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# Ordinance No. 91-439

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## The Council of the Metropolitan Service District

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An ordinance establishing a plan for the financing from time to time of various facilities and operations of the Metropolitan Service District; authorizing the issuance of one or more series of revenue bonds for such purpose under the provisions of supplemental ordinances adopted pursuant hereto; and establishing and determining other matters in connection therewith.

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Enacted on December 12, 1991

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*Prepared by:*

*Stoel Rives Boley Jones & Grey,  
Bond Counsel*

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**Note: This Table of Contents is provided solely for the convenience of the reader. It does not constitute a part of Ordinance No. 91-439.**

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**Metropolitan Service District**  
Counties of Multnomah, Clackamas and Washington  
State of Oregon

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**Ordinance No. 91-439**

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**An ordinance establishing a plan for the financing from time to time of various facilities and operations of the Metropolitan Service District; authorizing the issuance of one or more series of revenue bonds for such purpose under the provisions of supplemental ordinances adopted pursuant hereto; and establishing and determining other matters in connection therewith.**

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**Be it enacted by the Council of the Metropolitan Service District:**

**Section A. Findings.** The Council (the "Council") of the Metropolitan Service District, a political subdivision organized and existing under the laws of the State of Oregon (the "Issuer"), hereby finds and determines as follows:

(a) Pursuant to and in accordance with the provisions of Article II, Section 14 of the Oregon Constitution, Oregon Revised Statutes Chapter 268 and related provisions of the Oregon Revised Statutes, the Issuer is responsible for various regional governmental functions and operations.

(b) In order to meet the present and continuing needs of the Issuer to carry out the duties, functions and operations which are now or which may hereafter become its responsibility or within its powers, it is and will be necessary to borrow money for the purposes of financing the operations of the Issuer and the acquisition, construction, renovation, furnishing and equipping of the facilities necessary or appropriate in connection with such operations.

(c) Pursuant to the provisions of the Act (as hereinafter defined) and other applicable provisions of law, the Issuer is authorized, without voter approval, to issue and sell from time to time revenue bonds for the purpose of carrying into effect all or any of the powers granted to it.

(d) The Issuer has determined to enact this Ordinance to provide for the issuance of its revenue bonds and other obligations (as more particularly described herein, the "Bonds") for the purpose of financing the operations of the Issuer and the acquisition, construction, renovation, furnishing and equipping of the facilities necessary or appropriate in connection with such operations, as well as for any other lawful purpose for which the Issuer is now or may hereafter be authorized to issue Bonds of the character provided for herein.

## **ARTICLE I DEFINITIONS**

**Section 101. Definitions.** As used in this Ordinance, unless the context shall otherwise require, the following terms shall have the following respective meanings set forth below:

**"Account" or "Accounts"** shall mean one or more of the special trust accounts created and established pursuant to this Ordinance or any Supplemental Ordinance.

**"Accountant's Opinion"** shall mean an opinion, certificate or report (as appropriate to the purposes for which the same is required) signed by an independent certified public accountant or a firm of independent certified public accountants selected by the Issuer.

**"Accreted Value"** shall mean, as of the date of computation with respect to any Capital Appreciation Obligations, an amount equal to:

(i) the principal amount of such Capital Appreciation Obligations (the issue price at the date of issuance), plus

(ii) the interest accrued on such Capital Appreciation Obligations from the date of original issuance of such Capital Appreciation Obligations to the Interest Payment Date next preceding the date of computation or the date of computation if an Interest Payment Date, such interest to accrue at an approximate rate *per annum* of the Capital Appreciation Obligations set forth in the Supplemental Ordinance providing for the issuance of, or the Financing Agreement giving rise to, such Capital Appreciation Obligations, compounded at such intervals as shall be specified in such Supplemental Ordinance or Financing Agreement, plus

(iii) with respect to matters related to the payment upon redemption of such Capital Appreciation Obligations, if such date of computation shall not be an Interest Payment Date, a portion of the difference between the Accreted Value as of the immediately preceding Interest Payment Date (or the date of original issuance if the date of computation is prior to the first Interest Payment Date succeeding the date of original issuance) and the Accreted Value as of the immediately succeeding Interest Payment Date, calculated based on the assumption that Accreted Value accrues during any period in equal daily amounts on the basis of a year of twelve 30-day months.

A table of Accreted Values for each Series of Bonds issued as Capital Appreciation Obligations shall be incorporated in a Supplemental Ordinance or Financing Agreement relating to such Capital Appreciation Obligations.

"Act" shall mean: (i) when used with respect to the governmental powers of the Issuer, Oregon Revised Statutes Chapter 268, as amended, and other applicable provisions of the laws of the State of Oregon or any charter or other law hereafter enacted or in effect dealing with the governmental powers of the Issuer; and (ii) when used with respect to the legal authority pursuant to which a particular Series of Debt Obligations are issued or incurred, the statute, charter or other provision of law specified in the Supplemental Ordinance or in the related Financing Agreement pursuant to which such Debt Obligation is issued or incurred, which may include (but is not limited to) Oregon Revised Statutes, Chapter 268, as amend, Oregon Revised Statutes, Chapter 288, as amended, and other applicable provisions of the laws of the State of Oregon or any charter provision or other law hereafter enacted or in effect dealing with the financing powers of the Issuer..

"Additional Bonds" shall mean Bonds issued pursuant to Section 205 hereof.

"Alternate Credit Facility" means with respect to a particular Series of Debt Obligations, any Credit Facility meeting the applicable requirements of the Supplemental Ordinance or Financing Agreement under which such Series of Debt Obligations is issued or incurred and which is given in substitution for or replacement of an existing Credit Facility securing such Series.

"Annual Budget" shall mean the annual budget of the Issuer, as amended or supplemented, adopted or in effect for a particular Fiscal Year as provided in Section 702(f) hereof.

"Annual Debt Service" shall mean the amount required to be paid in the then current or any succeeding Fiscal Year in respect of the principal of or interest on any Outstanding Debt Obligations; *providing, however, that:*

(i) there shall be credited against such sum any interest capitalized or otherwise payable from proceeds derived from the sale of such Debt Obligations;

(ii) the amount of Term Obligations subject to mandatory redemption in any Fiscal Year pursuant to a Mandatory Redemption Schedule shall be deemed to mature in the Fiscal Year in which such Term Obligations are subject to such mandatory redemption and only the principal amount of such Term Obligations scheduled to remain Outstanding on the maturity date thereof shall be included in determining the Annual Debt Service for Debt Obligations in the Fiscal Year in which such maturity date occurs;

(iii) for purposes of determining Annual Debt Service for the Outstanding Debt Obligations which constitute Option Obligations, any such Option Obligations Outstanding at the time of such determination shall be assumed to mature on their stated dates of maturity; *provided that* if such Option Obligations are subject, without contingency, to scheduled mandatory redemption on specific determinable dates and in specific amounts, then such Option Obligations shall be deemed to mature on the dates and in the amounts provided in connection with such scheduled mandatory redemption;

(iv) for purposes of computing Annual Debt Service for the Outstanding Debt Obligations which constitute Variable Rate Obligations, such Variable Rate Obligations shall be deemed to bear interest at all times to maturity thereof at the Estimated Average Interest Rate applicable thereto and if such Variable Rate Obligations are subject, without contingency, to scheduled mandatory redemption on specific or determinable dates and in specific amounts, then such Variable Rate Obligations shall be deemed to mature on the dates and in the amounts provided in connection with such scheduled mandatory redemption;

(v) for purposes of computing Annual Debt Service on Outstanding Debt Obligations which constitute Capital Appreciation Obligations, only the principal and interest portion of the Accreted Value

becoming due at maturity or by virtue of a scheduled mandatory redemption prior to maturity shall be included in the calculations of accrued and unpaid interest and principal requirements; and

(vi) for purposes of computing Annual Debt Service on any Debt Obligations which constitute Balloon Indebtedness, it shall be assumed that the principal of such Balloon Indebtedness, together with interest thereon at the rate applicable to such Balloon Indebtedness, shall be amortized in equal annual installments over a term equal to the lesser of:

(1) twenty five (25) years; or

(2) the average weighted useful life (expressed in years and rounded to the next highest integer) of the properties and assets constituting the Project (if any) financed out of the proceeds of such Balloon Indebtedness.

**"Authorized Denominations"** means, with respect to a particular Series of Bonds, the denominations in which the Bonds of such Series are authorized to be issued as provided in the Supplemental Ordinance under which such Series of Bonds is issued.

**"Authorized Issuer Representative"** shall mean the Executive Officer of the Issuer or any person designated by the Executive Officer in writing to act on behalf of such Executive Officer for purposes of this Ordinance.

**"Available Funds"** means any funds, investments or other liquid assets of the Issuer that are not restricted by law to a use which is not consistent with the payment of the amounts owing under and with respect to Debt Obligations, including but not limited to cash on hand, bank deposits, fund balances and investment income derived therefrom, but not including Revenues.

**"Balloon Indebtedness"** shall mean any Series of Debt Obligations more than twenty five percent (25%) of the principal of which, in accordance with the terms of such Debt Obligations, is due and payable in any one Fiscal Year either by reason of the stated maturity date of such Debt Obligations or pursuant to a Mandatory Redemption Schedule; *provided that* with respect to any Debt Obligations issued as Term Obligations, such Debt Obligations shall only be treated as Balloon Indebtedness if more than twenty five percent (25%) of the principal thereof is due in any one Fiscal Year pursuant to the applicable Mandatory Redemption Schedule or upon the stated maturity date thereof (assuming that the only principal due on the stated maturity date thereof will be the principal remaining outstanding after all redemptions have been made pursuant to the applicable Mandatory Redemption Schedule).

**"Bond" or "Bonds"** shall mean all bonds, notes or other debt obligations issued under the provisions of this Ordinance and any Supplemental Ordinance which are: (i) payable from the Revenues and Available Funds on an equal and ratable (*pari passu*) basis with all other Outstanding Debt Obligations, and (ii) secured by a pledge of the Trust Estate on an equal and ratable (*pari passu*) basis with all other Outstanding Bonds.

**"Bond Counsel"** shall mean Stoel Rives Boley Jones & Grey or an attorney or firm of attorneys of recognized national standing in the field of law relating to municipal bonds selected by the Issuer.

**"Bond Registrar"** shall mean, with respect to a particular Series of Bonds, any bank, trust company or national banking association, which may include the Trustee or its successor, authorized by the Issuer pursuant to a Supplemental Ordinance to act as bond registrar for such Series of Bonds and having the duties, responsibilities and rights provided for in this Ordinance and such Supplemental Ordinance, and its successor or successors and any other

corporation or association which at any time may be substituted in its place pursuant to this Ordinance or the applicable provisions of any Supplemental Ordinance.

**"Bond Year"** means, with respect to a particular issue of Debt Obligations, each one year period commencing on: (i) the date of issuance and delivery or incurrence of the Debt Obligations of such issue; or (ii) such other date as the Issuer may elect in accordance with the application provisions of Section 148(f) of the Code and the regulations thereunder.

**"Calculation Period"** means, with respect to a particular issue of Debt Obligations, the period elected by the Issuer in accordance with and pursuant to the regulations promulgated pursuant to Section 148(f) of the Code (or any successor thereto) for calculating the Rebate Amount with respect to such issue.

**"Capital Appreciation Obligations"** shall mean those Debt Obligations as to which interest is compounded periodically on each of the applicable periodic dates designated for compounding and payable in an amount equal to the then current Accreted Value only at the maturity or earlier redemption thereof, all as so designated in a Supplemental Ordinance of the Issuer providing for the issuance thereof or in the Financing Agreement giving rise to such Debt Obligation, including any Debt Obligations which accrue and compound interest thereon as aforesaid for a period of time, after which period such Debt Obligations commence paying interest on a periodic basis and convert into Current Interest Obligations.

**"Code"** means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated or applicable thereunder, and any successor statute (but only to the extent that such successor statute is applicable to particular Debt Obligations).

**"Completion Obligations"** shall mean, with respect to a particular Series of Debt Obligations, Debt Obligations issued or incurred under and pursuant to the provisions of Section 205(b) hereof for the purpose of providing funds to finance the completion of a Project.

**"Construction Account"** shall mean the Account by that name established with the Trustee pursuant to Section 502 hereof.

