggregate Principal Amount of Special Facility Revenue Bonds (San Francisco International Airport Hotel), Series 2018, and Related Matters

DIRECTOR'S RECOMMENDATION: ADOPT RESOLUTION TO AMEND AND RESTATE TRUST AGREEMENT, RELATING TO \$260,000,000 AGGREGATE PRINCIPAL AMOUNT OF SPECIAL FACILITY REVENUE BONDS (SAN FRANCISCO INTERNATIONAL AIRPORT), SERIES 2018, AND RELATED MATTERS.

Executive Summary

Staff recommends approval of an Amended and Restated Trust Agreement (Amended Trust Agreement) with U.S. Bank National Association (Hotel Bonds Trustee) that will restructure the outstanding Special Facility Revenue Bonds (San Francisco International Airport Hotel), Series 2018 (Hotel Special Facility Bonds). The restructuring will reduce debt costs while the Hotel recovers from the impacts of the COVID-19 pandemic, which has significantly reduced guest occupancy and Hotel revenues. The attached Resolution provides the necessary authorization for the Airport Director to instruct The Bank of New York Mellon Trust Company (BNY Mellon Trust) to consent to and approve the Amended Trust Agreement, in its role as trustee of the trust entity that is bondholder of the Hotel Special Facility Bonds and acts on behalf of the Commission.

The Airport's Financial Advisory Committee reviewed and concurs with the proposed action.

Background

The Commission is both the issuer of the Hotel Special Facility Bonds and the ultimate investor in the Hotel Special Facility Bonds, as well as the owner of the On-Airport Hotel (the Hotel). The Hotel is managed by Hyatt Corporation (Hyatt) pursuant to a competitively-procured Hotel Management Agreement between Hyatt and the Commission.

On June 6, 2018, the Commission issued San Francisco International Airport Second Series Revenue Bonds (1991 Resolution Bonds) to finance construction of the Hotel that are secured by a pledge of Airport "general revenues." The Commission designated the Hotel as a "special facility," which means that Hotel revenues are excluded from Airport revenues pledged to the 1991 Resolution Bonds. Simultaneously, the Commission issued the Hotel Special Facility Bonds in the principal amount of \$260 million and used the proceeds of the

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

THIS PRINT COVERS CALENDAR ITEM NO. 1

LONDON N. BREED MAYOR LARRY MAZZOLA PRESIDENT ELEANOR JOHNS VICE PRESIDENT RICHARD J. GUGGENHIME EVERETT A. HEWLETT, JR. MALCOLM YEUNG IVAR C. SATERO AIRPORT DIRECTOR

1991 Resolution Bonds to purchase the Hotel Special Facility Bonds to finance the Hotel at the lowest available interest rate, among other reasons. Hotel revenues fund interest and principal payments on the Hotel Special Facility Bonds as well as operating costs of the Hotel. The diagram in Attachment 1 illustrates these transactions.

Prior to the onset of the COVID-19 pandemic, the Hotel's operating performance was strong. However, since March 2020, the Hotel has been operating at a loss due to substantially lower guest reservations and event facility bookings. Debt service payments for the Hotel Bonds total \$7.8 million in Fiscal Year (FY) 2020/21. These payments represent 23% of the Hotel's total projected expenses of \$33.9 million for the year. The Hotel's budget projects a total loss of as much as \$11.1 million for FY 2020/21 based upon Hotel revenues of \$22.8 million.

Due to the Hotel's financial position, there were not enough Hotel revenues or reserves to make the full semi-annual interest payment for the Hotel Special Facility Bonds of \$3.9 million due on October 1, 2020. On September 15, 2020, by Resolution No. 20-0153, the Commission authorized the Airport Director to execute an instruction to cause BNY Mellon Trust to instruct the Hotel Bonds Trustee to, in effect, temporarily suspend that interest payment and to forbear and take no action to declare a non-payment event or exercise any related remedies. This action also allowed Staff to consider options to provide additional financial relief to the Hotel and address the nonpayment event, which are reflected in the attached Resolution.

A history of prior Commission and Board of Supervisors (Board) actions regarding the Hotel Special Facility Bonds is set forth in Appendix A.

Proposed Commission Action and Rationale

Staff recommends that the Commission adopt the attached Resolution which would approve the Amended Trust Agreement and authorize the Airport Director to take two actions:

- (1) on behalf of the Commission (as Hotel Special Facility Bonds issuer), to execute the Amended Trust Agreement, and
- (2) on behalf of the Commission (as Hotel Special Facility Bonds investor), to instruct BNY Mellon Trust to consent to and approve the Amended Trust Agreement.

Subject to the receipt of Board approval, Staff plans to take these authorized actions before the next interest payment for the Hotel Special Facility Bonds that is due on April 1, 2021. The recommended actions will not adversely affect the Commission's ability to make timely debt service payments for the related 1991 Resolution Bonds.

The rationale for these recommendations is to reduce near-term financial pressures on the Hotel so that it can continue to operate and fund critical operating expenses such as payroll, and remain positioned to provide a high level of service to its guests as demand recovers from the impacts of the COVID-19 pandemic. The Hotel is an important asset with upside financial potential for the Commission in the long term, particularly given the devastating impact of the pandemic on other hotels in San Francisco and San Mateo County.

The restructured Hotel Special Facility Bonds will still have a principal amount of \$260 million and the final maturity will remain on April 1, 2058. However, the restructuring will reduce near-term debt service

requirements as the Hotel will not be required to make monthly set-asides for debt principal and interest payments until April 1, 2023. This will be accomplished by delaying principal repayment until April 1, 2025 instead of April 1, 2022, and by temporarily reducing the interest rate on the Hotel Special Facility Bonds. Specifically, the Hotel Special Facility Bonds were issued with a fixed interest rate of 3.00% which will be reduced temporarily and then restored over time. Interest will accrue at a rate of 0.086% through September 30, 2023, and then increase incrementally until the interest rate is restored to 3.00% beginning on April 1, 2029. In addition, there will be a retroactive amendment to provide that October 1, 2020 is no longer an Interest Payment Date, and there will be no requirement to pay interest until October 1, 2023.

Restructuring debt service will result in cash flow savings for the Hotel and a reduction in revenues to the Airport of approximately \$44.1 million in today's dollars due to reduced debt service payments. Once the interest rate is restored to 3.00%, debt service payments will be the same amounts as the original debt payment schedule for the Hotel Special Facility Bonds.

For FY 2020/21, the near-term fiscal impact of restructuring the Hotel Special Facility Bonds is \$7.8 million and represents 0.6% of projected total Airport revenues for this fiscal year.

Parameters for Restructured Hotel Special Facility Bonds

Section 5852.1 of the California Government Code requires that certain information on the cost of borrowing be disclosed to a governing body prior to the authorization of a bond transaction. The information in Attachment 2 was provided by the Airport's financial advisors as a good faith estimate for the restructured Hotel Special Facility Bonds.

Request to the Board of Supervisors

If the attached Resolution is adopted, approval by the Board will be required to consummate the actions authorized by this Resolution.

Recommendation

I recommend the Commission adopt the attached Resolution approving the Amended Trust Agreement and authorize the Airport Director to execute and deliver the Amended Trust Agreement, instruct BNY Mellon Trust to consent and approve the Amended Trust Agreement, and authorize other related actions by Staff.


Ivar C. Satero
Airport Director

Prepared by: Kevin Kone
Acting Chief Financial Officer

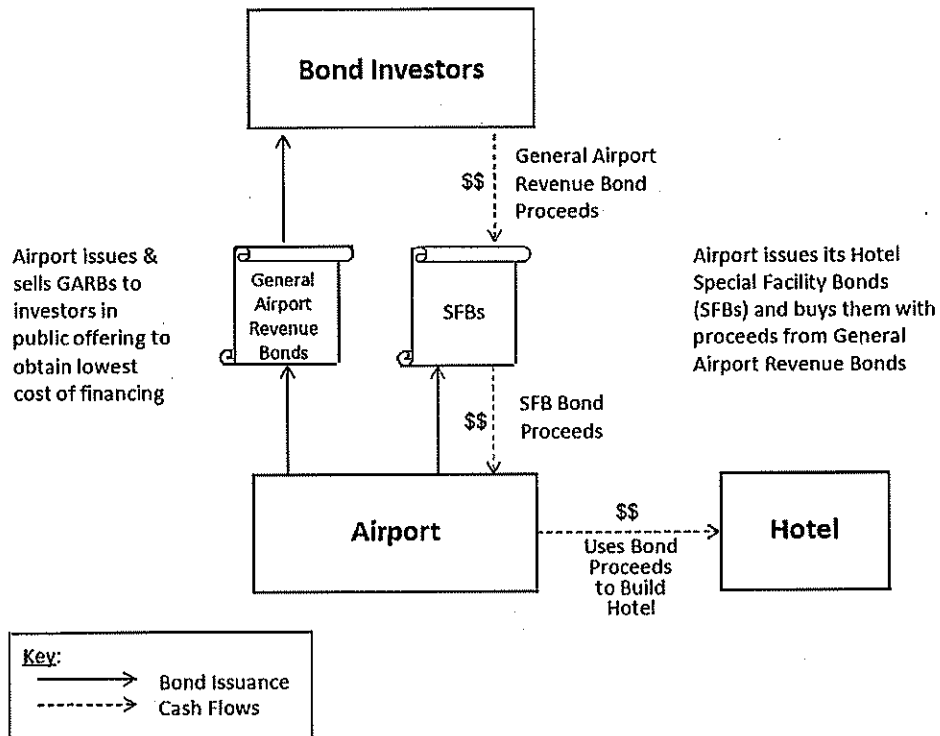
Attachments

APPENDIX A

- On September 22, 2015, by Resolution No. 15-0182, the Commission designated the planned Hotel as a “Special Facility” and authorized the issuance of bonds issued by the Commission and secured solely by Hotel revenues (Hotel Special Facility Bonds).
- On March 7, 2017, by Resolution No. 17-0045, the Commission increased the maximum aggregate principal amount of the authorized Hotel Special Facility Bonds to \$260,000,000.
- On December 1, 2015 and June 27, 2017, by Resolution Nos. 433-15 and 269-17, respectively, the Board approved the issuance of the Hotel Special Facility Bonds and their purchase using proceeds of 1991 Resolution Bonds, the appointment of the Hotel Bonds Trustee, and the execution of the related Trust Agreement as well as other agreements related to the Hotel Special Facility Bonds.
- On April 3, 2018, by Resolution No. 18-0089, the Commission authorized the sale of 1991 Resolution Bonds to investors and the use of a portion of the proceeds of such 1991 Resolution Bonds to purchase the Hotel Special Facility Bonds issued by the Commission.
- On September 15, 2020, by Resolution No. 20-0153, the Commission authorized and, by such authority, the Airport Director executed, an instruction to cause BNY Mellon Trust to instruct the Hotel Bonds Trustee to temporarily suspend the \$3.9 million payment of interest on the Hotel Special Facility Bonds that was due on October 1, 2020, not to make certain related transfers of funds held by the Hotel Bond Trustee pursuant to the Hotel Trust Agreement, and not to exercise certain related remedies, with such instruction explicitly acknowledging the actions directed in the instruction did not constitute or result in a default or Event of Default under the Hotel Trust Agreement by the Commission, the Hotel Bonds Trustee or Hyatt.