**"Costs of Issuance"** shall mean, with respect to a particular Series of Debt Obligations, all costs necessary or attributable to the issuance of such Series including, but not limited to, legal fees and expenses, fees and expenses of any consulting engineer and financial advisors, costs of audits, advertising and printing expenses, fees and expenses of the Fiduciaries, costs of credit ratings, costs of premiums on insurance on the Debt Obligations, the initial fees, expenses and other amounts payable to any indexing agent, depository, remarketing agent, tender agent or any other person whose services are required with respect to the issuance of any Debt Obligations, and also including discounts to the underwriters or other purchasers of the Debt Obligations incurred in the issuance and sale of thereof, the proceeds of which have been or will be required to be applied to one or more purposes for which Debt Obligations could be issued or incurred.

**"Counsel"** shall mean an attorney, or firm of attorneys, admitted to practice law before the highest court of any state in the United States of America or the District of Columbia.

**"Credit Agreement"** shall mean an agreement with a Credit Provider pursuant to which a Credit Facility is issued or given as security for a particular Series of Debt Obligations.

**"Credit Facility"** shall mean a letter of credit, a municipal bond insurance policy, a surety bond, standby bond purchase agreement or other credit enhancement device given, issued or posted as security for one or more

Series of Debt Obligations, including any Alternate Credit Facility; *provided that* with respect to any Credit Facility given or provided for purposes of meeting in whole or in part the Reserve Requirement, such Credit Facility shall be issued or provided by a Credit Provider whose long-term debt obligations or claims-paying ability (as appropriate) is rated within one of the three highest categories by each Rating Agency rating, at the request of the Issuer, the Series of Bonds in connection with which such Credit Facility is being given or provided.

**"Credit Provider"** shall mean the person or entity, if any, providing a Credit Facility as security for a Series of Debt Obligations.

**"Current Interest Obligations"** shall mean those Debt Obligations which bear interest payable periodically on specified or determinable dates prior to the maturity or redemption dates thereof, including any Capital Appreciation Obligations from and after the date upon which interest becomes payable on a periodic basis prior to the maturity thereof, all as so designated in a Supplemental Ordinance or Financing Agreement providing for the issuance or incurrence of such Debt Obligation, and which may be either Serial Obligations or Term Obligations, including Variable Rate Obligations and Option Obligations.

**"Debt Obligations"** means any Outstanding Bonds or Financial Obligations.

**"Debt Service Account"** shall mean the Account by that name established in Section 502 hereof.

**"Department"** means each functional unit of the Issuer, whether now existing or hereafter established, through which the Issuer carries out its governmental functions and purposes; it being the intent of this Ordinance that the Issuer shall at all times retain the right to organize and reorganize its functional units in whatever manner it deems most appropriate for purposes of carrying out its governmental functions and purposes.

**"Department Assessment"** shall mean, with respect to a particular Department, the amount required to be assessed against such Department each Fiscal Year as provided in Section 501(b)(i) hereof.

**"Department Obligations"** means any bonds, notes or similar financing obligations, including but not limited to installment purchase agreements and lease purchase agreements (but not including true leases), issued or incurred by the Issuer or any of its Departments which are: (i) issued or incurred pursuant to or within the limitations and restrictions imposed by an indenture, ordinance or similar governing documents which establishes a comprehensive method for financing the undertakings of a Department in a manner similar to the comprehensive financing method provided for the Issuer's Solid Waste Department pursuant to Ordinance No. 89-319 including but not limited to any such obligations which constitute parity or subordinated indebtedness under such a comprehensive governing document; and (ii) payable solely and only out of the related Department Revenues; it being the intent of this Ordinance that no Department Assessment shall constitute a "Department Obligation" within the meaning hereof.

**"Department Revenues"** means, with respect to a particular Department, the gross revenues generated by the operations of, or the exercise of the Issuer's governmental powers and functions carried out by, such Department.

**"Depository"** shall mean any bank or trust company organized under the laws of any state of the United States or any national banking association selected by the Issuer as a depository of moneys and securities held under the provisions of this Ordinance, and may include the Trustee.



**"Estimated Average Interest Rate"** shall mean:

(i) as to any Outstanding Debt Obligations during any period in which such Debt Obligations are Variable Rate Obligations, the higher of:

(a) to the extent such Variable Rate Obligations have been Outstanding for a period of 12 months or more, the higher of:

(1) the weighted average rate of interest applicable to such Bonds or Issuer Financial Obligation, as the case may be, during the immediately preceding 12 month period, plus one percent; or

(2) the rate of interest applicable to such Bonds or Issuer Financial Obligation, as the case may be, as of the date of determination; or

(b) to the extent such Variable Rate Obligations have not been Outstanding for a period of 12 months or more, the most current actual interest rate on such Variable Rate Obligations, plus one percent; and

(ii) as to any Debt Obligations which have been authorized to be issued or incurred but have not yet been issued or incurred, 100% of the most recently published interest rate for municipal bonds with similar terms and credit ratings published in *The Bond Buyer*.

**"Event of Default"** shall mean, with respect to the Bonds, any of those events defined as Events of Default in Section 801 hereof.

**"Excess Earnings"** means, with respect to a particular issue of Debt Obligations issued as Tax-Exempt Obligations, the amount of investment earnings derived from moneys on deposit from time to time in the Debt Service Account, the Reserve Account, the Construction Account and any other Account or Fund or other fund or account established in connection therewith, to the extent that such investment earnings are required to be taken into account for purposes of determining the Rebate Amount for such Debt Obligations, or the investment earnings derived from moneys on deposit in any other fund or account containing funds the investment earnings on which are required to be taken into account for purposes of determining the Rebate Amount for such Debt Obligation, to the extent that such investment earnings exceed the amount that would have been earned on such moneys had such moneys been invested at a yield equal to the yield on the related Debt Obligation (with the yield on the related Debt Obligation being determined in accordance with the provisions of Section 148(f) of the Code); *provided that* with respect to the investment earnings on amounts on deposit from time to time in the Debt Service Account or any "bona fide debt service fund" (within the meaning of Section 148(f) of the Code) established in connection with such Debt Obligation and which investment earnings are attributable to such Debt Obligation, such investment earnings shall not be taken into account to the extent that the gross investment earnings on such account for the Bond Year are less than \$100,000, all within the meaning of and as contemplated by Code Section 148(f)(4)(A)(ii); it being the intent of this definition that "Excess Earnings" shall be calculated so that the Rebate Amount is determined in accordance with the requirements with Section 148(f) of the Code (or any successor thereto).

**"Executive Officer"** shall mean the duly elected or appointed, qualified and acting Executive Officer of the Issuer, or any officer of the Issuer hereafter succeeding to the powers and duties of such Executive Officer.

**"Expenditures"** means all current costs of the Issuer required to be paid during a Fiscal Year or other relevant period in question, but only to the extent the same are to be paid from Revenues, including but not limited

to debt service on any Department Obligations; *provided that* for purposes of this Ordinance, the Total Assessments (including the Department Assessments and any General Assessment) shall not be included as an expenditure, nor shall any charges for depreciation be treated as an expenditure.

**"Fiduciary"** shall mean the Trustee, any Bond Registrar, any Paying Agent, any Depositary and any Remarketing Agent or Tender Agent for Bonds which constitute Variable Rate Obligations or Option Obligations, or any or all of them, as may be appropriate.

**"Financial Obligation"** shall mean the obligation of the Issuer under any Financing Agreement to make lease-purchase or installment purchase payments or other payments in the nature of debt service payments (the foregoing being called "Financing Payments" for purposes of this definition); *provided that* a Financing Agreement shall not constitute a Financial Obligation hereunder if the Financing Payments owing thereunder are not payable from Revenues or Available Funds or if such Financing Agreement constitutes Subordinated Debt or if:

(i) such Financing Agreement: (a) has a term of five years or less; and (b) the total Financing Payments under such Financing Agreement due in any one Fiscal Year do not exceed the total Financing Payments due thereunder in any other Fiscal year by more than fifty percent (50%); and

(ii) at the time such Financing Agreement is entered into, the maximum aggregate amount of Financing Payments scheduled to become due in any future Fiscal Year under all Financing Agreements which do not constitute Issuer Financial Obligations by virtue of this *proviso* does not exceed one percent (1%) of the Revenues for the Issuer's last completed Fiscal Year.

**"Financing Agreement"** shall mean any lease-purchase agreement (that is, a financing lease as opposed to a "true" lease) or installment sale contract or similar financing agreement entered into by the Issuer for the purpose of financing or refinancing the acquisition and/or construction or renovation of any additions, extensions, or improvements to or of any facilities for use by the Issuer or the furnishing or equipping thereof, or any other agreement (howsoever styled) pursuant to which the Issuer is expressly required to pay the financing costs of facilities used by a third party in order to perform or provide services to or on behalf of the Issuer in furtherance of its governmental duties or operations; *provided that* the term "Financing Agreement" shall not include any such lease-purchase agreement, installment sale contract or similar financing agreement to the extent the same constitutes a Department Obligation.

**"Final Computation Date"** shall mean "final computation date" as such phrase is used in the regulations promulgated pursuant to Section 148(f) of the Code (or any successor thereto).

**"Fiscal Year"** shall mean the fiscal year of the Issuer as prescribed by law, currently that period commencing on July 1 and continuing to and including the next succeeding June 30.

**"Fitch"** means Fitch Investors Service, Inc., its successors and assigns.

**"Fund" or "Funds"** means one or more of the special trust funds created and established pursuant to this Ordinance or any Supplemental Ordinance.

**"General Assessment"** means an assessment made by the Issuer from any lawfully available funds for the purpose of fulfilling all or part of its obligations under Section 501(b) hereof and which is not assessed against a particular Department.

**"General Revenue Bond Fund"** shall mean the Fund by that name established pursuant to Section 502 hereof.

**"Government Obligations"** shall mean, to the extent permitted by law for investment as herein contemplated, any general obligations of the United States of America of any agency or instrumentality thereof.

**"Installment Computation Date"** shall mean "installment computation date" as such phrase is used in the regulations promulgated pursuant to Section 148(f) of the Code (or any successor thereto).

**"Interest Payment Date"** shall mean, with respect to a particular Series of Debt Obligations, any date upon which interest and/or principal on such Series is due and payable in accordance with the terms thereof, whether at maturity or upon redemption or prepayment prior to maturity.

**"Investment Securities"** shall mean and include any securities or investments in which the moneys on deposit in the Funds and Accounts established under this Ordinance are permitted to be invested

**"Issuer"** shall mean the Metropolitan Service District, located within the Counties of Multnomah, Clackamas and Washington, a political subdivision duly organized and existing under the laws of the State of Oregon.

**"Issuer Contribution"** shall mean any moneys, other than Bond proceeds and the interest earned thereon, which are to be applied to the payment of any costs relating to any Project or Series of Bonds, or to the defeasance or redemption of any Bonds.

**"Local Budget Law"** means ORS 294.305 to 294.565, as amended, and the administrative rules promulgated thereunder.

**"Mandatory Redemption Schedule"** shall mean with respect to particular Debt Obligations, the schedule pursuant to which the principal portions thereof (howsoever designated) are subject, without contingency, to mandatory redemption or prepayment prior to maturity, all as set forth in the Supplemental Ordinance or the Financing Agreement pursuant to which such Debt Obligation is issued or incurred.

**"Minimum Authorized Denomination"** shall mean with respect to a particular Bond, the minimum denomination in which such Bond is permitted to be issued as set forth in the Supplemental Ordinance authorizing the issuance of such Bond.

**"Moody's"** shall mean Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns.

**"Opinion of Bond Counsel"** shall mean an opinion of Stoel Rives Boley Jones & Grey, attorneys of Portland, Oregon, or other Bond Counsel acceptable to the Issuer, addressed to the Issuer and the Trustee, to the effect that the action proposed to be taken is authorized or permitted by this Ordinance or the applicable provisions of any Supplemental Ordinance and will not adversely affect the excludability for federal income tax purposes of the interest on any Bonds issued as, and which at the time of rendition of such opinion still are, Tax-Exempt Obligations from the gross incomes of the Owners thereof.

**"Option Obligations"** shall mean, with respect to a particular Series of Debt Obligations, Bonds or other similar portions of such Series which by their terms may be tendered by and at the option of the Owner or holder thereof for purchase prior to the stated maturity thereof.

**"Ordinance"** shall mean this Ordinance No. 91-439 enacted December 12, 1991, as from time to time amended, modified or supplemented by Supplemental Ordinances.