ATTACHMENT 1

Bond Issuance Structure



ATTACHMENT 2

Section 5852.1 of the California Government Code requires that local governments disclose good faith estimates of financing costs prior to the authorization of a bond sale. The following information has been provided by the Airport's financial advisors as a good faith estimate.

Hotel Special Facility Bonds

- (1) The true interest cost of the proposed \$260,000,000 in Hotel Special Facility Bonds is estimated to be 2.14%.
- (2) The finance charge is estimated to be \$0. This includes all fees and charges expected to be paid to third parties.
- (3) The amount of proceeds net of the finance charge and any reserves or capitalized interest is estimated to be \$260,000,000.
- (4) The total payment amount is estimated to be \$419,642,710. This is the sum of all payments the Commission will make to repay these Hotel Special Facility Bonds, calculated to the final maturity date.

MEMORANDUM

September 22, 2015

15-0182

SEP 22 2015

TO: AIRPORT COMMISSION

Hon. Larry Mazzola, President
Hon. Linda S. Crayton, Vice President
Hon. Eleanor Johns
Hon. Richard J. Guggenheimer
Hon. Peter A. Stern

FROM: Airport Director

SUBJECT: Approval of Eighteenth Supplemental Bond Resolution Designating a Proposed On-Airport Hotel as a "Special Facility" and Authorizing up to \$243 Million Principal Amount of Airport Capital Plan Bonds and \$225 Million Principal Amount of Hotel Special Facility Bonds to Finance or Refinance the On-Airport Hotel; Approving the Form of Trust Agreement; and Related Matters

DIRECTOR'S RECOMMENDATION: APPROVE EIGHTEENTH SUPPLEMENTAL BOND RESOLUTION DESIGNATING THE PROPOSED ON-AIRPORT HOTEL AS A "SPECIAL FACILITY" AND AUTHORIZING THE ISSUANCE OF UP TO \$243 MILLION PRINCIPAL AMOUNT OF AIRPORT CAPITAL PLAN BONDS AND \$225 MILLION PRINCIPAL AMOUNT OF HOTEL SPECIAL FACILITY BONDS TO PAY CONSTRUCTION COSTS AND OTHER EXPENSES ASSOCIATED WITH THE PROPOSED ON-AIRPORT HOTEL; APPROVE THE FORM OF TRUST AGREEMENT; AND APPROVE CERTAIN OTHER RELATED MATTERS.

Executive Summary

The attached Bond Resolution (the "Eighteenth Supplemental Resolution") authorizes the designation of the proposed on-Airport hotel (the "Hotel") as a "special facility" and the issuance of up to \$243 million principal amount of Airport Capital Plan Bonds and \$225 million principal amount of Hotel Special Facility Bonds, to finance the construction and development of the proposed Hotel. As previously presented to the Commission, the special facility financing structure will allow the Hotel's cash flow to be kept separate from the Airport's regular funds, while still providing the Airport control of the Hotel. This will enable the Airport to implement the necessary hotel industry practice for these types of transactions of using a lockbox depository to collect daily receipts and pay the Hotel expenses. It is anticipated that the Hotel Special Facility Bonds would not be sold to the public, but would be purchased by the Airport with the proceeds of the Airport Capital Plan Bonds. The Airport's Finance Advisory Committee and the Hotel Advisory Panel have reviewed and approved this course of action.

THIS PRINT COVERS CALENDAR ITEM NO. 2

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYORLARRY MAZZOLA
PRESIDENTLINDA S. CRAYTON
VICE PRESIDENT

ELEANOR JOHNS

RICHARD J. GUGGENHIME

PETER A. STERN

JOHN L. MARTIN
AIRPORT DIRECTOR

Background

As previously presented to the Commission, to make the proposed Hotel project successful and to attract a global hotel operator, it will be necessary for the Hotel's cash-flow to be kept separate from the Airport's regular funds. This will allow the Hotel operator to pay Hotel expenses directly from Hotel revenues as is necessary in commercial hotel transactions.

The separate treatment of Hotel revenues would be achieved by the Commission designating the Hotel as a "special facility" under Section 2.16 of the 1991 Master Bond Resolution No. 91-0210, as supplemented and amended (the "1991 Resolution"), which will allow revenues from the Hotel to be segregated from the Airport's general revenues and used to pay debt service and other expenses associated with that facility. The Airport has previously utilized these provisions in connection with the Commission's outstanding SFO FUEL Special Facility Revenue Bonds.

To finance the Hotel at the lowest available cost while maintaining its special facility status, the Commission would issue two types of bonds:

- Tax-exempt Airport Capital Plan Bonds, which would be sold to investors. Since these bonds would be secured and payable from general Airport revenues and the Airport has strong credit ratings, they would bear interest at the lowest available rates; and
- Tax-exempt Hotel Special Facility Bonds, which would not be sold to the public, but would be purchased by the Airport with the proceeds of the Airport Capital Plan Bonds. This will ensure the separate treatment of the Hotel revenues. While the Hotel Special Facility Bonds could be sold to the public, they would bear a higher interest rate to compensate investors for taking the additional risk related to the construction and operation of the Hotel and the more limited source of repayment (that is, Hotel revenues only).

By issuing both types of bonds and purchasing the Hotel Special Facility Bonds with the proceeds of the Airport Capital Plan Bonds, the Airport will be able to combine the desirable features of both the lowest cost of financing from the Airport Capital Plan Bonds and the segregated revenue treatment from the "special facility" status of the Hotel. The proposed Eighteenth Supplemental Resolution authorizes both types of bonds necessary to finance the Hotel – up to \$243 million of Airport Capital Plan Bonds and \$225 million of Hotel Special Facility Bonds – to finance and refinance the following estimated costs:

<u>Costs Payable from Airport Capital Plan Bonds</u>	<u>Estimated Amount</u>
Hotel AirTrain station construction costs	\$ 15,000,000
Costs of issuance	3,000,000
Purchase of Hotel Special Facility Bonds	225,000,000
<u>Project Costs Payable from Hotel Special Facility Bonds</u>	
Hotel construction costs (including repayment of commercial paper to finance hotel design)	\$210,000,000
Commercial paper interest	3,600,000
Capitalized interest on Special Facility Bonds	13,000,000
Contingency	3,400,000
Less: contribution from Hotel operator	<u>(5,000,000)</u>
Total Hotel Special Facility Bonds:	\$225,000,000
Total Airport Capital Plan Bonds:	\$243,000,000

The Airport Capital Plan Bonds and the Hotel Special Facility Bonds would be issued in accordance with the 1991 Resolution, certain ordinances of the Board of Supervisors and other applicable laws, and with respect to the Hotel Special Facility Bonds, a Trust Agreement between the Commission and a bond trustee. The appointment of a bond trustee for the Hotel Special Facility Bonds will be presented separately for Commission approval at a later meeting.

Proposed Eighteenth Supplemental Resolution

The proposed Eighteenth Supplemental Resolution would:

- Designate the Hotel as a “Special Facility,” as provided in the 1991 Resolution, the revenues from which would constitute “Special Facility Revenues” that are not included as regular Airport “Revenues” under the 1991 Resolution:
 - Generally, the “Special Facility” would include: Plot 2 (as reconfigured following the realignment of South McDonnell Road), the Hotel structure, the connector between the Hotel and the Hotel AirTrain station, and the other improvements to Plot 2, but would exclude the AirTrain station.
 - The “Special Facility Revenues” would include all revenues generated by the Hotel including revenues from rooms, meeting facilities, food and beverage, retail, parking on Plot 2, and spa.
- Authorize the issuance of up to \$243 million of Airport Capital Plan Bonds to finance and refinance the AirTrain station, costs of issuance, and purchase of the Hotel Special Facility Bonds. The Airport Capital Plan Bonds will be subject to the maximum maturity of 40 years, and interest rate limitations set forth in Resolution No. 50-11 of the Board of Supervisors, will be sold prior to June 30, 2020, and may be issued as Variable Rate Bonds.
- Authorize the issuance of up to \$225 million of Hotel Special Facility Bonds, to finance and refinance the Hotel and related costs, and fund a capitalized interest account. The Hotel Special Facility Bonds will have a maturity of 40 years and bear interest at fixed rate to be determined at the time of their issuance.
- Authorize the execution and delivery of a Trust Agreement and/or Supplemental Trust Agreements with a bond trustee (to be appointed by separate action of the Commission at a later meeting) in connection with the issuance of such Hotel Special Facility Bonds, in substantially the form presented and on file with the Secretary of the Commission, with such changes thereto as Airport staff may approve, upon consultation with the City Attorney, the Airport’s financial advisors and bond counsel, such approval to be conclusively evidenced by the execution and delivery thereof.
- Direct the Commission Secretary to seek the Board of Supervisors’ approval for the issuance of the Airport Capital Plan Bonds and the Hotel Special Facility Bonds, the execution and delivery of the Trust Agreement, and any necessary appropriations related thereto.

Request to the Board of Supervisors

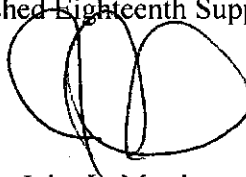
If the Eighteenth Supplemental Resolution is adopted by the Commission, the Commission Secretary will request that the Board of Supervisors approve the Airport Capital Plan Bonds, the Hotel Special Facility Bonds, and the Trust Agreement authorized therein. The Airport will also request any necessary appropriations. Once final approval is obtained from the Board of Supervisors, I will return to the Commission for approval of one or more sale resolutions prior to selling and issuing the Airport Capital Plan Bonds and the Hotel Special Facility Bonds.

Environmental Review

The Airport Commission, by Resolution No. 92-0284, adopted on November 3, 1992, approved the San Francisco International Airport Master Plan ("Master Plan"), adopted findings pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; "CEQA") and adopted a Mitigation Monitoring and Reporting Program. The Master Plan was the subject of a Program Environmental Impact Report ("EIR") certified by the San Francisco Planning Commission on May 28, 1992. The San Francisco Planning Department, Environmental Planning Division, issued an Addendum to the EIR on February 5, 2014, to address the Hotel and AirTrain station (collectively referred to therein as the "Hotel Project"), and determined that no additional environmental review is required under CEQA. On May 19, 2014, by Resolution No. 14-0095, the Commission determined to proceed with the Hotel Project and adopted findings under CEQA related to the Hotel Project.

Recommendation

I recommend that this Commission adopt the attached Eighteenth Supplemental Resolution.