**"Outstanding"**, when used with reference to a particular Series of Debt Obligations, shall mean, as of a particular date, all Bonds of such Series theretofore authenticated and delivered under this Ordinance and the Supplemental Ordinance pursuant to which such Bonds are issued or the unpaid amount of a Financial Obligation, as the case may be, except:

(i) Bonds theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(ii) Bonds (or portions of Bonds) for the payment or redemption of which moneys, equal to the principal amount or Redemption Price thereof, as the case may be, with interest to the date of maturity or redemption date, shall be held in trust under this Ordinance or any Supplemental Ordinance and set aside for such payment or redemption (whether at or prior to the maturity or redemption date), *provided that* if such Bonds (or portions of Bonds) are to be redeemed, notice of such redemption shall have been given or provision satisfactory to the Trustee shall have been made for the giving of such notice as provided in this Ordinance or the applicable provisions of any Supplemental Ordinance;

(iii) that portion of a Financial Obligation for the payment or prepayment of which moneys, equal to the principal amount or Redemption Price thereof, as the case may be, with interest to the date of maturity or prepayment date, shall be held in trust by a person other than the Issuer and set aside for such payment or redemption (whether at or prior to the maturity or prepayment date);

(iv) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to Article III or Section 1106 hereof or the applicable provisions of any Supplemental Ordinance unless proof satisfactory to the Trustee is presented that any such Bonds are held by a *bona fide* purchaser in due course; and

(v) Bonds or the amount of a Financial Obligation paid or deemed to have been paid as provided in Section 1201.

In addition, Bonds of a Series held by or for the Issuer shall not be deemed to be Outstanding for the purposes and within the purview of Article X and Article XI of this Ordinance.

**"Owner"** shall mean any person who shall be the registered owner of any Bond or Bonds as shown by the registration books maintained by the related Bond Registrar.

**"Paying Agent"** shall mean, with respect to a particular Series of Bonds, any bank, trust company or national banking association, which may include the Trustee or its successor or successors, authorized by the Issuer pursuant to a Supplemental Ordinance to pay the principal or Redemption Price of or interest due on such Series of Bonds and having the duties, responsibilities and rights provided for in this Ordinance and such Supplemental Ordinance and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Ordinance or the applicable provisions of any Supplemental Ordinance.

**"Permitted Investments"** shall mean those investments in which, under the applicable laws of the State of Oregon or the applicable provisions of any charter hereinafter adopted for the Issuer, the Issuer is permitted to invest its funds. The laws of the State of Oregon which, as of the date of enactment of this Ordinance, set forth such investments are contained in ORS 294.035.

**"Presiding Officer"** shall mean the duly elected, appointed and acting presiding officer of the Council of the Issuer.

**"Project"** means any buildings, structures, land, interests in land, improvements, furnishings, machinery or equipment and any tangible personal or real property of every kind and description deemed necessary or appropriate by the Issuer for use in its operations or in furtherance of its governmental purposes and functions.

**"Qualified Consultant"** means a independent engineer, an independent financial advisor, or similar independent professional consultant of nationally recognized standing and having experience and expertise in the area for which such person or firm is retained by the Issuer.

**"Rating Agency"** shall mean: (i) with respect to any Bonds which, at the request of the Issuer, are then rated by S&P, S&P; (ii) with respect to any Bonds which, at the request of the Issuer, are then rated by Moody's, Moody's; (iii) with respect to any Bonds which, at the request of the Issuer, are then rated by Fitch, Fitch; and (iv) with respect to any Bonds rated which, at the request of the Issuer, are then rated by any other financial rating service, such financial rating service; *provided that* when used with respect to a Credit Facility given or provided for the purpose of meeting in whole or in part the Reserve Requirement, the term "Rating Agency" shall mean S&P, Moody's, Fitch or any other nationally recognized financial rating agency, including but not limit to such agencies that rate the claims-paying ability of insurance companies.

**"Rebate Account"** shall mean the Account by that name established in Section 502.

**"Rebate Amount"** shall mean, with respect to a particular Series of Debt Obligations, the sum of the Excess Earnings plus all investment earnings on such Excess Earnings; it being the intent of this definition that the Rebate Amount shall be calculated in accordance with the requirements of Section 148 of the Code (or any successor thereto).

**"Rebate Analyst"** shall mean any entity selected by the Issuer which is competent to perform the calculations required by Section 507 hereof, which entity may be the Trustee.

**"Rebate Payment"** shall mean the amounts required to be deposited in the Rebate Account pursuant to Section 507 hereof.

**"Rebate Report"** shall mean a report for each Calculation Period prepared by the Issuer or a Rebate Analyst pursuant to Section 507 hereof calculating the Rebate Amount, all for the purpose of enabling the Issuer to comply with the requirements of Section 507 and Section 148 of the Code (or any successor thereto).

**"Record Date"** means, with respect to a particular Series of Bonds, a date which is the fifteenth day of the month immediately preceding the month in which each Interest Payment Date occurs, whether or not a business day, or such other date or dates established by Supplemental Ordinance with respect to a Series of Bond authorized by such Supplemental Ordinance.

**"Redemption"** shall mean any mandatory or optional redemption or prepayment of any Debt Obligation.

**"Redemption Price"** shall mean, with respect to any Debt Obligation, the amount payable upon the redemption or prepayment thereof prior to maturity, including the principal of, premium (if any) and accrued or accreted interest thereon.

**"Refunding Obligations"** shall mean any Debt Obligation issued or incurred to the extent such Debt Obligation is issued or incurred for the purpose of paying, whether at or prior to the stated maturity thereof, the principal of, premium (if any) and interest on any Outstanding Debt Obligation or any other bonds or obligations of the Issuer previously issued or incurred.

**"Remarketing Agent"** shall mean with respect to a particular Series of Bonds, the person or entity designated to act in such capacity with respect to such Series of Bonds pursuant to the Supplemental Ordinance under which such Bonds are issued.

**"Reserve Account"** shall mean the Account by that name established pursuant to Section 502 hereof.

**"Reserve Requirement"** shall mean, as of any date of calculation, the lower of:

(i) an amount equal to the maximum Annual Debt Service on all Outstanding Bonds for any future Fiscal Year; or

(ii) the maximum amount that can be funded out of the proceeds derived from the issuance and sale of any Bonds without: (a) resulting in a violation of the Tax Covenants, or (b) causing the Issuer to restrict the yield on investments made from moneys on deposit in the Reserve Account in order to comply with the Tax Covenants;

*provided that* the Issuer may provide by Supplemental Ordinance authorizing a Series of Bonds that the amount described in clause (i) of this definition shall be greater than required by this definition.

**"Revenues"** shall mean, with respect to a particular Fiscal Year or other relevant period, all taxes (including but not limited to any excise taxes, *ad valorem* taxes and other taxes), fees, charges or other income (including investment income) levied, imposed, received or generated in such Fiscal Year or other period by the Issuer (including all Department Revenues); but not including any of the foregoing to the extent the same are restricted by law to a use which is not consistent with the payment of debt service on Debt Obligations.

**"S&P"** shall mean Standard & Poor's Corporation, a corporation organized and existing under the laws of the State of New York, its successors and their assigns.

**"Serial Obligations"** shall mean, with respect to a particular Series of Debt Obligations, the portions of such Series which shall be stated to mature or become due and payable serially in annual installments but not including Term Obligations.

**"Series"** shall mean: (i) all of the Bonds issued, authenticated and delivered pursuant to a Supplemental Ordinance on original issuance of a stipulated aggregate principal amount in a simultaneous transaction and any Bonds thereafter authenticated and delivered in lieu of or in substitution therefor pursuant to such Supplemental Ordinance regardless of variations in maturity, interest rate or other provisions, including: (a) any Additional Bonds issued under such Supplemental Ordinance, and (b) any Refunding Obligations issued under such Supplemental Ordinance; and (ii) the Financial Obligation incurred under a particular Financing Agreement.

**"Subordinated Debt"** shall mean any bonds, notes or other obligations of the Issuer which: (i) are payable out of the Revenues and Available Funds on a basis which is second and subordinate to the payment from Revenues and Available Funds of the amounts owing on the Outstanding Debt Obligations, and (ii) are not secured by a pledge of and lien on the Trust Estate.

**"Supplemental Ordinance"** shall mean any ordinance supplemental to or amendatory of this Ordinance, entered into by the Issuer in accordance with this Ordinance.

**"State"** shall mean the State of Oregon.

**"Taxable Obligation"** shall mean any Debt Obligation, the interest on which is included in gross income for federal income tax purposes.

**"Tax Covenants"** shall mean, with respect to those Debt Obligations issued as Tax-Exempt Obligations, the covenants of the Issuer to effect the Issuer's compliance with the Code to ensure the initial and continued exclusion from gross income for federal income tax purposes of the interest on such Debt Obligations.

**"Tax-Exempt Obligation"** shall mean any Debt Obligation, the interest on which is excluded from gross income for federal income tax purposes.

**"Tender Agent"** shall mean with respect to a particular Series of Bonds, the person or entity designated to act in such capacity with respect to such Series of Bonds pursuant to the Supplemental Ordinance under which such Bonds are issued.

**"Total Assessments"** means, for any given period, the sum of all Department Assessments and General Assessments required to be assessed and applied by the Issuer as provided in Article V hereof.

**"Term Obligations"** shall mean the portion of a Series of Debt Obligations which shall be stated to mature on one date and which are subject to scheduled mandatory redemption prior to maturity pursuant to a Mandatory Redemption Schedule.

**"Trustee"** shall mean First Interstate Bank of Oregon, N.A., and its successors and any other corporation which may at any time be substituted in its place as Trustee under this Ordinance.

**"Trust Estate"** shall mean the properties and assets hereafter pledged as security for the payment of the Bonds pursuant to Section 201 hereof.

**"Unrestricted Taxes"** means any tax now or hereafter imposed or levied by the Issuer which is not restricted by law in a manner that precludes the Issuer from using the revenues derived from such tax to make a General Assessment for the payment of debt service on Outstanding Debt Obligations, including but not limited to any *ad valorem* tax, excise tax or other tax.

**"Variable Rate Obligations"** shall mean any Debt Obligation, which may be either Serial Obligations, Term Obligations, Capital Appreciation Obligations or Option Obligations, issued with a variable, adjustable, convertible, or other similar interest rate which is not fixed for the entire term thereof at the date of issue or is not, as of the date of issuance, determinable as to percentage through maturity.

**Section 102. Miscellaneous Definitions and Conventions.** Words of the masculine or feminine gender shall be deemed and construed to include correlative words of the masculine, feminine and neuter genders (as the case may be). Except where the context otherwise requires, words importing the singular numbers shall include the plural number and *vice versa*, and words importing persons shall include firms, associations, corporations, districts, agencies and bodies as well as natural persons. All reference in this Ordinance to Articles, Sections, and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Ordinance, and the words herein, hereof, hereunder and other words of similar import refer to this Ordinance as a whole and not to

any particular Article, Section subdivision of this Ordinance, and any Table of Contents appended to copies of this Ordinance, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Ordinance.

## **ARTICLE II AUTHORIZATION AND ISSUANCE OF BONDS; PLEDGE OF TRUST ESTATE**

### **Section 201. Authorization of Bonds in Series; Financial Obligations; Designation; Pledge of Trust Estate.**

(a) **Authorization of Bonds and Financial Obligations.** In order to provide sufficient funds for the costs of the facilities, improvements, equipment, furnishings and other property of every kind and description necessary or appropriate for use by the Issuer in connection with its operations and functions, to provide working capital for the Issuer or to provide such other funds as may be necessary or appropriate in connection with the Issuer's operations and functions, or for the purpose of refunding any Bonds or other bonds or obligations of the Issuer, the Issuer, pursuant to and in accordance with the terms and provisions of this Ordinance and such Supplemental Ordinances as may hereafter be enacted as provided herein, may issue from time to time Bonds in one or more Series without limitation as to amount except as may be limited by law or the provisions of this Ordinance or any Supplemental Ordinance.

In addition, in order to provide sufficient funds for the costs of the facilities, improvements, equipment, furnishings and other property of every kind and description necessary or appropriate for use by the Issuer in connection with its operations and functions, to provide working capital for the Issuer or to provide such other funds as may be necessary or appropriate in connection with the Issuer's operations and functions, or for the purpose of refunding or refinancing any Financial Obligation or other bonds or obligations of the Issuer, the Issuer, subject to the limitations set forth in Section 205 hereof, may incur from time to time Financial Obligations without limitation as to amount except as may be limited by law or the provisions of Section 205 of this Ordinance or any Supplemental Ordinance; it being understood that such Financial Obligations need not be incurred pursuant to a Supplemental Ordinance nor shall the terms or conditions thereof be governed by this Ordinance or any Supplemental Ordinance except as expressly provided herein or in any Supplemental Ordinance.