John L. Martin
Airport Director

Prepared by: Leo Fermin
Chief Business and Finance Officer

Attachment

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 15-0182

APPROVAL OF EIGHTEENTH SUPPLEMENTAL RESOLUTION DESIGNATING A PROPOSED ON-AIRPORT HOTEL AS A "SPECIAL FACILITY" AND AUTHORIZING UP TO \$243 MILLION PRINCIPAL AMOUNT OF AIRPORT CAPITAL PLAN BONDS AND \$225 MILLION PRINCIPAL AMOUNT OF HOTEL SPECIAL FACILITY BONDS TO FINANCE OR REFINANCE THE ON-AIRPORT HOTEL; APPROVING THE FORM OF TRUST AGREEMENT; AND RELATED MATTERS

WHEREAS, the Airport Commission (the "Commission") of the City and County of San Francisco (the "City"), on December 3, 1991, duly adopted its Resolution No. 91-0210, providing for the issuance of San Francisco International Airport Second Series Revenue Bonds, which Resolution, as previously supplemented and amended, including as amended and supplemented by Resolution No. 03-0220 adopted on October 21, 2003 (the "Eleventh Supplemental Resolution"), Resolution No. 08-0035, adopted on February 19, 2008 (the "Thirteenth Supplemental Resolution"), Resolution No. 10-0316, adopted on October 26, 2010 (the "Fifteenth Supplemental Resolution," which amended and restated the Eleventh Supplemental Resolution), Resolution No. 12-0050, adopted on March 20, 2012 (the "Sixteenth Supplemental Resolution"), and Resolution No. 14-0024, adopted on February 18, 2014 (the "Seventeenth Supplemental Resolution") is herein called the "1991 Resolution;" and

WHEREAS, the 1991 Resolution provides for the issuance by the Commission from time to time of revenue bonds (the "1991 Resolution Bonds"); and

WHEREAS, as part of implementation of the Airport Master Plan approved by the Commission in 1992, the Commission is undertaking the development of an on-Airport hotel with approximately 350 rooms (the "Hotel") on a portion of Plot 2 at the former Hilton Hotel site, along with a new AirTrain station to connect the Hotel with the AirTrain system (the "AirTrain Station" and collectively with the Hotel, the "Hotel Project"); and

WHEREAS, the Commission, pursuant to the 1991 Resolution and the Thirteenth, Sixteenth and Seventeenth Supplemental Resolutions, has previously authorized the issuance of up to \$4,773,725,000 aggregate principal amount of San Francisco International Airport Second Series Revenue Bonds for the purpose of financing and refinancing the construction, acquisition, equipping and development of capital projects (not including the Hotel Project) undertaken by the Airport which are approved by the Commission (the "Capital Plan Bonds"); and

WHEREAS, the Commission has determined that it is necessary and desirable and in the best interests of the San Francisco International Airport (the "Airport") to: (a) authorize the issuance of an additional not to exceed \$243 million principal amount of Capital Plan Bonds (the "Airport Capital Plan Bonds"); (b) designate the proposed Hotel as a

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 15-0182

“Special Facility,” as defined in the 1991 Resolution, and (c) authorize the issuance of special facility bonds in accordance with the terms of the 1991 Resolution in the principal amount of up to \$225 million (the “Hotel Special Facility Bonds”) to finance and refinance costs associated with the Hotel to be owned by the Commission; and

- WHEREAS, to maintain the special facility status of the Hotel and finance it at the lowest available interest rates, the Commission anticipates combining the desirable features of the Airport Capital Plan Bonds (which are secured and payable from Airport net revenues and can therefore be sold to investors at the lowest available interest rates) and the Hotel Special Facility Bonds by selling the Airport Capital Plan Bonds to investors and purchasing the Hotel Special Facility Bonds with the proceeds of the Airport Capital Plan Bonds; and
- WHEREAS, the Airport Capital Plan Bonds and the Hotel Special Facility Bonds will be issued in accordance with the 1991 Resolution, applicable provisions of the Charter of the City, ordinances and resolutions of the Board of Supervisors, and the statutes of the State of California, and in with respect to the Hotel Special Facility Bonds, a Trust Agreement in substantially the form on file with the Secretary of the Commission; and
- WHEREAS, the Airport Master Plan was the subject of a Program Environmental Impact Report (“EIR”) certified by the San Francisco Planning Commission on May 28, 1992, by Motion No. 13356; and
- WHEREAS, the Environmental Planning Division of the San Francisco Planning Department reviewed the Hotel Project and issued an addendum to the EIR (“Addendum”) on February 5, 2014, determining that the Hotel Project is within the scope of the EIR and no additional environmental review is required under the California Environmental Quality Act (Public Resources Code Section 21000 et seq., “CEQA”); and
- WHEREAS, on May 19, 2014, the Commission, by Resolution No. 14-0095, adopted findings under CEQA related to the Hotel Project, determined to proceed with the Hotel Project, and authorized the Airport Director to proceed with implementation of the Hotel Project; and
- WHEREAS, the project files, including the EIR, Addendum and Commission Resolution No. 14-0095, have been made available for review by the Commission and the public, and those files are part of the record before the Commission; and
- WHEREAS, pursuant to Section 9.01(f) of the 1991 Resolution, the Commission, by Supplemental Resolution, may make any change or addition to the 1991 Resolution to provide for the issuance of, and to set the terms and conditions of, additional Series of Bonds under the 1991 Resolution; now, therefore, be it,

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 15-0182

RESOLVED, that this Commission has reviewed and considered the information in the EIR and Addendum, and hereby incorporates the CEQA findings contained in Resolution No. 14-0095, including findings of the Statement of Overriding Considerations, by this reference as though fully set forth in this Resolution; and be it further

RESOLVED, that this Commission finds that since the EIR and Addendum were finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the EIR and Addendum; and be it further

RESOLVED, as follows:

Section 1. Commission Findings. The Commission hereby finds and determines that the foregoing recitals are true and correct.

Section 2. Defined Terms. Capitalized terms used but not otherwise defined in this Resolution shall have the meanings set forth in the 1991 Resolution.

Section 3. Special Facility Designation. In accordance with Section 2.16 of the 1991 Resolution, the Commission hereby designates the planned Hotel as a "Special Facility," as defined in the 1991 Resolution. Specifically, the Hotel Special Facility shall include the following: Plot 2 (as reconfigured following the realignment of South McDonnell Road), the Hotel structure, the connector between the Hotel and the AirTrain station serving the Hotel, and the other improvements to Plot 2.

The Hotel Special Facility shall exclude the following: the AirTrain station serving the Hotel, and all AirTrain guiderails, support structures and facilities.

Section 4. Designation of Special Facility Revenues. In accordance with Section 2.16 of the 1991 Resolution, the Commission hereby determines that revenues from the Hotel shall constitute "Special Facility Revenues," as defined in the 1991 Resolution (the "Hotel Revenues") and shall not be included as "Revenues" under the 1991 Resolution. Specifically, the Hotel Revenues shall include the following: all revenues generated by the Hotel (including revenues from rooms, meeting facilities, food and beverage, retail, parking on Plot 2, and spa).

Section 5. Airport Capital Plan Bonds.

(a) Increased Authorization of Capital Plan Bonds. In accordance with Section 9.01(f) of the 1991 Resolution, in order to authorize the issuance of an additional aggregate principal amount of not to exceed \$243 million of Capital Plan Bonds (also referred to in this Resolution as the "Airport Capital Plan Bonds") for the purposes of

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 15-0182

financing and refinancing the construction, acquisition, equipping and development of the Hotel Project, funding debt service reserves, and paying costs of issuance, in connection therewith, including through the purchase of the Hotel Special Facility Bonds, the 1991 Resolution (as previously amended and supplemented, including by the Thirteenth, Sixteenth and Seventeenth Supplemental Resolutions) is hereby further amended and supplemented as follows:

Each of the references in the 1991 Resolution, including the caption and whereas clauses and in Sections 34-82.01 and 34-83.01(a) thereof, to “Four Billion Seven Hundred Seventy-Three Million Seven Hundred Twenty-Five Thousand Dollars” and “\$4,773,725,000,” of Capital Plan Bonds is hereby amended to read “Five Billion Sixteen Million Seven Hundred Twenty-Five Thousand Dollars” and “\$5,016,725,000,” respectively.

(b) Parameters of the Capital Plan Bonds. The Capital Plan Bonds shall be subject to the maximum maturity and interest rate limitations set forth in Resolution No. 50-11 of the Board of Supervisors. The Capital Plan Bonds shall be sold prior to June 30, 2020, and may be issued as Variable Rate Bonds.

Section 6. Hotel Special Facility Bonds.

(a) Authorization. The Commission hereby authorizes the issuance of \$225 million in aggregate principal amount of Hotel Special Facility Bonds to finance and refinance the Hotel Project and costs in connection therewith. The Hotel Special Facility Bonds shall be secured solely by, and payable solely from, the Hotel Revenues.

(b) Trust Agreement. The Airport Director, for and on behalf of and in the name of the Commission, is authorized to execute and deliver a Trust Agreement and/or Supplements thereto with a bond trustee selected by the Airport Director in connection with the issuance of any such Hotel Special Facility Bonds in substantially the form presented and on file with the Secretary of the Commission, with such changes thereto as have been approved by the Airport Director, upon consultation with the Office of the City Attorney, the Airport’s financial advisors and bond counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 7. Delegation by Airport Director. The Airport Director is authorized to delegate the authority granted to him pursuant to this Resolution in writing to a member of Airport management upon consultation with the Office of the City Attorney.

Section 8. Approval of Board of Supervisors. The Commission Secretary, for and on behalf of and in the name of the Commission, is authorized and directed to seek any approvals the Airport Director deems necessary or desirable from the Board

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 15-0182

of Supervisors of the City in order to carry out the intents and purposes of this Resolution, including approval of the Airport Capital Plan Bonds, the Hotel Special Facility Bonds, the form of Trust Agreement approved by this Resolution, and any necessary appropriations.

Section 9. Ratification of Prior Acts. The actions of the officers, agents and employees of the Commission to carry out its intents and purposes taken prior to the adoption of this Resolution are ratified, approved and confirmed.

Section 10. General Authorization. The Airport Director and the other officers, agents and employees of the Commission are authorized and directed to execute and deliver such documents, agreements and certificates and to take such other actions, upon consultation with the Office of the City Attorney, as may be necessary or desirable and in the best interests of the Airport to carry out the purposes and intents of this Resolution, and the other transactions contemplated hereby and thereby.

Section 11. Effectiveness. This Resolution shall become effective on and as of the date of adoption hereof.

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 15-0182

ADOPTED by the Airport Commission of the City and County of San Francisco this 22nd day of September, 2015, by the following vote:

Ayes: 5

Noes: 0

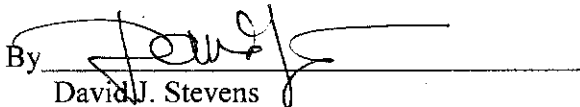
Absent: 0

[SEAL]

Approved as to Form:

DENNIS J. HERRERA
City Attorney


By


David J. Stevens
Deputy City Attorney

Page 6 of 6

*I hereby certify that the foregoing resolution was adopted by the Airport Commission
at its meeting of*

SEP 22 2015


Secretary

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 17-0045

TWENTIETH SUPPLEMENTAL BOND RESOLUTION, IN CONNECTION WITH THE ON-AIRPORT HOTEL, INCREASING AIRPORT CAPITAL PLAN BONDS AUTHORIZATION BY \$35 MILLION FROM \$243 MILLION TO \$278 MILLION IN PRINCIPAL AMOUNT, AND INCREASING HOTEL SPECIAL FACILITY BONDS AUTHORIZATION BY \$35 MILLION FROM \$225 MILLION TO \$260 MILLION IN PRINCIPAL AMOUNT

WHEREAS, the Airport Commission (the "Commission") of the City and County of San Francisco (the "City"), on December 3, 1991, adopted its Resolution No. 91-0210, providing for the issuance of San Francisco International Airport Second Series Revenue Bonds, which Resolution, as previously supplemented and amended, including as amended and supplemented by Resolution No. 03-0220, adopted on October 21, 2003, Resolution No. 08-0035, adopted on February 19, 2008, Resolution No. 10-0316, adopted on October 26, 2010, Resolution No. 12-0050, adopted on March 20, 2012, Resolution No. 14-0024, adopted on February 18, 2014, Resolution No. 15-0182, adopted on September 22, 2015 (the "Eighteenth Supplemental Resolution"), and Resolution No. 16-0274, adopted on November 1, 2016, is herein called the "1991 Resolution"; and

WHEREAS, the 1991 Resolution provides for the issuance by the Commission from time to time of revenue bonds (the "1991 Resolution Bonds"); and

WHEREAS, as part of implementation of the Airport Master Plan approved by the Commission in 1992, the Commission is undertaking the development of an on-Airport hotel to be owned by the Commission (the "Hotel") on a portion of Plot 2 at the former Hilton Hotel site, along with a new AirTrain station to connect the Hotel with the AirTrain system (the "AirTrain Station" and collectively with the Hotel, the "Hotel Project"); and

WHEREAS, the Commission, pursuant to the 1991 Resolution, has previously authorized the issuance of up to \$7,791,725,000 aggregate principal amount of 1991 Resolution Bonds (the "Capital Plan Bonds") for the purpose of financing and refinancing the development, acquisition, construction, and equipping of capital projects approved by the Commission and costs related thereto, of which an aggregate principal amount of \$5,502,605,000 remains unissued, including an aggregate principal amount of \$4,358,695,227 that remains subject to the approval of the Board of Supervisors; and

WHEREAS, pursuant to the Eighteenth Supplemental Resolution, the Commission: (a) authorized the issuance of not to exceed \$243,000,000 aggregate principal amount of Capital Plan Bonds (the "Airport Capital Plan Bonds") to finance and refinance costs associated with the Hotel Project; and (b) authorized the issuance of special facility bonds in accordance with the terms of the 1991 Resolution in the aggregate principal amount of up to \$225,000,000 (the "Hotel Special Facility Bonds") to finance and refinance costs associated with the Hotel; and

WHEREAS, to maintain the special facility status of the Hotel and finance it at the lowest available interest rates, the Commission determined to combine the desirable features of the Airport Capital Plan Bonds which are secured and payable from Airport net revenues and can therefore be sold to investors at the lowest available interest rates, and the Hotel Special Facility Bonds by selling the Airport Capital Plan Bonds to investors and purchasing the Hotel Special Facility Bonds with the proceeds of the Airport Capital Plan Bonds; and

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 17-0048

- WHEREAS, the Airport Capital Plan Bonds and the Hotel Special Facility Bonds will be issued in accordance with the 1991 Resolution, applicable provisions of the Charter of the City, ordinances and resolutions of the Board of Supervisors, and the statutes of the State of California; and
- WHEREAS, the estimated costs of the Hotel have increased, thus requiring an increase in the authorized principal amount of both the Airport Capital Plan Bonds and the Hotel Special Facility Bonds of \$35,000,000 to pay the costs thereof; and
- WHEREAS, the Airport Master Plan was the subject of a Program Environmental Impact Report (“EIR”) certified by the San Francisco Planning Commission on May 28, 1992, by Motion No. 13356; and
- WHEREAS, the Environmental Planning Division of the San Francisco Planning Department reviewed the Hotel Project and issued an addendum to the EIR (“Addendum”) on February 5, 2014, determining that the Hotel Project is within the scope of the EIR and no additional environmental review is required under the California Environmental Quality Act (Public Resources Code Section 21000 et seq., “CEQA”); and
- WHEREAS, on May 19, 2014, the Commission, by Resolution No. 14-0095, adopted findings under CEQA related to the Hotel Project, determined to proceed with the Hotel Project, and authorized the Airport Director to proceed with implementation of the Hotel Project; and
- WHEREAS, the project files, including the EIR, Addendum and Commission Resolution No. 14-0095, have been made available for review by the Commission and the public, and those files are part of the record before the Commission; and
- WHEREAS, pursuant to Section 9.01(f) of the 1991 Resolution, the Commission, by Supplemental Resolution, may make any change or addition to the 1991 Resolution to provide for the issuance of, and to set the terms and conditions of, additional Series of Bonds under the 1991 Resolution; now, therefore, be it,
- RESOLVED, that this Commission has reviewed and considered the information in the EIR and Addendum, and hereby incorporates the CEQA findings contained in Resolution No. 14-0095, including findings of the Statement of Overriding Considerations, by this reference as though fully set forth in this Resolution; and be it further
- RESOLVED, that this Commission finds that since the EIR and Addendum were finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the EIR and Addendum; and be it further
- RESOLVED, as follows:
- Section 1. Commission Findings. The Commission hereby finds and determines that the foregoing recitals are true and correct.
- Section 2. Defined Terms. Capitalized terms used but not otherwise defined in this Resolution shall have the meanings set forth in the 1991 Resolution.

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 17-0045

Section 3. Airport Capital Plan Bonds.

- (a) Increased Authorization of Capital Plan Bonds. In accordance with Section 9.01(f) of the 1991 Resolution, the Commission hereby authorizes the issuance of an additional aggregate principal amount of not to exceed \$35,000,000 of Airport Capital Plan Bonds for the Hotel Project.
- (b) Parameters of the Airport Capital Plan Bonds. The Airport Capital Plan Bonds shall be sold prior to June 30, 2020, and may be issued as Variable Rate Bonds.

Section 4. Hotel Special Facility Bonds. The Commission hereby authorizes the issuance of an additional aggregate principal amount of not to exceed \$35,000,000 of Hotel Special Facility Bonds for the Hotel. The Hotel Special Facility Bonds shall be secured solely by, and payable solely from, the Hotel Revenues.

Section 5. Ratification of Eighteenth Supplemental Resolution. The Eighteenth Supplemental Resolution, except as supplemented and amended by this Resolution, is hereby ratified, approved and confirmed and remains in full force and effect.

Section 6. Delegation by Airport Director. The Airport Director is authorized to delegate the authority granted to him pursuant to this Resolution in writing to a member of Airport management upon consultation with the Office of the City Attorney.

Section 7. Approval of Board of Supervisors. The Commission Secretary, for and on behalf of and in the name of the Commission, is authorized and directed to seek any approvals the Airport Director deems necessary or desirable from the Board of Supervisors of the City in order to carry out the intents and purposes of this Resolution, including approval of the additional Airport Capital Plan Bonds and Hotel Special Facility Bonds, and any necessary supplemental appropriations.

Section 8. Ratification of Prior Acts. The actions of the officers, agents and employees of the Commission to carry out its intents and purposes taken prior to the adoption of this Resolution are ratified, approved and confirmed.

Section 9. General Authorization. The Airport Director and the other officers, agents and employees of the Commission are authorized and directed to execute and deliver such documents, agreements and certificates and to take such other actions, upon consultation with the Office of the City Attorney, as may be necessary or desirable and in the best interests of the Commission to carry out the purposes and intents of this Resolution and the transactions contemplated hereby.

Section 10. Effectiveness. This Resolution shall become effective on and as of the date of adoption hereof.

Section 11. Severability. Should the application of any provision of this Resolution to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Resolution shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the purposes and intents of this Resolution.

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 17-0040

ADOPTED by the Airport Commission of the City and County of San Francisco this 7th day of March, 2017,
by the following vote:

Ayes: 4

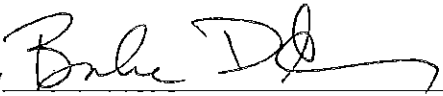
Noes: 0

Absent: 1

[SEAL]

Approved as to Form:

DENNIS J. HERRERA
City Attorney

By 
Brooke D. Abola
Deputy City Attorney

Page 4 of 4

OHSUSA:766396818.1

I hereby certify that the foregoing resolution was adopted by the Airport Commission
at its meeting of MAR 07 2017


Secretary



San Francisco International Airport

MEMORANDUM

March 7, 2017

TO: AIRPORT COMMISSION
Hon. Larry Mazzola, President
Hon. Linda S. Crayton, Vice President
Hon. Eleanor Johns
Hon. Richard J. Guggenlime
Hon. Peter A. Stern

17-0044
MAR 07 2017
17-0045

FROM: Airport Director

SUBJECT: Adoption of Two Resolutions Relating to the On-Airport Hotel Project: (1) Amendment of the Fiscal Year 2016/2017 Five-Year and Ten-Year Capital Plans to Increase the Hotel Project Budget by \$30 Million; and (2) Twentieth Supplemental Bond Resolution, in Connection with the On-Airport Hotel, Increasing Airport Capital Plan Bond Authorization by \$35 Million from \$243 Million to \$278 Million in Principal Amount, and Increasing Hotel Special Facility Bond Authorization by \$35 Million from \$225 Million to \$260 Million in Principal Amount

DIRECTOR'S RECOMMENDATION: AMEND THE FISCAL YEAR 2016/2017 FIVE-YEAR AND TEN-YEAR CAPITAL PLANS TO INCREASE THE HOTEL PROJECT BUDGET BY \$30 MILLION; AND APPROVE ADDITIONAL BOND AUTHORIZATIONS FOR THE ON-AIRPORT HOTEL, INCREASING AIRPORT CAPITAL PLAN BONDS AUTHORIZATION BY \$35 MILLION, FROM \$243 MILLION TO \$278 MILLION IN PRINCIPAL AMOUNT, AND INCREASING HOTEL SPECIAL FACILITY BONDS AUTHORIZATION BY \$35 MILLION, FROM \$225 MILLION TO \$260 MILLION IN PRINCIPAL AMOUNT.

Executive Summary

Since the fall of 2015, the Bay Area has experienced a significant increase in construction costs, which has hampered the Airport's ability to deliver the On-Airport Hotel (the "Hotel") within the existing project budget without significantly reducing the number of guest rooms. This construction cost escalation, as well as increases in the amount of Hotel space dedicated to revenue-generating meeting facilities and food and beverage outlets, has led to a \$30 million increase in the project budget.

This increase in the project budget makes it possible to construct the Hotel with approximately 351 guest rooms. This will generate more revenue than if the existing budget were adhered to and a substantially smaller Hotel with 289 rooms were to be built. The original program with 351 rooms will generate total gross revenues of \$60 million annually. This is \$12 million higher by the third year of operation for the 351-room Hotel than for a smaller, 289-room Hotel. A smaller 289-room Hotel will generate only \$48 million annually. Further, the Hotel will be able to provide more rooms to accommodate the Airport's growing number of passengers. Updated revenue projections show that the Hotel remains financially viable, even with the higher budget.

This change in the project budget will require three actions: (1) amending the Fiscal Year ("FY") 2016/2017 Five-Year and Ten-Year Capital Plans Hotel Project Budget; (2) approving additional Airport capital plan bond authorization, and (3) approving additional hotel special facility bonds authorization.

THIS PRINT COVERS CALENDAR ITEM NO. 2

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE MAYOR LARRY MAZZOLA PRESIDENT LINDA S. CRAYTON VICE PRESIDENT ELEANOR JOHNS RICHARD J. GUGGENHIME PETER A. STERN IVAR C. SATERO AIRPORT DIRECTOR

Background

On September 22, 2015, the Commission adopted Resolution No. 15-0182, the Eighteenth Supplemental Bond Resolution, which designated the Hotel as a “special facility” and authorized the issuance of up to \$243 million in principal amount of Airport Capital Plan Bonds and \$225 million principal amount of Hotel Special Facility Bonds, to finance the construction and development of the Hotel.