(b) **Designation.** Each Series of Bonds shall be designated "Metropolitan Service District General Revenue Bonds, *[insert calendar year in which such Series is issued]* Series *[insert series designation]*", but with such variations in said designation as may be necessary or appropriate in connection therewith.

(c) **Pledge of Trust Estate.** As security for the payment of the principal of, premium (if any) and interest on all Outstanding Bonds issued from time to time hereunder, the Issuer does hereby pledge unto the Trustee, in trust for the benefit of the Owners of the Bonds from time to time issued and Outstanding hereunder, all of the Issuer's right, title and interest to, in and under the following:

(i) the moneys and investments (including investment earnings thereon) on deposit from time to time in the Construction Account, the Debt Service Account and the Reserve Account, including without



limitation the Issuer's right, title and interest to, in and under any Credit Facility given for the purpose of meeting all or part of the Reserve Requirement and any moneys drawn or paid under such Credit Facility;

(ii) any Credit Facility given as security for the payment of any amounts owing under or with respect to any Bonds (other than any Credit Facility given for the purpose of meeting all or part of the Reserve Requirement) together with all moneys drawn or paid thereunder; *provided that* with respect to any such Credit Facility which is given as security for some, but not all, of the Outstanding Bonds, such Credit Facility together with the moneys drawn or paid thereunder shall be held by the Trustee solely as security for the Bonds for which such Credit Facility was given as security and neither such Credit Facility nor any moneys drawn or paid thereunder shall secure the payment of any amounts owing under or with respect to any other Bonds; and

(iii) such other properties and assets and interests in properties and assets as may hereafter be pledged to the payment of the Bonds pursuant to any Supplemental Ordinance or which may be delivered, pledged, mortgaged or assigned by any person to the Trustee as security for the Bonds.

The foregoing are herein collectively referred to as the "Trust Estate".

**Section 202. Contents of Supplemental Ordinance Authorizing Series of Bonds.** Each Series of Bonds issued hereunder shall be authorized pursuant to a Supplemental Ordinance, which Supplemental Ordinance shall:

(a) Specify which, if any, of the Bonds of such Series are intended to be Tax-Exempt Obligations;

(b) Specify the maximum aggregate principal amount of such Series, the maturity dates, the redemption provisions, the interest rates or method for determining the interest rates and other terms and conditions applicable to the Bonds of such Series; *provided that* a Supplemental Ordinance may authorize the Executive Officer to determine the maturity dates, the redemption provisions, the interest rates and other terms and conditions applicable to the Bonds of such Series;

(c) Specify the manner in which the Bonds of such Series shall be sold;

(d) Direct the disposition of the proceeds of such Series and the required deposits into the various Accounts established in connection with such Series;

(e) Specify whether the Bonds of such Series shall be supported or secured by a Credit Facility;

(f) Specify provisions for Variable Rate Obligations, Option Obligations, Current Interest Obligations, Capital Appreciation Obligations and any Credit Facilities and the appointment of Tender Agents and Remarketing Agents, if any;

(g) Specify the Authorized Denominations of, and the manner of dating, numbering and lettering, the Bonds of such Series;

(h) Specify the purposes to which the proceeds of such Bonds are to be applied;

(i) Set forth the forms of Bonds of such Series and of the Trustee's certificate of authentication;  
and

(j) Set forth such other terms and provisions of such Series and other matters related thereto as shall be necessary or appropriate, which other terms and provisions shall not be inconsistent with the applicable provisions of this Ordinance.

**Section 203. Conditions Precedent to Delivery of a Series of Bonds.** After their authorization by a Supplemental Ordinance, Bonds of a Series may be executed by or on behalf of the Issuer and delivered to the Trustee for authentication and, upon compliance with the requirements, if any, set forth in the Supplemental Ordinance authorizing such Series, the Trustee shall thereupon authenticate and deliver such Bonds to or upon the order of the Issuer, but only upon the receipt by the Trustee of:

(a) an opinion of Bond Counsel to the effect that:

(i) the Issuer has the legal authority and power to issue the Bonds of such Series;

(ii) the Bonds of such Series have been validly authorized and executed and have been issued for a purpose provided in and authorized by the Act;

(iii) the Bonds of such Series constitute legal, valid and binding limited obligations of the Issuer enforceable in accordance with their terms and entitled to the benefit of the related Trust Estate; it being intended that such opinion as to the enforceability of the Bonds of such Series and this Ordinance may be subject to the exercise of judicial discretion in accordance with general equitable principles and to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable, and subject to such other exceptions as are customary in connection with the rendition of opinions for like purposes;

(b) a written order as to the delivery of the Bonds of such Series, signed by an Authorized Issuer Representative;

(c) copies of this Ordinance and the related Supplemental Ordinance, certified by an Authorized Issuer Representative;

(d) a certificate of an Authorized Issuer Representative stating that the Issuer is not in default in the performance of any of the covenants, conditions, agreements or provisions contained in this Ordinance, the Supplemental Ordinance authorizing such Series or any other Supplemental Ordinance relating to, affecting or otherwise limiting the issuance of Bonds of such Series; and

(e) such other documents, instruments, agreements, opinions of counsel, certificates, money and securities as are necessary or appropriate or required by the provisions of this Ordinance and any Supplemental Ordinance.

**Section 204. *Pari Passu* Series of Bonds and Financial Obligations; Credit Agreement Obligations.** Except as otherwise expressly provided herein or in a Supplemental Ordinance or Financing Agreement, all Bonds issued pursuant to this Ordinance or any Supplemental Ordinance and all Financial Obligations incurred shall be payable from the Revenues and Available Funds *pari passu* with all other Bonds issued hereunder or under any other Supplemental Ordinance and all Financial Obligations incurred and, except as otherwise expressly set forth in the Supplemental Ordinance authorizing a particular Series of Bonds, all of the covenants and other provisions relating to the Bonds set forth herein or in any Supplemental Ordinance shall be for the equal benefit,

protection and security of the Owners of any Bonds, including, but not limited to any Additional Bonds and any Refunding Obligations.

Except as otherwise expressly provided in a Supplemental Ordinance, all Bonds issued pursuant to this Ordinance or any Supplemental Ordinance, regardless of time or times of their issuance, shall rank equally with respect to their lien on the Trust Estate (other than any Credit Facility constituting a part of the Trust Estate) pledged as security for the payment of the Bonds, and their sources and security for payment therefrom, without preference of any Bonds over any other Bonds. Notwithstanding anything expressed or implied herein to the contrary, except as otherwise expressly provided in a duly enacted Supplemental Ordinance each Credit Facility given as security for some, but less than all, Outstanding Bonds and any moneys drawn under such Credit Facility shall secure only those Bonds for which such Credit Facility was given as security; *provided that* the foregoing provision shall not apply to any Credit Facility to the extent such Credit Facility is provided for the purpose of meeting all or part of the Reserve Requirement.

In connection with any Credit Agreement pursuant to which a Credit Facility is provided as security for all or some of the Outstanding Bonds (other than a Credit Facility which is provided for the purpose of meeting, in whole or in part, the Reserve Requirement), the Issuer may provide in a Supplemental Ordinance that the pecuniary obligations arising under such Credit Agreement shall be equally and ratably secured by the Trust Estate with all Outstanding Bonds and shall be payable from the Revenues *pari passu* with all Outstanding Debt Obligations, to the same extent and with the same force and effect as if the financial obligations under such Credit Agreement were a Bond. In connection with any Credit Agreement pursuant to which a Credit Facility is provided for the purpose of meeting, in whole or in part, the Reserve Requirement, the Issuer may provide in a Supplemental Ordinance that the financial obligations arising under such Credit Agreement shall be secured by a lien on the Trust Estate which is second and subordinate only to the lien on the Trust Estate securing the Outstanding Bonds and the financial obligations under any Credit Agreement described in the immediately preceding sentence and shall be payable from the Trust Estate on a basis which is second and subordinate only to the payment from the Trust Estate of the Outstanding Bonds and the financial obligations under any Credit Agreement described in the immediately preceding sentence.

#### **Section 205. Additional Bonds and Financial Obligations; Completion Obligations and Refunding Obligations.**

(a) **Additional Bonds and Financial Obligations.** Subject to the conditions set forth in this Section 205(a), the Issuer may from time to time issue one or more series of Additional Bonds and may incur from time to time Financial Obligations for one or more of the following purposes:

- (i) to finance all or a portion of the costs of any Project;
- (ii) the making of deposits into the Reserve Account in the amounts, if any, required by this Ordinance or any Supplemental Ordinance to satisfy the Reserve Requirement with respect to such Series or the making of deposits into any debt service reserve fund or account established in connection with a Financial Obligation for the purpose of meeting the Reserve Requirement;
- (iii) the making of deposits into the Debt Service Account as and for accrued interest on Bonds of the Series then to be issued or the making of deposits into any debt service fund or account established in connection with a Financial Obligation as and for accrued interest on such Financial Obligation;
- (iv) to provide such working capital or other moneys for the Issuer's operations and undertakings as is deemed necessary or appropriate by the Issuer;

(v) funding any special trust fund established by a Supplemental Ordinance and to be held by the Trustee or any special trust fund or account established in connection with a Financial Obligation, to provide for the payment to maturity or redemption prior to maturity of the principal or Redemption Price, if applicable, and interest due on specified Bonds of any Series and maturity or any Financial Obligation or Subordinated Debt, with or without the effect of achieving the defeasance of such Bonds or Financial Obligation from the lien and/or provisions of this Ordinance as provided in Section 1201 hereof;

(vi) for any lawful purpose of the Issuer or the operations thereof for which Bonds may be issued or Financial Obligations incurred under the Act or other applicable law; and

(vii) any combination thereof.

**(b) Conditions Precedent to Additional Bonds and Financial Obligations.** The following shall be conditions precedent to the issuance of any Additional Bonds hereunder and also to the incurrence of any Financial Obligation:

**(i) Reports and Certificates of Issuer and Qualified Consultant.** The Issuer shall cause to be delivered to the Trustee:

**(I) Either:**

**(A) Report of Qualified Consultant as to Future Revenues and Debt Service.** A report of a Qualified Consultant setting forth:

**(1) Maximum Annual Debt Service.** The maximum Annual Debt Service for the Debt Obligations then Outstanding, including in the calculation of such maximum Annual Debt Service the estimated debt service on the Debt Obligations proposed to be issued or incurred, during the three Fiscal Years following the Fiscal Year through which interest on such proposed Debt Obligations will be capitalized; and

**(2) Estimated Revenues and Expenditures.** The estimated Revenues and Expenditures of the Issuer during the three Fiscal Years following the Fiscal Year through which interest on such proposed Debt Obligations will be capitalized; and

**(3) Sufficiency of Revenues.** Stating that in the opinion of such Qualified Consultant the Issuer, in each of the three Fiscal Years described in (2) above, can reasonably expect to generate and collect Revenues sufficient to pay all estimated expenditures of the Issuer and make all Total Assessments required to be made hereunder (including the Total Assessments required to be made with respect to the Debt Obligations proposed to be issued or incurred) in each such Fiscal Year; or

**(B) Report of Qualified Consultant as to Historical Revenues and Debt Service.** A report of a Qualified Consultant to the effect that, based upon the actual results of operations for the last three completed Fiscal Years prior to the issuance or incurrence of the proposed Debt Obligations, the Revenues remaining in each such Fiscal Year after payment of all Expenditures and the Total Assessments required to be made in such Fiscal Year were equal to or in excess of average Total Assessments that will be required to be made with respect to the proposed Debt Obligations. For purposes of the certificate described in this subsection, the average Total

Assessments for the proposed Debt Obligations shall be calculated by reference to the estimated Annual Debt Service for such proposed Debt Obligations but excluding from such Annual Debt Service calculation those years in which interest on such Debt Obligations will be capitalized; and

**(II) Report of Qualified Consultant as to Future Unrestricted Taxes and Debt Service.** A report of a Qualified Consultant stating that in the opinion of such Qualified Consultant the Issuer, in each of the three Fiscal Years described in (I)(A)(2) above, can generate and collect Unrestricted Taxes in an amount equal to 125% of the average Annual Debt Service for the Outstanding Debt Obligations, including the Debt Obligations proposed to be issued or incurred.