The Hotel’s cash-flow must be kept separate from that of the Airport, so that the Hotel operator can pay Hotel expenses directly from Hotel revenues. To establish this separate treatment of Hotel revenues, in 2015 the Airport Commission designated the Hotel as a “special facility” under the Airport’s 1991 Master Bond Resolution. To finance the Hotel at the lowest available cost while maintaining its special facility status, the Commission has approved the issuance of two types of bonds:

- Tax-exempt Airport Capital Plan Bonds (i.e., general airport revenue bonds), which would be sold to investors; and
- Tax-exempt Hotel Special Facility Bonds, which would be purchased by the Commission with Airport Capital Plan Bond proceeds.

On June 1, 2016, the Commission adopted Resolution No. 16-0166, which approved the FY 2016/2017 Five-Year and Ten-Year Capital Plans, including a Hotel project budget of \$225 million (\$210 million for the Hotel and \$15 million for the new Hotel AirTrain Station). Airport staff has engaged a Design-Build team and a hotel operator.

The increase in budget of \$30 million is due primarily to: 1) significant construction cost escalation, particularly in the areas of electrical, mechanical, glazing and interior finishes; and 2) increases in the amount of space allocated for revenue-generating facilities (e.g., meeting facilities and food and beverage outlets). This represents a 14.3 percent increase in the construction budget since the fall of 2015. In comparison, an independent cost management firm estimates that San Francisco construction costs have increased by 17.9 percent in the past year.¹

The Airport and its financial advisors have determined that the increase in the project budget would result in a \$35 million increase in the authorization required for both Airport Capital Plan Bonds and Hotel Special Facility Bonds to cover the increase in project cost and associated financing costs. The changes in the Airport’s proposed Hotel financing plan are summarized on the following page.

Costs Payable from Airport Capital Plan Bonds	October 2015	February 2017 Revision
Hotel AirTrain station construction costs:	\$ 15,000,000	\$ 15,000,000
Costs of issuance:	3,000,000	3,000,000
Purchase of Hotel Special Facility Bonds:	225,000,000	260,000,000
Project Costs Payable from Hotel Special Facility Bonds		
Hotel construction costs (including repayment of commercial paper principal and reimbursement of operating funds):	\$210,000,000	\$240,000,000
Capitalized Interest, Commercial Paper Interest:	20,000,000	25,000,000
Less contribution from Hotel operator:	(5,000,000)	(5,000,000)
<i>Total Hotel Special Facility Bonds:</i>	\$225,000,000	\$260,000,000
Total Airport Capital Plan Bonds:	\$243,000,000	\$278,000,000

Airport staff, in consultation with the Commission’s hospitality consultant and financial advisors, expects the Hotel to produce positive financial results at this new project budget, in part because the hospitality consultant’s updated projections show a higher average daily room rate for the Hotel compared to projections from 2015. By maintaining the original program with 351 guest rooms, the Airport expects to

¹ Rider Levett Bucknall, “USA Report, Quarterly Construction Cost Report,” December 2016.

derive higher "net profits" (i.e., total hotel revenues less total hotel operating expenses, required reserve deposits, and debt service costs) than a smaller 289-room Hotel that is within the existing project budget. Once occupancy has stabilized, total gross revenues are estimated to be approximately \$12 million per year higher for the 351-room Hotel than for the smaller, 289-room Hotel.

Therefore, Airport staff requests that the Commission adopt a resolution amending the FY 2016/2017 Five-Year and Ten-Year Capital Plans to increase the Hotel project budget by \$30 million, for a new total budget of \$255 million (\$240 million for the Hotel and \$15 million for the Hotel AirTrain Station). To generate \$30 million in additional Hotel project funds, and to cover associated financing costs, Airport staff also requests that this Commission adopt a resolution (the "Bond Resolution") that would authorize:

- Up to \$35 million principal amount of additional Hotel special facility bonds, bringing the total approved amount to \$260 million, to finance Hotel and related costs or to refinance Commercial Paper issued for Hotel costs, and fund a capitalized interest account. As currently authorized, the Hotel special facility bonds will have a maturity of 40 years and bear interest at a fixed rate to be determined at the time of issuance; and
- Up to \$35 million principal amount of additional Airport Capital Plan Bonds, bringing the total approved amount to \$278 million, to finance the purchase of the Hotel special facility bonds by the Commission, along with financing for the Hotel AirTrain station and/or refinancing of Commercial Paper issued for the station, and associated costs of issuance. There is no change in the maximum bond maturity of 40 years, or in the interest rate limitations set forth in Resolution No. 50-11 of the Board of Supervisors. The Airport Capital Plan Bonds will be sold prior to June 30, 2020, and may be issued as Variable Rate Bonds.

Airport staff is also requesting approval of the supplemental appropriation of the additional Airport revenue bond proceeds and Hotel special facility bond proceeds, and \$60,000 in additional Airport operating funds that will support the City Services Auditor Division ("CSA") pursuant to Section F1.113 of the City Charter. As required, 0.2 percent of the project cost is budgeted to support CSA services.

Request to the Board of Supervisors

If the Twentieth Supplemental Bond Resolution is adopted by this Commission, the Commission Secretary will request that the Board of Supervisors approve the increase in Airport Capital Plan Bonds and Hotel Special Facility Bonds. The Airport will also request the necessary increase in appropriations. Once final approval is obtained from the Board of Supervisors, I will return to the Commission for approval of one or more sale resolutions prior to selling and issuing the Airport Capital Plan Bonds and the Hotel Special Facility Bonds.

Recommendation

I recommend that this Commission adopt the two attached Resolutions: (1) amending the Fiscal Year 2016/2017 Five-Year and Ten-Year Capital Plans to increase the Hotel Project budget, and (2) approving additional bond authorization for the Hotel.



Ivar C. Satero
Airport Director

Prepared by: Leo Fermin
Chief Business and Finance Officer

Attachment

San Francisco International Airport

MEMORANDUM

April 3, 2018

TO: AIRPORT COMMISSION
 Hon. Larry Mazzola, President
 Hon. Linda S. Crayton, Vice President
 Hon. Eleanor Johns
 Hon. Richard J. Guggenlime
 Hon. Peter A. Stern

18-0089

APR 03 2018

FROM: Airport Director

SUBJECT: Authorization of the Sale of an Additional \$278,000,000 Aggregate Principal Amount of Previously Approved San Francisco International Airport Second Series Revenue Bonds for the Hotel Project and Related Purposes; and of \$260,000,000 Aggregate Principal Amount of Previously Approved San Francisco International Airport Special Facility Bonds for the Hotel Project

DIRECTOR'S RECOMMENDATION: ADOPT RESOLUTION AUTHORIZING THE SALE OF AN ADDITIONAL \$278,000,000 AGGREGATE PRINCIPAL AMOUNT OF PREVIOUSLY APPROVED SAN FRANCISCO INTERNATIONAL AIRPORT SECOND SERIES REVENUE BONDS FOR THE HOTEL PROJECT AND RELATED PURPOSES; AND OF \$260,000,000 AGGREGATE PRINCIPAL AMOUNT OF PREVIOUSLY APPROVED SAN FRANCISCO INTERNATIONAL AIRPORT SPECIAL FACILITY BONDS FOR THE HOTEL PROJECT AND RELATED MATTERS.

Executive Summary

The attached Resolution authorizes the Airport Commission (the "Commission") to sell bonds to finance the Commission-owned Airport hotel (the "Hotel") and the Hotel AirTrain station. In Spring 2018, the Commission plans to issue San Francisco International Airport Special Facility Bonds (the "Hotel Special Facility Bonds") to finance construction of the Hotel. At the same time as the issuance of the Hotel Special Facility Bonds, the Commission plans to sell San Francisco International Airport Second Series Revenue Bonds (the "Capital Plan Bonds"), which will be designated as Series 2018B and Series 2018C. Proceeds of the Capital Plan Bonds will be used to purchase the Hotel Special Facility Bonds and to fund the Hotel AirTrain station. The Hotel-related Capital Plan Bonds and the Hotel Special Facility Bonds together are referred to as the "Hotel Bonds".

The Airport's Financial Advisory Committee has reviewed and concurs with these proposed bond sales.

Background

The Commission is authorized to issue Capital Plan Bonds and Special Facility Bonds under the City Charter and applicable state laws. To issue such bonds, the Commission follows a multi-step approval

THIS PRINT COVERS CALENDAR ITEM NO. 1

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYORLARRY MAZZOLA
PRESIDENTLINDA S. CRAYTON
VICE PRESIDENT

ELEANOR JOHNS

RICHARD J. GUGGENHIME

PETER A. STERN

IVAR C. SATERO
AIRPORT DIRECTOR

process. First, the Commission adopts a resolution authorizing the issuance of the bonds. The Charter then requires the Board of Supervisors (the "Board") to approve the issuance of the bonds. Finally, when the Commission is ready to sell and issue the bonds, it adopts one or more sale resolutions authorizing a bond sale within certain parameters. Staff may then proceed with the bond sale.

The Commission, pursuant to the 1991 Master Bond Resolution, and the Board have authorized the issuance of up to \$7,826,725,000 principal amount of Capital Plan Bonds, of which \$4,935,230,000 remains authorized but unissued. Of this Capital Plan Bonds issuance authority, \$278,000,000 was specifically authorized to finance costs associated with the Hotel and the Hotel AirTrain station; all \$278,000,000 remains unissued.

The Commission, pursuant to the Eighteenth and Twentieth Supplemental Resolutions, and the Board, by its Resolution Nos. 433-15 and 269-17, have authorized the issuance of up to \$260,000,000 principal amount of Special Facility Bonds to finance the Hotel; all \$260,000,000 remains unissued.

The Hotel has been designated as a "special facility," which will allow the Hotel's day-to-day revenues and expenses to be kept separate from the Airport's regular funds, while still providing the Commission with control of the Hotel. In the proposed financing, the Commission would issue up to \$278,000,000 in Series 2018B and Series 2018C Bonds, which would be sold to bond investors. Those funds will be used to purchase up to \$260,000,000 in Hotel Special Facility Bonds, which the Commission would not sell to investors. By issuing both types of bonds and purchasing the Hotel Special Facility Bonds with the proceeds of the Series 2018B and Series 2018C Bonds, the Commission would be able to combine the desirable features of both the lowest cost of financing from the Capital Plan Bonds and the separate revenue treatment from the "special facility" status of the Hotel. Separating Hotel revenues from general airport revenues is critical to implementing the standard hotel industry practice of using a lockbox depository to collect daily receipts and pay expenses.

Sale Resolution

Capital Plan Bonds

The attached Resolution authorizes the sale of an additional \$278,000,000 aggregate principal amount of Capital Plan Bonds. If approved, the sale authority will allow the Commission to issue Capital Plan Bonds in Spring 2018, designated as Series 2018B and Series 2018C, to finance the purchase of Hotel Special Facility Bonds, construction of an AirTrain station to connect the Hotel with the Airport's AirTrain system, and costs of issuance.

Special Facility Bonds

The attached Resolution also authorizes the sale of \$260,000,000 aggregate principal amount of Hotel Special Facility Bonds. If approved, the sale authority will allow the Commission to issue Hotel Special Facility Bonds to finance construction costs of the Hotel, including capitalized interest, and to refinance outstanding commercial paper notes. The Commission plans to purchase all of the Hotel Special Facility Bonds with proceeds of the Series 2018B and Series 2018C Capital Plan Bonds.