**(ii) Opinion of Bond Counsel.** The Issuer shall cause to be delivered to the Trustee an Opinion of Bond Counsel that the issuance or incurrence of such Debt Obligations will not impair the exclusion from gross income for federal income tax purposes of interest paid on any Debt Obligations then Outstanding which were issued or incurred as, and which at the time of issuance or incurrence of such Debt Obligations still are, Tax-Exempt Obligations.

**(iii) No Event of Default.** At the time of issuance or incurrence of such proposed Debt Obligations, there shall not exist and be continuing any Event of Default hereunder other than an Event of Default which will be duly cured or waived upon the issuance or incurrence of such Debt Obligations.

**(iv) Certificate Regarding Project Costs.** If such proposed Debt Obligations are to be used to finance the acquisition, construction or rehabilitation of a Project, a certificate of the Executive Officer stating that the proceeds of such Debt Obligations (to the extent not designated for purposes other than the payment of the costs of such Project), together with other specified amounts reasonably expected to be available for the payment of the costs of such Project, will be sufficient to pay the costs of such Project as estimated at the time of issuance or incurrence of such proposed Debt Obligations.

**(v) Basis for Determining Revenues.** For purposes of Sections 205(b)(i)(I)(A) hereof, "Revenues" shall be calculated as follows:

(A) the Revenues, if any, estimated to be derived during the Fiscal Years in question from any Project to be financed from the proceeds of such proposed Debt Obligation less the Expenditures estimated to be incurred by the Issuer during such Fiscal Years in connection with such Project shall be included in calculating Revenues; and

(B) Revenues during each of the Fiscal Years in question shall be adjusted to take account of any increase estimated to result from any increase in fees, charges or other revenues (including without limitation the implementation of any new revenue source and other increases resulting from a growth in or increase of the activities or operations of the Issuer) that the Issuer has or will put into effect for such Fiscal Years; *provided that* no such increase shall be taken into account to the extent it is premised on the imposition of a new tax or a rate increase with respect to an existing tax unless, on or before the date of issuance or incurrence of the proposed Debt Obligation, such new tax or tax rate increase has been adopted by the Issuer in the manner required by law; and

(C) To the extent that any expenditures taken into account for any such Fiscal Years are payable from funds that do not constitute Revenues within the meaning of this Ordinance, such funds shall be included as a part of Revenues.

(c) **Completion Obligations.** The Issuer may, from time to time and without regard to limitations otherwise imposed by Section 205(a) hereof, issue one or more series of Completion Obligations, *provided that:*

(i) the Issuer shall first file with the Trustee:

(a) an Opinion of Bond Counsel that the issuance of such Completion Obligations will not impair the exclusion from gross income for federal income tax purposes of interest paid on any Bonds or Financial Obligations then Outstanding which were issued or incurred as, and which at the time of issuance of such Completion Obligations still are, Tax-Exempt Obligations; and

(b) a certificate of Qualified Consultant to the effect that, in the judgment of the Qualified Consultant the proceeds of such Completion Obligations, together with any Issuer Contribution available for such purpose, will be sufficient to pay the remaining costs of the Project or Projects with respect to which such Completion Obligations are being issued or incurred and to fund any additions to the Reserve Account or any debt service fund or account established in connection with the related Financial Obligation required in connection with the issuance of such Completion Obligations; and

(ii) such Completion Obligations are issued for the purpose of paying costs of a Project which:

(a) were not anticipated at the time of issuance or incurrence of the original Series of Debt Obligations issued or incurred to finance such Project; and

(b) do not materially expand the scope of the Project except to the extent necessary in order for such Project to serve the purposes intended to be served thereby at the time such Project was originally undertaken.

(d) **Refunding Obligations.** The Issuer may, from time to time and without regard to the limitations otherwise imposed by Section 205(a) hereof, issue one or more series of Refunding Obligations; *provided that:*

(i) the maximum Annual Debt Service for:

(A) all Debt Obligations which were Outstanding immediately prior to the issuance of such Refunding Obligations (but not including any Debt Obligations proposed to be refunded by means of such Refunding Obligations); and

(B) the Refunding Obligations proposed to be issued;

during any future Fiscal Year in which any Debt Obligations will be Outstanding;

is less than:

(ii) the maximum Annual Debt Service for any future Fiscal Year would be on all Outstanding Debt Obligations (including the Debt Obligations proposed to be refunded) during each such Fiscal Year if such Refunding Obligations were not issued;

*provided further that* the Issuer shall first file with the Trustee an Opinion of Bond Counsel that the issuance of such Refunding Obligations will not impair the exclusion from gross income for federal income tax purposes of interest

paid on any Debt Obligations then Outstanding which were issued as, and which at the time of issuance of such Refunding Obligations still are, Tax-Exempt Obligations.

(e) **Multipurpose Additional Bonds and Financial Obligations.** Debt Obligations may be incurred at one time hereunder, for any one or more of the purposes described in Section 205(a), Section 205(c) or Section 205(d) hereof. In the event such Debt Obligations are issued or incurred for in part for one of the purposes described in Section 205(a), Section 205(c) or Section 205(d) hereof and in part for one of the purposes described in another of such Sections, the provisions of Section 205(a) shall govern the issuance of that portion of such Debt Obligations that are issued or incurred for one of the purposes described in Section 205(a), the provisions of Section 205(c) shall govern the issuance of that portion of such Debt Obligations that are issued or incurred for Completion Obligation purposes, and the provisions of Section 205(d) shall govern the issuance of that portion of such Debt Obligations that are issued or incurred for Refunding Obligation purposes, as the case may be.

(f) **Provisions Not Applicable to First Series of Bonds, Existing Financial Obligations and Certain Other Bonds and Financial Obligations.** The provisions of Sections 205(a) and (b) hereof shall not apply to the issuance of the first Series of Bonds to be issued hereunder or to any Financial Obligation incurred prior to the date of issuance of the first Series of Bonds to be issued hereunder, nor shall Sections 205(a), (b), (c) or (d) apply to or in any way limit or restrict the ability of the Issuer to issue or incur any Debt Obligations at any point in time at which there are no other Bonds Outstanding. In addition, the provisions of Sections 205(a), (b), (c) or (d) shall not apply to or in any way limit or restrict the ability of the Issuer to issue Refunding Obligations for the purpose of refunding all Bonds which are Outstanding at the time of issuance of such Refunding Obligations.

In addition, in connection with any Debt Obligations which are Variable Rate Obligations the terms of which permit the Issuer or another party appointed for such purpose to elect to convert the rate(s) of interest applicable thereto to a rate or rates which are fixed and nonvariable through the maturity date thereof, then the provisions of Sections 205(a), (b), (c) or (d) hereof shall not apply in the following situations:

(i) any such conversion of the rate(s) of interest applicable to such Debt Obligations to a rate or rates which are fixed and nonvariable through the maturity date thereof; or

(ii) in lieu of so converting the interest rate(s) as described in Section 205(f)(i) above, the Issuer elects to issue Refunding Obligations bearing rate(s) of interest fixed to the stated maturity dates thereof, *provided that:*

(A) the stated maturity dates of such Refunding Obligations and the principal amounts to mature on such dates are the same as the stated maturity dates of the Variable Rate Obligations being refunded thereby and the principal amounts thereof to mature on such dates, subject only to such increases in principal amounts of the Refunding Obligations to mature on such dates as are necessary to amortize any increase in the aggregate principal amount of such Refunding Obligations over the aggregate principal amount of the Variable Rate Obligations being refunded as a result of the funding of the items described in Section 205(f)(ii)(B) below; and

(B) the aggregate principal amount of such Refunding Obligations does not exceed the aggregate principal amount of the Variable Rate Obligations being refunded plus such amount as may be necessary:

(1) to pay interest accruing on the Variable Rate Obligations being refunded through the date upon which the same shall be redeemed or otherwise paid;

(g) **Subordinated Debt, Department Obligations and Contracts.** Nothing in this Ordinance is intended to in any way restrict or limit the ability of the Issuer:

(i) to issue or incur Subordinated Debt;

(ii) to issue bonds or other obligations payable out of a dedicated source of funds which do not constitute Revenues or Available Funds within the meaning of this Ordinance, including general obligation bonds payable from *ad valorem* taxes which the Issuer is authorized levy specifically for such purpose;

(iii) except to the extent the same give rise to an Financial Obligation (but not including any Financial Obligation which constitutes Subordinated Debt), to enter into contracts with any person or entity, public or private, regarding the acquisition, lease or lease purchase of assets or facilities for use in connection with the Issuer's functions and operations or for provision of services in connection with the operation of the Issuer's functions and operations;

(iv) to issue or incur Department Obligations and to pledge as security therefor the related Department Revenues;

*Provided that* no such action on the part of the Issuer shall relieve it of any of its obligations, covenants and agreements hereunder or under any Supplemental Ordinance.

### **ARTICLE III GENERAL TERMS AND PROVISIONS OF BONDS**

**Section 301. Payment from Revenues and Available Funds; Medium of Payment; Form and Date; Letters and Numbers; Place of Payment.**

(a) **Payment of Bonds.** The Bonds of each Series and any obligations under any Credit Agreement relating to a particular Series of Bonds shall be payable from:

(i) the Revenues and Available Funds; and

(ii) the Trust Estate specifically pledged thereto.

(b) **Medium of Payment.** Except as may be otherwise set forth in a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the Bonds of each Series shall be payable, with respect to interest, principal and premium (if any), 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, *provided, however, that* interest shall be paid on such Bonds by checks or drafts to the persons entitled thereto or by such other method of payment as may be specified in the Supplemental Ordinance authorizing the issuance of such Bonds.

(c) **Registered Form.** Except as may be otherwise set forth in a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the Bonds of each Series shall be issued in the form of fully registered Bonds.



(d) **Numbers and Dated Dates.** Each Bond of a Series shall be lettered and numbered as provided in the Supplemental Ordinance authorizing their issuance so as to be distinguished from every other Bond. The Bonds of each Series shall be dated as provided in the Supplemental Ordinance authorizing their issuance.

(e) **Place of Payment.** Except as may be otherwise set forth in a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the principal and premium (if any) of all fully registered Bonds of a Series shall be payable upon presentation and surrender of such Bond at the principal corporate trust office of the Trustee or other Paying Agent, as the case may be, and payment of the interest on each fully registered Bond shall be made by the Trustee or other Paying Agent, as the case may be, to the person appearing on each Record Date on the registration books of the Issuer for such Series as the Owner thereof, by check or draft mailed on the applicable Interest Payment Date, first-class postage prepaid, to such registered Owner at his or her address as it appears on such registration books or by such other method of payment as may be specified in the Supplemental Ordinance authorizing the issuance of such Bonds.

**Section 302. 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 Ordinance as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage board, or otherwise, as may be determined by the Issuer prior to the authentication and delivery thereof.

**Section 303. Execution and Certificate of Authentication.**

(a) **Execution.** The Bonds of each Series shall be executed in the name of the Issuer by the manual or facsimile signatures of the Presiding Officer of the Issuer and the Executive Officer of the Issuer and the Issuer's seal (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise reproduced thereon. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond may be signed and sealed on behalf of the Issuer by such persons as at the time of the execution of such Bonds shall be duly authorized or hold the proper office in the Issuer, although at the date borne by such Bonds or at the time of authentication of such Bonds such persons may not have been so authorized or have held such office.

(b) **Certificate of Authentication.** The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in the related Supplemental Ordinance, executed manually by the Trustee or its authorized agent. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under this Ordinance or the related Supplemental Ordinance and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. The execution of any such certificate of authentication upon any Bond executed on behalf of the Issuer shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under this Ordinance and that the Owner thereof is entitled to the benefits of this Ordinance and the related Supplemental Ordinance.

**Section 304. Interchangeability of Bonds.** Except as may otherwise be provided in a Supplemental Ordinance authorizing the issuance of a particular Series of Bonds, the Bonds of each Series, upon surrender thereof at the principal corporate trust office of the related Bond Registrar with a written instrument of transfer satisfactory to such Bond Registrar, duly executed by the Owner or his duly authorized attorney, may, at the option of the Owner thereof, and upon payment by such Owner of any charges which the related Bond Registrar may make as provided in Section 306 hereof, be exchanged for Bonds of the same Series, date, aggregate principal amount and maturity in any other Authorized Denominations.

(b) **Certificate of Authentication.** The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in the related Supplemental Ordinance, executed manually by the Trustee or its authorized agent. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under this Ordinance or the related Supplemental Ordinance and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. The execution of any such certificate of authentication upon any Bond executed on behalf of the Issuer shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under this Ordinance and that the Owner thereof is entitled to the benefits of this Ordinance and the related Supplemental Ordinance.