Environmental Review

Pursuant to the Nineteenth Supplemental Resolution and Board Resolution No. 156-17, proceeds of the Capital Plan Bonds to be approved for sale by the attached Resolution may only be used to fund:

- (1) Construction costs of projects that either do not require environmental review or have already undergone all necessary environmental review and received Commission approval to proceed; and
- (2) Planning and development costs necessary to prepare other projects for environmental review and the necessary approvals.

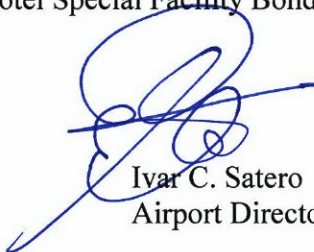
The Hotel and the Hotel AirTrain station have already undergone all necessary environmental review and received Commission approval to proceed on May 19, 2014, by Commission Resolution No. 14-0095.

Parameters for Capital Plan Bonds and Special Facility Bonds

In addition, the attached Resolution confirms that Capital Plan Bonds must be sold with a final maturity not later than 40 years from the date of issuance at interest rates not to exceed 12% for tax-exempt, fixed-rate bonds, 16% for taxable, fixed-rate bonds and 18% for variable rate bonds (other than bonds held by credit or liquidity providers). Hotel Special Facility Bonds must be sold with a final maturity not later than 40 years from their date of issuance and at interest rates not to exceed 4% or below 1%. The attached Resolution authorizes the Hotel Special Facility Bonds to be held in a trust for the benefit of the Commission after their issuance. Finally, the attached Resolution authorizes and directs staff and other appropriate officers of the Commission to execute and deliver the bond documents.

Recommendation

I recommend that this Commission adopts the attached Resolution authorizing the sale of an additional \$278,000,000 aggregate principal amount of previously approved Capital Plan Bonds; and up to \$260,000,000 aggregate principal amount of previously approved Special Facility Bonds for the Hotel. Following the adoption of this Resolution, no additional approvals will be required by either the Commission or the Board of Supervisors to consummate the issuance and sale of the Series 2018B and Series 2018C Capital Plan Bonds and Hotel Special Facility Bonds.



Ivar C. Satero
Airport Director

Prepared by: Leo Fermin
Chief Business & Finance Officer

Attachment

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 18-0080

AUTHORIZATION OF THE SALE OF AN ADDITIONAL \$278,000,000 AGGREGATE PRINCIPAL AMOUNT OF PREVIOUSLY APPROVED SAN FRANCISCO INTERNATIONAL AIRPORT SECOND SERIES REVENUE BONDS FOR THE HOTEL PROJECT AND RELATED PURPOSES; AND OF \$260,000,000 AGGREGATE PRINCIPAL AMOUNT OF PREVIOUSLY APPROVED SAN FRANCISCO INTERNATIONAL AIRPORT SPECIAL FACILITY BONDS FOR THE HOTEL PROJECT AND RELATED MATTERS

WHEREAS, the Airport Commission of the City and County of San Francisco (the "Commission"), on December 3, 1991, duly adopted Resolution No. 91-0210, providing for the issuance of San Francisco International Airport Second Series Revenue Bonds, which Resolution, as previously supplemented and amended, is herein called the "1991 Resolution"; and

WHEREAS, the 1991 Resolution provides for the issuance by the Commission, from time to time, of its San Francisco International Airport Second Series Revenue Bonds (the "1991 Resolution Bonds") for any lawful purpose of the Commission; and

WHEREAS, as part of the implementation of the Airport Master Plan approved by the Commission in 1992, the Commission is undertaking the development of an on-Airport hotel to be owned by the Commission (the "Hotel") along with a new AirTrain station to connect the Hotel with the AirTrain system (the "AirTrain Station"), collectively the "Hotel Project"; and

WHEREAS, the Commission, pursuant to the 1991 Resolution, has authorized the issuance of up to \$7,826,725,000 aggregate principal amount of 1991 Resolution Bonds to finance and refinance the construction, acquisition, equipping and development of capital projects undertaken by the Airport, including \$278,000,000 for the Hotel Project (the "Capital Plan Bonds"); and

WHEREAS, the Board of Supervisors of the City and County of San Francisco (the "Board") by its Resolutions No. 229-08, No. 50-11, No. 349-12, No. 125-14, No. 433-15, No. 156-17 and No. 269-17 approved the issuance of \$7,826,725,000 aggregate principal amount of the Capital Plan Bonds, including \$278,000,000 for the Hotel Project; and

WHEREAS, pursuant to the Resolutions No. 15-0182 and No. 17-0045, adopted September 22, 2015 and March 7, 2017, respectively, the Commission also authorized the issuance of not to exceed \$260,000,000 aggregate principal amount of special facility bonds, in one or more Series (the "Hotel Special Facility Bonds") pursuant to a Trust Agreement (the "Hotel Trust Agreement") to finance and refinance costs associated with the Hotel; and

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 18-0089

WHEREAS, the Board, by its Resolutions No. 433-15 and 269-17, adopted on December 1, 2015 and June 27, 2017, respectively, approved the issuance of not to exceed \$260,000,000 aggregate principal amount of Hotel Special Facility Bonds; and

WHEREAS, to maintain the special facility status of the Hotel and to finance it at the lowest available interest rates, the Commission determined to combine the desirable features of the Capital Plan Bonds, which are secured and payable from Airport net revenues and can, therefore, be sold to investors at the lowest available interest rates, and the Hotel Special Facility Bonds by selling the Capital Plan Bonds to investors and purchasing the Hotel Special Facility Bonds with a portion of the proceeds of the Capital Plan Bonds; and

WHEREAS, the Commission approved the sale of \$2,958,765,000 aggregate principal amount of the Capital Plan Bonds pursuant to Resolutions No. 09-0137, No. 13-0013, No. 14-0147, No. 16-0226 and No. 17-0237 adopted on June 2, 2009, January 30, 2013, July 22, 2014, August 23, 2016 and October 3, 2017, respectively (the "Prior Sale Resolutions"), of which \$2,891,495,000 has been issued to date and \$67,270,000 remains unissued; and

WHEREAS, the Commission now desires to amend the Prior Sale Resolutions to approve the sale of an additional \$278,000,000 aggregate principal amount of Capital Plan Bonds for the Hotel Project; and

WHEREAS, the Commission now desires to approve the sale and purchase of \$260,000,000 aggregate principal amount of the Hotel Special Facility Bonds (collectively, these Capital Plan Bonds and the Hotel Special Facility Bonds are referred to as the "2018 Hotel Bonds"); and

WHEREAS, pursuant to prior resolutions of the Commission, including Resolution No. 09-0137 and Resolution No. 10-0307, the latter as duly adopted by the Commission on October 5, 2010, the Commission has previously authorized, with respect to Capital Plan Bonds, the execution and delivery of Credit Facilities and Liquidity Facilities, including the approval of a form of a Standby Bond Purchase Agreement and a Letter of Credit and Reimbursement Agreement, the preparation of Disclosure Documents, the execution and delivery, and form of a Bond Purchase Agreement, Remarketing Agreement and Forward Purchase Agreement; and

WHEREAS, the Airport Master Plan was the subject of a Program Environmental Impact Report ("EIR") certified by the San Francisco Planning Commission on May 28, 1992, by Motion No. 13356; and

WHEREAS, the Environmental Planning Division of the San Francisco Planning Department reviewed the Hotel Project and issued an addendum to the EIR ("Addendum"), on February 5, 2014, determining that the Hotel Project is within the scope of the EIR and no additional environmental review is required under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 18-0099

WHEREAS, on May 19, 2014, the Commission, by Resolution No. 14-0095, adopted findings under CEQA related to the Hotel Project, determined to proceed with the Hotel Project, and authorized the Airport Director to proceed with implementation of the Hotel Project; and

WHEREAS, the project files, including the EIR, Addendum and Commission Resolution No. 14-0095, have been made available for review by the Commission and the public and those files are part of the record before the Commission; now, therefore, be it

RESOLVED, that this Commission has reviewed and considered the information in the EIR and Addendum, and hereby incorporates the CEQA findings contained in Resolution No. 14-0095, including the findings of the Statement of Overriding Considerations, by this reference as though fully set forth in this Resolution; and be it further

RESOLVED, that this Commission finds that since the EIR and Addendum were finalized, there has been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts and there is no new information of substantial importance that would change the conclusions set forth in the EIR and Addendum; and, be it further

RESOLVED, that this Commission authorizes the following:

Section 1. Commission Findings. The Commission hereby finds and determines as follows:

- (a) The above recitals are true and correct.
- (b) Sufficient unencumbered balances are expected to be available in the proper funds and accounts of the Airport to meet all payments due under the 2018 Hotel Bonds as these become due.
- (c) All capitalized terms used, but not defined herein, shall have the meanings assigned to them in the 1991 Resolution.

Section 2. Amendment of Prior Sale Resolutions. The Prior Sale Resolutions are hereby amended and supplemented as follows:

- (a) The aggregate principal amount of Capital Plan Bonds approved by the Prior Sale Resolutions (\$2,958,765,000) is hereby amended and increased by \$278,000,000 for purposes of financing the Hotel Project, which, if the Commission also adopts on the date hereof the proposed resolution approving the issuance of an additional \$950,000,000 aggregate principal amount of Capital Plan Bonds to finance or refinance the construction, acquisition, equipping and development of other capital projects undertaken by the Airport, will increase the total amount of Capital Plan Bonds authorized by the 1991 Resolution to \$4,186,765,000; and

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 18-0089

- (b) The terms of the Capital Plan Bonds in the Prior Sale Resolutions, including maximum maturity and maximum interest rates, as previously amended, are hereby confirmed.

Section 3. Terms of the Hotel Special Facility Bonds. The Airport Director is hereby authorized and directed, for and on behalf of and in the name of the Commission, to determine the number of series, principal amounts of each series, interest payment dates, dated dates, maturity dates (including serial maturities and/or term maturities), and the terms of any optional or mandatory redemption of the Hotel Special Facility Bonds, the amounts and dates of any mandatory sinking fund payments and the interest rates to be borne by the Hotel Special Facility Bonds; *provided, however*, that the aggregate principal amount of the Hotel Special Facility Bonds shall not exceed \$260,000,000; no Hotel Special Facility Bond shall bear interest at a rate in excess of four percent (4%) per annum or below one percent (1%) per annum, and the final maturity of the Hotel Special Facility Bonds shall be no later than 40 years from their date of issuance. The determinations of the Airport Director provided for in this Section 3 shall be set forth in the Hotel Trust Agreement as finally executed and delivered. The Hotel Special Facility Bonds shall be executed by the manual or facsimile signature of the President of the Commission and attested by the Secretary of the Commission.