**Section 304. Interchangeability of Bonds.** Except as may otherwise be provided in a Supplemental Ordinance authorizing the issuance of a particular Series of Bonds, the Bonds of each Series, upon surrender thereof at the principal corporate trust office of the related Bond Registrar with a written instrument of transfer satisfactory to such Bond Registrar, duly executed by the Owner or his duly authorized attorney, may, at the option of the Owner thereof, and upon payment by such Owner of any charges which the related Bond Registrar may make as provided in Section 306 hereof, be exchanged for Bonds of the same Series, date, aggregate principal amount and maturity in any other Authorized Denominations.

**Section 305. Transfer and Registry; Persons Treated as Owners.** The Bond Registrar for each Series shall keep books for the registration of, and for the registration of transfers of, Bonds of such Series as provided in this Ordinance and the related Supplemental Ordinance. Except as otherwise provided in the Supplemental Ordinance authorizing a particular Series of Bonds, the Bonds of a particular Series shall be transferable only upon the books of the Issuer kept by the Bond Registrar by the Owner thereof in person or by her attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the Owner or her duly authorized attorney. Upon the transfer of any such Bond, the Issuer shall issue in the name of the transferee a new Bond or Bonds of the same Series, maturity date and aggregate principal amount.

The Issuer and each Trustee, Paying Agent and Bond Registrar may deem and treat the person in whose name any Bond shall be registered upon the books kept by the Bond Registrar 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 premium, if any, of and interest on such Bond and for all other purposes, and all such payments so made to any such Owner or upon his 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 neither the Issuer nor any Trustee, Paying Agent or Bond Registrar shall be affected by any notice to the contrary.

**Section 306. Regulations With Respect to Exchanges and Transfers.** In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the Issuer shall execute and the Trustee or its authorized agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. All Bonds of a Series surrendered in any such exchanges or transfers shall forthwith be delivered to the Bond Registrar and canceled by such Bond Registrar in the manner provided in Section 309. For every such exchange or transfer of Bonds of any Series, the Issuer or the Bond Registrar may make a charge against the Owner sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Unless otherwise provided by Supplemental Ordinance, neither the Issuer nor any Bond Registrar shall be required (a) to transfer or exchange Bonds for a period of 15 days next preceding any selection of Bonds of such Series to be redeemed or thereafter until after the mailing of any notice of redemption; or (b) to transfer or exchange any Bonds called for redemption.

**Section 307. Bonds Mutilated, Destroyed, Stolen or Lost.** If any Bond becomes mutilated or is lost, stolen or destroyed, the Issuer may execute and the Trustee or its authorized agent shall authenticate and

deliver a new Bond of like Series, maturity date, principal amount and interest rate *per annum* as the Bond so mutilated, lost, stolen or destroyed, *provided that*:

- (a) in the case of such mutilated Bond, such Bond is first surrendered to the Trustee;
- (b) in the case of any such lost, stolen or destroyed Bond, there is first furnished evidence of such loss, theft or destruction satisfactory to the Issuer together with indemnity satisfactory to the Issuer and the Trustee;
- (c) all other reasonable requirements of the Issuer and the Trustee are complied with; and
- (d) expenses in connection with such transaction are paid by the Owner.

Any mutilated Bond surrendered for exchange shall be canceled. Any new Bonds issued pursuant to this Section 307 in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Issuer, whether or not the Bonds so alleged to be destroyed, stolen or lost shall be at any time enforceable by anyone, and shall be equally secured by and entitled to equal and proportionate benefits with all other Bonds of the same Series to the lien of the Trust Estate pledged to such Series.

**Section 308. Temporary Bonds.** Until definitive Bonds of a Series are prepared, the Issuer may execute, in the same manner as is provided in Section 303, and upon the request of the Issuer, the Trustee or its authorized agent shall authenticate and deliver, in lieu of definitive Bonds of such Series, but subject to the same provisions, limitations and conditions as the definitive Bonds of such Series, one or more temporary Bonds substantially of the tenor of the definitive Bonds of such Series in lieu of which such temporary Bond or Bonds are issued, in authorized denominations, and with such omissions, insertions and variations as may appropriate for temporary Bonds. Payment of debt service on such temporary Bonds of a Series shall be in the same manner as for definitive Bonds of the same Series. At its own expense the Issuer shall prepare and execute and, upon the surrender of such temporary Bonds for exchange and, upon the surrender of such temporary Bonds for exchange and the cancellation of such surrendered temporary Bonds, the Trustee or its authorized agent shall authenticate and, without charge to the registered owner thereof, deliver in exchange therefor, definitive Bonds of the same Series and aggregate principal amount 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 of the same Series.

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 Bond Registrar in the manner provided in Section 309.

**Section 309. Cancellation and Destruction of Bonds.** All Bonds paid or redeemed, either at or before maturity shall be delivered to the Bond Registrar when such payment or redemption is made, and such Bonds, together with all Bonds purchased by the Issuer, or on its behalf, shall thereupon be promptly canceled. Bonds so canceled shall be destroyed by the Bond Registrar, who shall execute from time to time certificates of destruction in duplicate by the signature of one of its authorized officers describing any Bonds so destroyed, and one executed copy of each such certificate shall be filed with the Issuer and the other executed copy of each such certificate shall be retained by the Bond Registrar.

**Section 310. Book-Entry System.** The provisions of this Article III may be modified as set forth in a Supplemental Ordinance authorizing the issuance of a Series of Bonds in order to implement and maintain a book-entry system of registration of the Bonds of such Series.

## **ARTICLE IV REDEMPTION OF BONDS**

**Section 401. Redemption Provisions to be Specified in Supplemental Ordinance.** The Bonds Of a particular Series shall be subject to mandatory, optional, extraordinary or other redemption prior to maturity on such terms and conditions, on such dates and at such redemption prices as shall be specified in the Supplemental Ordinance authorizing the issuance of such Series of Bonds. Except as may be otherwise expressly provided in a Supplemental Ordinance with respect to Bonds of a particular Series, the particular Bonds of a Series to be redeemed shall be selected and notice of any such redemption shall be given in the manner set forth in this Article IV.

**Section 402. Selection of Bonds to be Redeemed.** If less than all of the Bonds of a like Series and maturity shall be called for redemption, the particular Bonds or portions of Bonds of such Series to be redeemed shall be selected by the Trustee in such manner as such Trustee in its discretion may deem fair and appropriate; *provided, however, that* unless otherwise provided by the Supplemental Ordinance authorizing such Series of Bonds, for purposes of any redemption in part, each portion of any Bond equal to the Minimum Authorized Denomination for such Bond shall be treated as a separate Bond for purposes of such redemption and may be called for redemption separately from any other portion of such Bond so long as following such redemption all unredeemed Bonds remaining Outstanding shall be in an Authorized Denomination for such Bond. The Trustee shall promptly notify the Issuer in writing of the Bonds so selected for redemption.

**Section 403. Notice of Redemption.** Unless otherwise provided by a Supplemental Ordinance authorizing a Series of Bonds, the Trustee shall give notice, in the name of the Issuer, of the redemption of Bonds of such Series, 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 will be payable and, if less than all of the Bonds of such Series of the same 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 notice shall also specify the respective portions of the principal amount thereof to be redeemed. Such notice shall further state that on such 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.

Unless otherwise provided by the Supplemental Ordinance authorizing such Series of Bonds, the Trustee shall file a copy of such notice with the Issuer and shall mail or cause to be mailed a copy of such notice, by first class mail, postage prepaid, not less than forty (40) days nor more than sixty (60) days before the redemption date to the Owners of any Bonds or portions of Bonds which are to be redeemed, at their last addresses appearing upon the registration books held by the Bond Registrar immediately prior to the date on which such notice is mailed. Such mailing shall be a condition precedent to such redemption, but failure of any Owner of any Bond to receive such notice shall not affect the validity of the proceedings for the redemption of such Bonds. Notwithstanding the foregoing and unless otherwise expressly provided in a Supplemental Ordinance with respect to a particular Series of Bonds, in the event that any Bond to be redeemed was not issued in registered form (including book-entry), then and in such event notice of such redemption shall be published at least once not less than thirty (30) days prior to the redemption date in a newspaper of general circulation in any of the cities of New York, New York, San Francisco, California or Chicago, Illinois.

Unless otherwise provided by the Supplemental Ordinance authorizing such Series of Bonds, in addition to the foregoing notice, further notice in the form described in the first paragraph of this Section 403 shall be given by the Trustee as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed:

(a) Notice of redemption shall be sent at least 40 days before the redemption date by registered or certified mail or overnight delivery service to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds (such depositories now being Depository Trust Company of New York, New York, Midwest Securities Trust Company of Chicago, Illinois, Pacific Securities Depository Trust Company of San Francisco, California and Philadelphia Depository Trust Company of Philadelphia, Pennsylvania) and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds (such as Financial Information, Inc.'s Financial Daily Called Bond Service, Kenny Information Service's Called Bond Service, Moody's Municipal and Government Called Bond Service and Standard & Poor's Called Bond Record).

(b) Notice of redemption shall be published one time in the Bond Buyer of New York, New York or, if such publication is impractical or unlikely to reach a substantial number of the owners of the Bonds, in some other financial newspaper or journal which regularly carries notices of redemption of other obligations similar to the Bonds, such publication to be made at least 30 days prior to the date fixed for redemption.

(c) Upon the payment of the Redemption Price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

**Section 404. Payment of Redeemed Bonds.** Notice having been given in the manner provided in Section 403, the Bonds or portions thereof so called for redemption shall become due and payable on the redemption date so designated at the Redemption Price and, upon presentation and surrender thereof at the office specified in such notice, such Bonds, or portions thereof, shall be paid at the Redemption Price. If there shall be selected for redemption less than all of a Bond, the Issuer shall execute and the Trustee or its authorized agent shall authenticate and the Bond Registrar shall deliver, upon the surrender of such Bond, without charge to the Owner thereof, for the unredeemed balance of the principal amount of the Bonds so surrendered Bonds of the same Series and maturity in any of the Authorized Denominations at the option of the Owner thereof. If, on the redemption date, moneys sufficient to pay the Redemption Price of all the Bonds or portions thereof to be redeemed 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 so called for redemption shall cease to accrue and become payable. If said 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 had they not been called for redemption.

**Section 405. Credits Against Mandatory Redemption Obligation.** The Issuer shall receive a credit against its obligation to redeem Bonds of a particular Series pursuant to a Mandatory Redemption Schedule, such credit to be: (i) in an amount equal to the principal amount of any Bonds of such Series subject to such mandatory redemption which have theretofore been redeemed (other than pursuant to such Mandatory Redemption Schedule) or purchased on the open market and surrendered to the Trustee for cancellation and for which such a credit has not theretofore been given; and (ii) applied against the mandatory redemption obligation for such Bonds in such years as the Issuer shall direct the Trustee in writing.

**ARTICLE V**  
**APPLICATION OF TOTAL ASSESSMENTS**  
**AND BOND PROCEEDS; ESTABLISHMENT OF FUNDS**  
**AND ACCOUNTS AND APPLICATION THEREOF**

**Section 501. Application of Total Assessments.**

(a) **Application of Total Assessments.** The Issuer hereby covenants and agrees, with and for the benefit of the Trustee and the Owners from time to time of the Bonds issued hereunder, that from and after the issuance of the first Series of Bonds hereunder and so long as any Bonds are Outstanding hereunder, the Issuer shall deposit the Total Assessments in the General Revenue Bond Fund as and when the same are collected from each Department and shall apply the moneys on deposit from time to time in the General Revenue Bond Fund in the order of priority set forth below and in such amounts as shall be necessary from time to time to meet the Issuer's obligations under this Section 501(a):

(i) **First**, to any Rebate Payments required by this Ordinance and any Supplemental Ordinance to be made into the Rebate Account and to any Rebate Payments required in connection with any Financial Obligation;

(ii) **Second**, to: (A) make any deposits into the Debt Service Account required by this Ordinance or any Supplemental Ordinance, including (without limitation) the payment of any amounts owing under a Credit Agreement as a result of amounts having been drawn under a Credit Facility given as security for the payment of any amounts owing under or with respect to any Bonds (other than any Credit Facility which is provided for the purpose of meeting in whole or in part the Reserve Requirement); and (B) pay when due all Outstanding Financial Obligations, including (without limitation) the payment of any amounts owing under a Credit Agreement as a result of amounts having been drawn under a Credit Facility given as security for the payment of any amounts owing under or with respect to any Financial Obligation (other than any Credit Facility which is provided for the purpose of meeting in whole or in part the related Reserve Requirement);

(iii) **Third**, to: (A) make any deposits into the Reserve Account which are necessary in order to maintain on deposit therein an amount equal to the Reserve Requirement, including (without limitation) the payment of any amounts owing under a Credit Agreement as a result of amounts having been drawn under a Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement, which deposits shall be made at the times and in the amounts provided in Section 506; and (B) make any deposits into any debt service reserve fund or account established in connection with any Financial Obligation which are necessary in order to maintain on deposit therein an amount equal to the applicable Reserve Requirement, including (without limitation) the payment of any amounts owing under a Credit Agreement as a result of amounts having been drawn under a Credit Facility given for the purpose of meeting in whole or in part the related Reserve Requirement;

(iv) **Fourth**, to make any deposits into any special Account as required under the provisions of any Supplemental Ordinance or to otherwise be applied for any purpose or in any manner specifically required under any Supplemental Ordinance; and

(v) **Fifth**, for any other lawful purpose.

(b) **Covenant to Pay Bonds from Revenues and Available Funds and Assess Departments.** The Issuer hereby covenants and agrees to: pay when due all amounts owing under and with respect to all Bonds issued hereunder and to take all lawful actions as may be necessary or appropriate in order to pay when due all amounts owing under and with respect to all Bonds issued hereunder from Revenues and Available Funds; and to cause the necessary Revenues and Available Funds to be deposited each Fiscal Year, and make and collect Total Assessments, in the amounts and at the times necessary in order to meet its obligations under Section 501(a)(i), (ii), (iii) and (iv) hereof.

The Issuer hereby covenants and agrees that so long as any Bonds remain Outstanding, it shall take all actions as may be necessary or appropriate in order to:

(i) In each Fiscal Year, assess each Department for:

(A) its allocable share of the amounts required to be deposited and applied from time to time during such Fiscal Year pursuant to and for the purposes specified in Section 501(a)(i), (ii) and (iii) hereof; plus

(B) an additional amount equal in each Fiscal Year to 10% of such Department's allocable share of the amounts of principal and interest scheduled to become due and payable (whether by maturity, scheduled due date, or scheduled mandatory redemption or prepayment) on the Outstanding Debt Obligations during such Fiscal Year; plus

(C) if required under a Supplemental Ordinance, such Department's allocable share of any amounts needed for purposes of Section 501(a)(iv) hereof;

*provided that*, in each Fiscal Year in which the Issuer makes a General Assessment for purposes of meeting all or a part of its obligations under Section 501(a)(i), (ii), (iii) and (iv) hereof, the aggregate amounts required to be assessed to the Departments in such Fiscal Year pursuant to Section 501(b)(i)(A), (B) and (C) above shall be reduced by an amount equal to the amount of such General Assessment, with such reduction to be applied against each Department's Assessment in such manner as the Issuer shall determine; it being the intent of this Section 501(b)(i) that the Issuer shall have the option of making or not making a General Assessment in each Fiscal Year so long as the Total Assessments in each Fiscal Year equal the sum of: (I) the amounts required to be deposited and applied from time to time during such Fiscal Year pursuant to and for the purposes specified in Section 501(a)(i), (ii), (iii) and (iv) hereof, plus (II) an additional amount equal in each Fiscal Year to 10% of such Department's allocable share of the amounts of principal and interest scheduled to become due and payable (whether by maturity, scheduled due date, or scheduled mandatory redemption or prepayment) on the Outstanding Debt Obligations during such Fiscal Year.

(ii) cause the appropriate Department Assessment to be included in the annual budget for each assessed Department and duly appropriated for the purposes described herein and the General Assessment (if any) to be included in the Issuer's annual budget and duly appropriated for the purposes described herein, all in accordance with and as required by law; and

(iii) cause each Department to pay over its Department Assessment, and cause each General Assessment (if any) to be paid, at the times and in the amounts necessary to duly meet the Issuer's obligations under Section 501(a)(i), (ii), (iii) and (iv) hereof and Section 505 hereof.

**(c) Determination of Department Assessments and General Assessments.** The Issuer shall determine each Department Assessment based upon the use or benefit derived by a particular Department from any Debt Obligations issued or incurred hereunder or any Project financed out of the proceeds of any Debt Obligations. In determining the extent of the use or benefit so derived by a Department the Issuer may take into account such factors as it deems reasonable and appropriate under the circumstances. The Issuer shall be entitled to change or revise from time to time the method of determining each Department Assessment to take account of changes in circumstances affecting the use or benefit so derived by each Department.

On or before January 1 of every third year, commencing with the first January 1 which is not less than 30 months following the date upon which the first Series of Bonds is issued hereunder, the Issuer shall retain a Qualified Consultant to review its method of determining the Department Assessments and provide the Issuer, not later than March 1 of such year, a written report with respect thereto. In determining the Department Assessments, the Issuer shall give due consideration to any recommendations made by the Qualified Consultant and shall implement such recommendations unless the governing body of the Issuer, by resolution duly adopted, finds and determines that such recommendations are unreasonable, impractical or contrary to the requirements of law or established governmental policies of the Issuer.

Nothing herein shall require the Issuer to impose a Department Assessment on each and every Department if, in its judgment, it is inappropriate under the circumstances to impose a Department Assessment on one or more Departments, *provided that* the Issuer shall nevertheless be required to make Total Assessments and to collect Revenues in such amounts as shall enable the Issuer to meet in a timely fashion all of its pecuniary obligations hereunder.

The Issuer, in its sole discretion, shall determine whether or not to make a General Assessment in each Fiscal Year; *provided that* to the extent that, in a particular Fiscal Year, the Department Assessments made on the basis described in the first paragraph of this Section 501(c) are insufficient to enable the Issuer to collect Total Assessments in the amount required to meet its pecuniary obligations hereunder, the Issuer shall make a General Assessment in an amount equal to the difference between such Department Assessments and the Total Assessments required. If the Issuer determines or is required to make a General Assessment in a particular Fiscal Year, it shall determine the amount and source of payment of such General Assessment in such manner as it deems reasonable and appropriate taking into account such factors as it deems relevant under the circumstances, including but not limited to the use or benefit derived by the Issuer from the Debt Obligations with respect to which such General Assessment is made or any Project financed out of the proceeds of such Debt Obligations, the availability of revenue sources which are not Department Revenues to fund such General Assessment and the ability of a particular Department to generate Department Revenues in an amount sufficient to enable the Issuer to meet its obligations hereunder. The Issuer shall be entitled to change or revise from time to time the method of determining any General Assessment and to discontinue making a General Assessment made in prior Fiscal Years so long as the Total Assessments (including the Department Assessments made on the basis described in the first paragraph of this Section 501(c)) are sufficient in each Fiscal Year to enable the Issuer to meet its pecuniary obligations hereunder.

**(d) Obligations Not Restricted to Total Assessments.** The Issuer's pecuniary obligations hereunder shall not be restricted to payment from the particular Department Assessments imposed by the Issuer against each Department or any General Assessment made by the Issuer hereunder, it being the intent hereof that notwithstanding the failure of any one or more Departments to generate Department Revenues sufficient to pay when due its Department Assessment or the failure of the Issuer to make a General Assessment or collect revenues



sufficient to enable it to pay any General Assessment made in a particular Fiscal Year, the Issuer shall nevertheless collect and apply, from any one or more of its Departments, from a General Assessment or from any other Revenues and Available Funds, sufficient Total Assessments or other Revenues and Available Funds to enable it to meet its obligations to pay when due the items described in Section 501(a)(i), (ii), (iii) and (iv) hereof. Notwithstanding the provisions of Section 501(c) hereof or any other provision of this Ordinance to the contrary, if, for any reason, any one or more Departments fail to generate sufficient Department Revenues to pay when due its Department Assessment or the Issuer fails to collect revenues sufficient to enable it to pay any General Assessment made, the Issuer shall promptly take such lawful action as may be necessary to make up the resulting deficiency, including but not limited to the reassessment of any one or more other Departments, the making of a General Assessment or the application of any other Revenues and Available Funds.

#### **Section 502. Establishment of Funds and Accounts.**

(a) **Accounts Established with Trustee.** Upon the issuance of the first Series of Bonds hereunder, the following Accounts shall be established with and shall be held by the Trustee, which Accounts shall be subaccounts of the General Revenue Bond Fund:

- (i) The Rebate Account;
- (ii) The Debt Service Account;
- (iii) The Reserve Account; and
- (iv) The Construction Account.

The Issuer may determine from time to time by Supplemental Ordinance to create and establish within the Construction Account, the Debt Service Account, the Reserve Account or the Rebate Account such additional Accounts as the Issuer may deem necessary or appropriate, which Accounts shall constitute a part of the Account in which they are created. Except as otherwise provided in a Supplemental Ordinance, the Issuer may abolish any such additional Accounts, or any one or more of them, whenever, in the judgment of the Issuer, such additional Accounts have served their purpose or it is otherwise no longer necessary or appropriate to maintain the same.

(b) **Funds and Accounts Established with Issuer.** Upon the issuance of the first Series of Bonds hereunder, the General Revenue Bond Fund shall be established with and shall be held by the Issuer.

The Issuer may also determine from time to time by Supplemental Ordinance to create and establish within the General Revenue Bond Fund such other Accounts as it may deem necessary or appropriate from time to time, which Accounts shall constitute a part of the Fund or Account in which they are created. Except as otherwise provided in a Supplemental Ordinance, the Issuer may abolish any such additional Accounts, or any one or more of them, whenever, in the judgment of the Issuer, such additional Accounts have served their purpose or it is otherwise no longer necessary or appropriate to maintain the same.

**Section 503. Deposits of Bond Proceeds to Certain Funds and Accounts.** The proceeds of sale of any Series of Bonds shall, as soon as practicable upon the delivery thereof to the Trustee, be applied as follows:

- (i) the amount, if any, stipulated by the Supplemental Ordinance authorizing the issuance of such Series of Bonds (or by the Executive Officer if so authorized by such Supplemental Ordinance) to be deposited into any Reserve Account or any subaccount thereof shall be deposited in the Reserve Account or

the designated subaccount thereof (or in lieu of all or part of any such money deposit, the amount which may be drawn upon under any Credit Facility then provided for the purpose of meeting in whole or in part the Reserve Requirement shall be credited to the Reserve Account);

(ii) the amount, if any, stipulated by the Supplemental Ordinance (or by the Executive Officer if so authorized by the Supplemental Ordinance) to be deposited into the Construction Account or any subaccount thereof shall be deposited in the Construction Account or the designated subaccount thereof;

(iii) the amount, if any, of accrued interest paid by the initial purchasers of such Series of Bonds shall be deposited into the Debt Service Account or the designated subaccount thereof; and

(iv) the amount, if any, stipulated by Supplemental Ordinance (or by the Executive Officer if so authorized by the Supplemental Ordinance) to be deposited into any other Funds or Accounts shall be deposited in the designated Funds or Accounts.

#### **Section 504. The Construction Account.**

(a) **Deposits.** Upon the issuance and sale of each Series of Bonds there shall be paid into the Construction Account or a designated subaccount thereof:

(i) the amounts, if any, required to be paid into the Construction Account or a designated subaccount thereof by the provisions of the Supplemental Ordinance authorizing the issuance of a Series of Bonds; and

(ii) at the option of the Issuer, any Issuer Contribution to be used for the purpose of financing a portion of the items sought to be financed out of the proceeds of such Series of Bonds.

(b) **Disbursements from Construction Account.** Except as otherwise expressly provided in a Supplemental Ordinance authorizing the issuance of a Series of Bonds, amounts on deposit in the Construction Account shall be applied to pay the costs of the related Project upon written requisition of the Issuer, signed by an Authorized Issuer Representative and given to the Trustee. Such payments for costs shall be made by the Trustee only upon compliance with any applicable conditions or requirements that may be set forth in any Supplemental Ordinance and upon receipt of such written requisition, which requisition shall state with respect to each payment to be made:

(i) the requisition number;

(ii) the name and address of the person, firm or corporation to whom payment is due or to whom a reimbursable advance, if any, has been made; and

(iii) the amount to be paid.