Section 4. Sale and Purchase of Hotel Special Facility Bonds. The Airport Director is hereby authorized and directed, for and on behalf of and in the name of the Commission, to sell the Hotel Special Facility Bonds to the Commission or to a separate trust entity created under California or Delaware law to purchase such Hotel Special Facility Bonds, and to purchase, or cause the purchase by the separate trust entity of, the Hotel Special Facility Bonds from the proceeds of the Capital Plan Bonds. The Airport Director is hereby authorized to make and enter into such arrangements as may be necessary or desirable to effect creation of the separate entity and the purchase of such Hotel Special Facility Bonds by such entity. The proposed form of Trust Account Agreement approved by Resolution No. 08-0185, adopted by the Commission on October 7, 2008, is hereby approved and the Airport Director or his designee is hereby authorized to execute and deliver one or more such Trust Account Agreements with the Trustee for the Capital Plan Bonds or with a bank or other financial institution selected in such manner as determined by the Airport Director, in substantially said form, with such changes to such agreement as the person signing the same may, with the advice of the City Attorney, determine to be necessary or desirable and such determination to be conclusively evidenced by the execution and delivery thereof.

Section 5. Authentication and Delivery of the Hotel Special Facility Bonds. The Hotel Special Facility Bonds, when prepared, shall be delivered to U.S. Bank National Association or its successor, as trustee (the "Hotel Special Facility Bonds Trustee"), for authentication by the Trustee, as Authenticating Agent. The Hotel Special Facility Bonds Trustee is hereby authorized and directed to authenticate the Hotel Special Facility Bonds by executing the certificate of authentication appearing thereon, and to deliver the Hotel Special Facility Bonds, when duly authenticated and upon the direction of the Commission, to the purchaser of the Hotel Special Facility Bonds, in accordance with written instructions executed on behalf of the Commission by the Airport Director or his designee, which instructions the Airport Director or his designee are hereby authorized and directed to execute and deliver to the Trustee.

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 18-0029

Section 6. Refunding of Interest. The Airport Director, for and on behalf of and in the name of the Commission, upon consultation with the City Attorney, the Airport's financial advisors and co-bond counsel, is hereby authorized, taking into account the current financial needs of the Airport, to provide for the refunding of interest paid on outstanding subordinate commercial paper notes from a portion of the proceeds of the Hotel Special Facility Bonds, in an amount to be determined by the Airport Director.

Section 7. Ratification of Prior Acts relating to the Hotel Special Facility Bonds. The actions of the officers, agents and employees of the Commission, prior to the adoption of this Resolution to consummate the issuance and sale of the Hotel Special Facility Bonds, are hereby ratified, approved and confirmed. The Airport Director and the other officers, agents and employees of the Commission are hereby authorized and directed to execute such documents, agreements, and certificates and to take such other actions, in consultation with the City Attorney, as may be necessary or desirable to accomplish the purposes set forth in this Resolution and the transactions contemplated hereby.

Section 8. Effectiveness. This Resolution shall become effective on and as of the date of adoption hereof except as otherwise set forth herein.

Section 9. Ratification of the 1991 Resolution and Prior Sale Resolutions. The 1991 Resolution and the Prior Sale Resolutions are hereby ratified and confirmed and shall continue in full force and effect in accordance with the respective terms and provisions thereof, as amended and supplemented, including as amended and supplemented by this Resolution.

Section 10. Further Amendments to the 1991 Resolution. The approvals contained in this resolution shall extend to any amendments to the 1991 Resolution and to all resolutions of the Commission supplemental thereto, as well as to such additional resolutions that this Commission may adopt for the purposes of implementing the issuance, sale and delivery of any 1991 Resolution Bonds, provided, that in each case such amendment or additional resolution is consistent with the parameters set forth herein and in the 1991 Resolution.

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 18-0089

ADOPTED by the Airport Commission of the City and County of San Francisco this 3rd day of April 2018, by the following vote:

Ayes: 4

Noes: 0

Absent: 1

[SEAL]

Approved as to Form:

DENNIS J. HERRERA
City Attorney

By: Brooke D. Abola
Brooke D. Abola
Deputy City Attorney

I hereby certify that the foregoing resolution was adopted by the Airport Commission at its meeting of _____.

Juan Camacho
Secretary

I hereby certify that the foregoing resolution was adopted by the Airport Commission at its meeting of _____ ^{Page 6 of 6} APR 03 2018

Juan Camacho
Secretary

AIRPORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 20-0153

**AUTHORIZATION OF FORBEARANCE IN CONNECTION WITH THE PARTIAL PAYMENT
OR NONPAYMENT OF INTEREST DUE ON THE AIRPORT'S HOTEL SPECIAL FACILITY
REVENUE BONDS**

- WHEREAS, on December 3, 1991, by Resolution No. 91-0210 (as previously supplemented and amended, the 1991 Resolution), the Commission provided for the issuance of San Francisco International Airport Second Series Revenue Bonds; and
- WHEREAS, the 1991 Resolution provides for the issuance by the Commission from time to time of its San Francisco International Airport Second Series Revenue Bonds (1991 Resolution Bonds) for any lawful purpose of the Commission; and
- WHEREAS, as part of the implementation of the Airport Master Plan approved by the Commission in 1992, the Commission undertook the development of an On-Airport hotel owned by the Commission (the Hotel) along with a new AirTrain station to connect the Hotel with the AirTrain system; and
- WHEREAS, on September 22, 2015, by Resolution No. 15-0182, the Commission designated the planned Hotel as a "Special Facility" as defined in the 1991 Resolution and determined that revenues from the Hotel would constitute "Special Facility Revenues" as defined in the 1991 Resolution and would not be included as "Revenues" under the 1991 Resolution; and
- WHEREAS, on April 3, 2018, by Resolution No. 18-0089, in order to finance the Hotel at the lowest available interest rates, among other reasons, the Commission authorized the sale of 1991 Resolution Bonds to investors and the use of a portion of the proceeds of such 1991 Resolution Bonds to purchase bonds issued by the Commission and secured solely by Hotel revenues (Hotel Special Facility Bonds), thereby combining the desirable features of 1991 Resolution Bonds and Hotel Special Facility Bonds; and
- WHEREAS, on June 6, 2018, the Commission issued \$260,000,000 aggregate principal amount of Hotel Special Facility Bonds, pursuant to a Trust Agreement (the Hotel Trust Agreement) between the Commission and U.S. Bank, National Association, as trustee (the Hotel Bonds Trustee), to finance the Hotel; and
- WHEREAS, on June 6, 2018, the Commission also issued \$276,340,000 aggregate principal amount of 1991 Resolution Bonds, Series 2018B and Series 2018C, to finance the construction of the Hotel and certain related projects; and
- WHEREAS, using a portion of the proceeds of the 1991 Resolution Bonds, the Commission invested in the Hotel Special Facility Bonds by causing the Hotel Special Facility Bonds to be purchased by a separate trust entity created under Delaware law for the purpose of making such purchase, with the Commission as trust beneficiary; and

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 20-0153

- WHEREAS, as Hotel Special Facility Bonds investor and trust beneficiary, the Commission has authority to direct The Bank of New York Mellon Trust Company, N.A (BNY Mellon Trust), as trustee of the separate trust entity that is the bondholder of the Hotel Special Facility Bonds, to take actions and give directions to the Hotel Bonds Trustee on the Commission's behalf; and
- WHEREAS, the Hotel opened on October 4, 2019 and has been operating at a loss since the onset of the Coronavirus (COVID-19) pandemic in March due to substantially reduced guest reservations and event facility bookings; and
- WHEREAS, Staff anticipate that the Commission, as issuer of the Hotel Special Facility Bonds, will not have sufficient Hotel revenues available to fund the \$3.9 million interest payment due on October 1, 2020 on the Hotel Special Facility Bonds; and
- WHEREAS, it is necessary and desirable for the Commission, as Hotel Special Facility Bonds investor and trust beneficiary, to authorize the Airport Director to cause instructions to be issued to the Hotel Bonds Trustee: (1) to temporarily suspend the payment of, or to accept a partial payment or nonpayment of, interest due on the Hotel Special Facility Bonds on October 1, 2020, (2) to forbear and take no action to declare a nonpayment event or exercise any related remedies until further instructed by the Commission, and (3) to take any other related actions at the direction of the Commission permitted by the Hotel Trust Agreement; now, therefore, be it
- RESOLVED, that the Commission finds and declares that the foregoing recitals are true and correct; and, be it further
- RESOLVED, that this Commission authorizes the Airport Director or a designee of the Airport Director to take all actions necessary or desirable, in consultation with the City Attorney, in connection with the furtherance of the purposes and intent of this Resolution, including without limitation execution and issuance of notices, instructions, orders, consents, certificates, waivers or other similar instruments, to cause BNY Mellon Trust to instruct the Hotel Bonds Trustee: (1) to temporarily suspend the payment of, or accept a partial payment or nonpayment of, the interest due on the Hotel Special Facility Bonds due on October 1, 2020, including instructions to cause or prevent related transfers of funds held by the Hotel Bond Trustee pursuant to the Hotel Trust Agreement, (2) to forbear and take no action to declare a nonpayment event or exercise any related remedies, until further instructed by the Commission, and (3) to take any other related actions at the direction of the Commission permitted by the Hotel Trust Agreement; and, be it further
- RESOLVED, that the actions of the officers, agents and employees of the Commission, prior to the adoption of this Resolution, to accomplish the purposes and intent of this Resolution, are ratified and confirmed.

Page 2 of 2

*I hereby certify that the foregoing resolution was adopted by the Airport Commission
at its meeting of _____*

SEP 15 2020


Secretary



MEMORANDUM

September 15, 2020

TO: AIRPORT COMMISSION
Hon. Larry Mazzola, President
Hon. Eleanor Johns, Vice President
Hon. Richard J. Guggenlime
Hon. Everett A. Hewlett, Jr.
Hon. Malcolm Yeung

20-0153
SEP 15 2020

FROM: Airport Director

SUBJECT: Authorization of Forbearance in Connection with the Partial Payment or Nonpayment of Interest Due on the Hotel Special Facility Revenue Bonds

DIRECTOR’S RECOMMENDATION: AUTHORIZE FORBEARANCE IN CONNECTION WITH THE PARTIAL PAYMENT OR NONPAYMENT OF INTEREST DUE ON OCTOBER 1, 2020 ON THE AIRPORT’S HOTEL SPECIAL FACILITY REVENUE BONDS.

Executive Summary

Staff recommend authorization to accept an anticipated partial payment or nonpayment of interest due on October 1, 2020 on the Commission’s Special Facility Revenue Bonds (San Francisco International Airport Hotel), Series 2018 (the Hotel Bonds). The Commission is both the issuer of the Hotel Bonds and the ultimate investor in the Hotel Bonds, as well as the owner of the On-Airport Hotel. The COVID-19 pandemic has negatively impacted the Hotel’s financial performance. The attached Resolution provides the necessary authorization for the Airport Director to, in effect, instruct U.S. Bank, National Association, as trustee for the Hotel Bonds (the Hotel Bonds Trustee), to temporarily suspend the payment, or accept a partial payment or nonpayment, of interest due on the Hotel Bonds and to forbear and take no action to declare a non-payment event or exercise any related remedies. This will reduce near-term financial pressures on the Hotel caused by the pandemic that has significantly reduced guest occupancy and Hotel revenues. This action will also allow Staff to consider options to provide additional financial relief to the Hotel.

The Airport’s Financial Advisory Committee reviewed and concurs with the proposed action.

Background

The Hotel is managed by Hyatt Corporation (Hyatt) pursuant to a competitively-procured Hotel Management Agreement (HMA) between Hyatt and the Commission.

The construction of the Hotel was financed in 2018 with Airport Revenue Bonds, Series 2018B/C (the Airport Revenue Bonds) issued under the 1991 Master Bond Resolution, which are secured by a pledge of Airport “general revenues.” The Commission designated the Hotel as a “special facility,” which means that Hotel revenues are excluded from Airport revenues pledged to the Airport Revenue Bonds.

THIS PRINT COVERS CALENDAR ITEM NO. 1

Simultaneously, the Commission also issued the Hotel Bonds (which are payable only from Hotel net revenues) and used the proceeds of the Airport Revenue Bonds to purchase the Hotel Bonds. Therefore, the Commission is both the issuer and the sole investor for the Hotel Bonds. Hotel revenues fund operating costs of the Hotel, as well as interest and principal payments on the Hotel Bonds. The diagram attached as Attachment A illustrates these transactions. This financing mechanism was reviewed and approved by the City Controller and Board of Supervisors.

Hotel Bonds Funding Shortfall

Prior to the onset of the COVID-19 pandemic, the Hotel's operating performance was strong. However, since March 2020, the Hotel has been operating at a loss due to substantially lower guest reservations and event facility bookings. Debt service payments for the Hotel Bonds total \$7.8 million in Fiscal Year (FY) 2020/21. These payments represent 23% of the Hotel's total projected expenses of \$33.9 million for the year. The Hotel's budget projects an \$11.1 million total loss for FY 2020/21 based upon Hotel revenues of \$22.8 million. Also, Hotel cash reserves are being drawn down to fund Hotel operations as needed.

Due to the Hotel's current financial condition, there will not be enough Hotel revenues or reserves to make the full semi-annual interest payment for the Hotel Bonds of \$3.9 million due on October 1, 2020. Staff anticipate that the payment may be partially funded using the Hotel's limited cash reserves available for debt repayment, or not funded at all.

Proposed Commission Action and Rationale

Staff recommend that the Commission (as Hotel Bond investor) give instructions causing the Hotel Bond Trustee to temporarily suspend, or accept a partial payment or nonpayment of, interest due on the Hotel Bonds on October 1, 2020 and to forbear and take no action to declare a nonpayment event or exercise any related remedies. Staff also plan to investigate long-term options for providing financial relief to the Hotel before the next Hotel Bonds payment on April 1, 2021.

These options may include:

- Addressing the nonpayment event, including a possible refinancing, restructuring, or partial forgiveness of the Hotel Bonds; and
- Restructuring the management fee payable to Hyatt under the HMA to provide near-term cost savings.

The rationale for this recommendation is to reduce near-term financial pressures on the Hotel so that it can continue to operate and fund critical operating expenses such as payroll, and remain positioned to provide a high level of service to its guests as demand recovers from the impact of the COVID-19 pandemic. Staff view the Hotel as an important asset with upside financial potential for the Commission in the long term, particularly given the devastating impact of the pandemic on other hotels in San Francisco and San Mateo County.

The fiscal impact of this recommendation is a small decline in revenues to the Airport as the investor for the Hotels Bonds. The October 1, 2020 debt payment (\$3.9 million) for the Hotel Bonds represents 0.3% of projected total Airport revenues for FY 2020/21. The recommended action will not adversely affect the Commission's ability to make timely debt service payments for the related Airport Revenue Bonds.

Recommendation

I recommend the Commission adopt the attached Resolution authorizing forbearance in connection with the partial payment or nonpayment of interest due on October 1, 2020 on the Hotel Bonds. Staff will return to the Commission with recommendations for next steps to provide financial relief to the Hotel, including addressing future payments due on the Hotel Bonds.



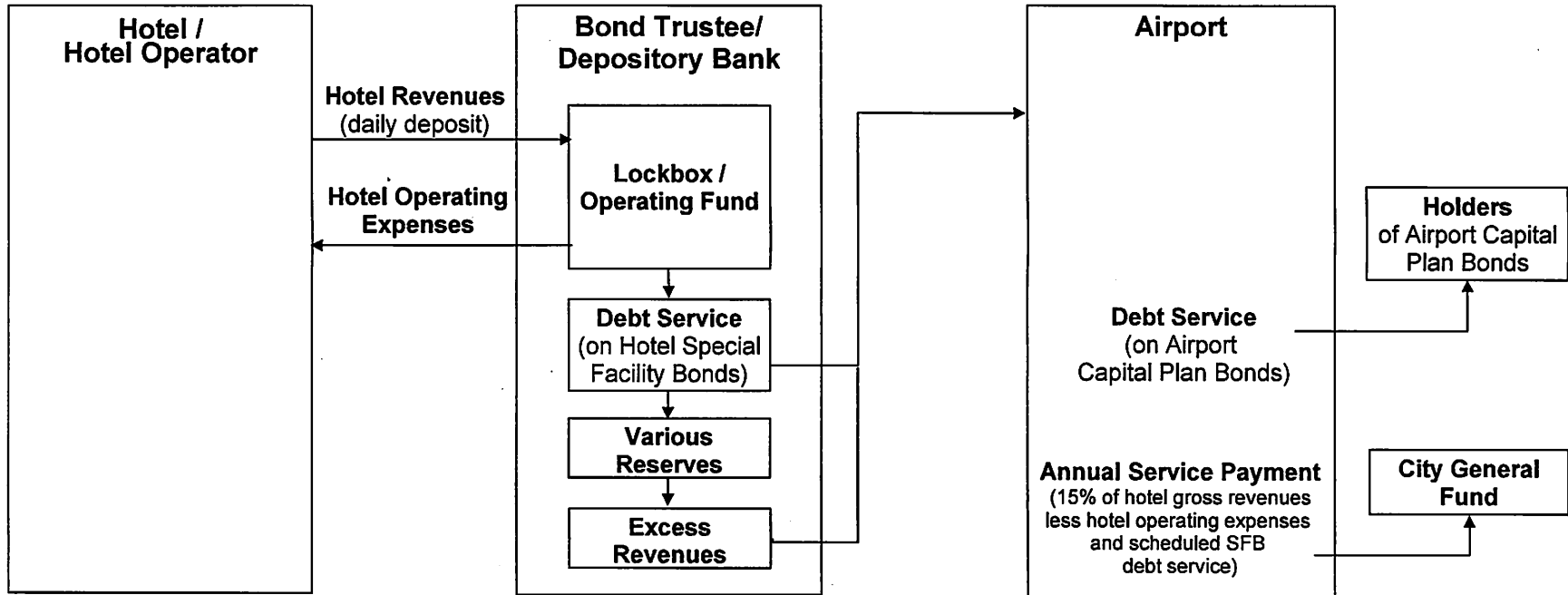
Ivar C. Satero
Airport Director

Prepared by: Kevin Kone
Acting Chief Financial Officer

Attachments

Attachment A

**Structure of Airport Hotel
San Francisco International Airport**





San Francisco International Airport

December 11, 2020

Angela Calvillo
Clerk of the Board
Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Subject: Approval of Form of Amended and Restated Trust Agreement Related to Airport Hotel Special Facility Bonds

Dear Ms. Calvillo:

We have enclosed a Board of Supervisors Resolution approving the form of an Amended and Restated Trust Agreement providing for the restructuring of the Airport Commission's \$260,000,000 aggregate principal amount of outstanding Special Facility Revenue Bonds (San Francisco International Airport Hotel), Series 2018; and approving certain related matters. Please place this item on the Board calendar at your earliest convenience.

The Board of Supervisors previously approved the issuance of the Special Facility Revenue Bonds and the original Trust Agreement, and other related actions. We are now seeking authorization from the Board of Supervisors to approve the Amended and Restated Trust Agreement. The amendments will reduce near-term financial pressures on the On-Airport Hotel, which is owned by the Airport Commission, by reducing debt costs for the Special Facility Revenue Bonds for the next several years. This will support the Hotel to continue to operate and fund critical operating expenses, and remain positioned to provide a high level of guest service while it recovers from the impacts of the COVID-19 pandemic.

We have enclosed copies of the Airport Commission's Resolution No. 20-0221, which was adopted on December 1, 2020, with the accompanying Memorandum.

The following is a list of accompanying documents:

- Board of Supervisors Resolution;
- Approved Airport Commission Resolution No. 20-0221;
- Memorandum accompanying Airport Commission Resolution No. 20-0221;
- Other Airport Commission resolutions referenced in the Board resolution as being on file with the Clerk of the Board; and
- Form of Amended and Restated Trust Agreement

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED
MAYOR

LARRY MAZZOLA
PRESIDENT

ELEANOR JOHNS
VICE PRESIDENT

RICHARD J. GUGGENHIME

EVERETT A. HEWLETT, JR.

MALCOLM YEUNG

IVAR C. SATERO
AIRPORT DIRECTOR

Angela Calvillo
Clerk of the Board
Board of Supervisors
December 11, 2020
Page 2

The following person may be contacted regarding this matter:

Ronda Chu
Capital Finance Director
(650) 821-2823
ronda.chu@flysfo.com

Very truly yours,

Corina Monzón /s/

Corina Monzón
Commission Secretary

Enclosures

cc: Ronda Chu, Finance
Cathy Widener, Governmental Affairs

From: [Dyanna Quizon \(AIR\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Cathy Widener \(AIR\)](#); [Corina Monzon \(AIR\)](#); [Carolyn Jayin \(AIR\)](#)
Subject: BOS E-FILE SUBMITTAL: Amended & Restated Trust Agreement - SFO Airport Hotel
Date: Monday, December 14, 2020 9:49:37 AM
Attachments: [BOS Resolution \(Amend Hotel Trust Agreement - SFO Airport Hotel\).DOCX](#)
[Resolution 20-0221 APPROVAL of Amended & Restated Trust Agreement - Special Facility Revenue Bonds SFO Hotel.pdf](#)
[Memorandum 20-0221 APPROVAL of Amended & Restated Trust Agreement - Special Facility Revenue Bonds SFO Hotel.pdf](#)
[Other Airport Commission Resolutions.zip](#)
[Form of Amended & Restated Trust Agreement - SFO Airport Hotel.pdf](#)
[image002.png](#)
[BOS Cover Letter \(Amend Hotel Trust Agreement - SFO Airport Hotel\).doc](#)
[RE BOS E-FILE SUBMITTAL Amended Restated Trust Agreement - SFO Airport Hotel.msg](#)

CITY AND COUNTY OF SAN FRANCISCO

AIRPORT COMMISSION

BOARD OF SUPERVISORS LEGISLATION

To: BOS Legislation

Date: December 11, 2020

RE: Approval of Form of Amended and Restated Trust Agreement Related to Airport Hotel Special Facility Revenue Bonds

Attached is proposed legislation regarding approval the form of an Amended and Restated Trust Agreement providing for the restructuring of the Airport Commission's \$260,000,000 aggregate principal amount of outstanding Special Facility Revenue Bonds (San Francisco International Airport Hotel), Series 2018; and approving certain related matters.

The following is a list of accompanying documents:

- Board of Supervisors Resolution;
- Approved Airport Commission Resolution No. 20-0221;
- Memorandum accompanying Airport Commission Resolution No. 20-0221;
- Other Airport Commission resolutions referenced in the Board resolution as being on file with the Clerk of the Board; and
- Form of Amended and Restated Trust Agreement

Contacts:

Cathy Widener, Governmental Affairs Administrator
650-821-5023

Ronda Chu, Capital Finance Director
650-821-2823

Thank you,



Dyanna Quizon (*preferred pronouns: she/her/hers*)

Manager | Government Affairs