(c) **Additional Requirements Imposed By Supplemental Ordinance.** The Issuer may impose by Supplemental Ordinance additional procedures and covenants to be followed in connection with the withdrawal of amounts from the Construction Account or any Accounts thereof. Any such additional procedures and covenants may be made applicable to all moneys on deposit from time to time in the Construction Account or only to moneys on deposit from time to time in various Accounts established within the Construction Account.

(d) **Trustee May Rely on Written Instructions.** All requisitions and written instructions received by the Trustee, as required by this Section 504 in connection with the payment of moneys from the Construction Account and any Account thereof, may be relied upon by the Trustee in making such payments, without need to verify or investigate matters set forth in such instruments. The Trustee shall retain copies of all such requisitions and written instructions for a period of seven (7) years from the dates of receipt.

(e) **Completion Certificate.** The completion of the acquisition and construction and, if applicable, acceptance testing, of any Project financed out of the proceeds of a Series of Bonds shall be evidenced by a certificate of the Authorized Issuer Representative, which shall be filed promptly with the Trustee, stating the date of such completion and the amount, if any, required in the opinion of the Authorized Issuer Representative for the payment of any remaining part of the costs of such Project, and that such Project has been completed in accordance with the plans and specifications therefor and the terms of any construction contract applicable thereto. Upon the filing of such certificate, the balance in the Construction Account (or in any separate Accounts thereof) in excess of the amount, if any, stated in such certificate and to the extent not then held for the purpose of paying the costs of any other Project:

(i) as directed by the Issuer, shall be deposited in the Debt Service Account and applied to the retirement of the related Series of Bonds by purchase or redemption at the earliest date permissible under the terms of this Ordinance without the payment of a call premium or penalty on a date as determined by the certificate of an Authorized Issuer Representative delivered to the Trustee, *provided that*, if such Bonds are Tax-Exempt Obligations, then prior to any such application, the Issuer shall cause to be delivered to the Trustee an Opinion of Bond Counsel that such application will not adversely affect any the excludability of the interest on such Bonds from gross income for federal income tax purposes; and

(ii) if such Bonds are Tax-Exempt Obligations, shall be invested at a yield not in excess of the yield on the related Bonds unless the Issuer causes to be delivered to the Trustee an Opinion of Bond Counsel to the effect that the failure to invest such moneys at a yield not in excess of the yield on the related Bonds will not adversely affect the excludability of the interest on such Bonds from gross income for federal income tax purposes;

*provided, however, that* such amounts may, at the request of an Authorized Issuer Representative and, if such Bonds are Tax-Exempt Obligations, upon receipt by the Trustee of an Opinion from Bond Counsel to the effect that such use of such amounts will not adversely affect the excludability of the interest on such Bonds from gross income for federal income tax purposes, be:

(1) retained in the Construction Account and applied to the payment of any costs of any other Project; or

(2) withdrawn from the Construction Account and transferred to such other fund or account of the Issuer to be applied for any lawful purpose.

**Section 505. The Debt Service Account.** On or before each Interest Payment Date for any Bonds issued hereunder there shall be deposited in the Debt Service Account from amounts on deposit in the General Revenue Bond Fund, as provided and in accordance with the priorities set forth in Section 501 hereof, an amount which, when added to any amounts on deposit in the Debt Service Account which are available for such purpose, shall equal the principal, interest and redemption premium (if any) due on the Bonds on such Interest Payment Date (whether by virtue of the maturity, stated due date, call for redemption or otherwise).

In addition, there shall be deposited into the Debt Service Account any moneys delivered by or on behalf of the Issuer to the Trustee for the purpose of effecting the redemption of any Bonds.

The moneys on deposit from time to time in the Debt Service Account shall be used to pay when due the principal of, interest on, Accreted Value and Redemption Price of the Outstanding Bonds, and the Trustee shall transfer such moneys to the appropriate Paying Agent(s) for application to the payment when due of the principal of, interest on and Redemption Price of the Outstanding Bonds. Notwithstanding the foregoing or any other provision herein to the contrary, if any amount applied to the payment of principal of, interest on, Accreted Value or Redemption Price of any Bonds that would have been paid from the Debt Service Account is paid instead by amounts drawn or paid under a Credit Facility, amounts on deposit in the Debt Service Account, and allocable to such payment for said Bonds, shall be paid to the extent required under the related Credit Agreement to the related Credit Provider.

#### **Section 506. The Reserve Account.**

(a) **Deposits into Reserve Account.** In connection with each issuance of Bonds hereunder, the Issuer shall cause to be deposited in the Reserve Account an amount such that, when added to the amounts already on deposit in the Reserve Account, will cause the balance on deposit in the Reserve Account to at least equal the Reserve Requirement. For purposes of the foregoing provision, there shall be deemed to be deposited in the Reserve Account an amount equal to the amount available to be drawn by the Trustee under any Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement. The Trustee shall hold to the credit of the Reserve Account any Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement and shall draw upon or demand payment under such Credit Facility and apply the moneys so drawn or paid in accordance with the provisions of this Section 506.

(b) **Withdrawals to Make Up Deficiencies.** If, on any date upon which any amounts of principal of or interest on the Outstanding Bonds are due and payable (including any amounts of principal due and payable pursuant to a Mandatory Redemption Schedule), the amounts on deposit in the Debt Service Account, when added to moneys drawn or available to be drawn under any Credit Facility for such purpose, are insufficient to pay all amounts of principal of, premium (if any) and interest on the Outstanding Bonds due on such date, then the Trustee shall withdraw from the Reserve Account, in the order of priority set forth below, an amount equal to such deficiency and apply the amount so withdrawn to the payment of the amounts of principal of, premium (if any) and interest due on the Outstanding Bonds on such date.

Withdrawals from the Reserve Account shall be made in the following order of priority:

**First**, from any cash on deposit in the Reserve Account;

**Second**, from the liquidation proceeds of any investments made from moneys on deposit in the Reserve Account, with the Trustee first liquidating those investments with the shortest term to maturity unless otherwise instructed by the Issuer; and

**Third**, from moneys drawn or paid under any Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement.

(c) **Valuation of Reserve Account.** The amounts on deposit in the Reserve Account shall be determined by the Trustee:

(i) on July 1 of each year;

(ii) as of the date of issuance of any Bonds hereunder; and

(iii) as of the date of any withdrawal from the Reserve Account for the purpose of making up any deficiencies in the Debt Service Account.

For purposes of determining the amounts on deposit from time to time in the Reserve Account:

(1) all investments shall be valued at the lower of:

(A) the mean between the bid and asked price therefor as shown in the Wall Street Journal last published immediately prior to the date of such determination; or

(B) the amortized cost of such investment; and

(2) there shall be deemed to be on deposit in the Reserve Account an amount equal to the amount available to be drawn by the Trustee under any Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement.

(d) **Withdrawals of Excess.** If, on any July 1 of any year, the amounts on deposit in the Reserve Account are in excess of the Reserve Requirement (with investments on deposit therein being valued as provided herein), then the Trustee shall promptly inform the Issuer of such fact and, if so instructed by the Issuer, shall withdraw from the Reserve Account an amount equal to such excess and transfer the amount so withdrawn to the Debt Service Account.

(e) **Restoration of Amounts Withdrawn.** In the event that any amounts are withdrawn from the Reserve Account for the purpose of making up any deficiency in the Debt Service Account as described above, the Issuer shall cause to be deposited in the Reserve Account, from amounts on deposit in the General Revenue Bond Fund and in accordance with the priorities set forth in Section 501 hereof, an amount such that the amount on deposit in the Reserve Account shall at least equal the Reserve Requirement, which deposits shall be made in not more than eighteen equal monthly installments commencing on the first day of the month next succeeding the date of the withdrawal from the Reserve Account giving rise to such deficiency. In addition, in the event any amounts are drawn under a Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement in order to make up any deficiency in the Debt Service Account as described above, the Issuer shall, over a period of not to exceed eighteen months, cause the amount available to be drawn under such Credit Facility to be reinstated to an amount such that the total amount on deposit in the Reserve Account shall at least equal the Reserve Requirement. For purposes of this paragraph, the Trustee shall determine the amount on deposit in the Reserve Account as of the date upon which the Issuer makes the last deposit in the Reserve Account pursuant to the first sentence of this paragraph or as of the date upon which the Issuer has caused the Credit Facility to be reinstated in the amount required by the second sentence of this paragraph, as the case may be.

In the event the amounts on deposit in the Reserve Account are less than the Reserve Requirement solely as a result of changes in the market prices of the investments made from moneys deposited therein, the Issuer shall have no obligation to restore any such deficiency except under the circumstance described in the immediately preceding paragraph and in connection with the issuance of any Bonds hereunder.

(f) **Application to Final Payment.** All amounts on deposit in the Reserve Account may be applied to the final payment (whether at maturity, by prior redemption or by means of a defeasance as provided in

Section 1201 hereof) of all Outstanding Bonds. In addition, in connection with the final payment or defeasance of some but not all of the Outstanding Bonds, an amount equal to the difference between:

(i) the amounts on deposit in the Reserve Account immediately prior to such payment or defeasance; and

(ii) the Reserve Requirement immediately following such payment or defeasance;

may be withdrawn from the Reserve Account and applied to such payment or defeasance.

#### **Section 507. The Rebate Account.**

(a) **Calculation of Rebate Amount; Deposits to and Withdrawals from Rebate Account.** The Issuer hereby covenants and agrees that, in accordance with the applicable provisions of the Code, it shall calculate, or cause to be calculated, the Rebate Amount accruing with respect to each issue of Bonds and each Financial Obligation as provided herein. Within 25 days after the close of each Calculation Period for each issue of Bonds and within 25 days after the final payment in full of all Bonds of a particular issue, the Trustee shall provide the Issuer and the Rebate Analyst (if any) with detailed information concerning the investments made during the Calculation Period just ended with any moneys related to such issue of Bonds held by the Issuer or the Trustee hereunder and the Issuer or the Rebate Analyst (if any) shall compute the Rebate Amount for such issue of Bonds in accordance with the requirements of Section 148(f) of the Code and shall provide to the Trustee a Rebate Report setting forth such calculations. Within 25 days after the close of each Calculation Period for each Financial Obligation and within 25 days after the final payment in full of each Financial Obligation, the Issuer or the Rebate Analyst (if any) shall compute the Rebate Amount for such Financial Obligation in accordance with the requirements of Section 148(f) of the Code and shall prepare a Rebate Report setting forth such calculations.

In the event a Rebate Report shows a positive Rebate Amount, the Issuer shall, pursuant to and in Accordance with the priorities set forth in Section 501 hereof, make a Rebate Payment by, in the case of a Series of Bonds, immediately depositing into the Rebate Account an amount equal to such Rebate Amount and, in the case of an Financial Obligation, by setting aside in an appropriate manner an amount equal to such Rebate Amount.

In the event that a Rebate Report shows that the amounts on deposit in the Rebate Account exceed the cumulative Rebate Amount with respect to all issues of Bonds for all prior Calculation Periods, the Trustee is directed to transfer an amount equal to the amount of such excess from the Rebate Account to the Debt Service Account (but only to the extent of any amounts on deposit in the Rebate Account).

Amounts on deposit from time to time in the Rebate Account shall, to the extent practicable, be invested by the Trustee in such Government Obligations as the Issuer shall direct in writing.

(b) **Payment of Rebate Amount to United States.** Not later than 30 days after each Installment Computation Date for each Series of Bonds, the Trustee shall pay to the United States of America, from moneys on deposit in the Rebate Account or, if moneys on deposit in the Rebate Account are insufficient or unavailable to make such payments, from moneys on deposit in the General Revenue Bond Fund in accordance with the priorities set forth in Section 501 hereof, at least 90% of the Excess Earnings during the preceding five Bond Years and 100% of the investment earnings on such Excess Earnings. In addition, not later than 60 days after each Final Computation Date for each Series of Bonds, the Trustee shall pay to the United States of America all amounts required to be paid thereto pursuant to Section 148(f) of the Code as set forth in the final Rebate Report, said payment to be made out of moneys on deposit in the Rebate Account or, to the extent the moneys on deposit in the

Rebate Account are insufficient for such purpose, out of moneys on deposit in the General Revenue Bond Fund in accordance with the priorities set forth in Section 501 hereof.

Not later than 30 days after each Installment Computation Date for each Financial Obligation, the Issuer shall pay or cause to be paid to the United States of America, from moneys on deposit in the General Revenue Bond Fund in accordance with the priorities set forth in Section 501 hereof or from such other moneys as the Issuer may have set aside for such purpose, at least 90% of the Excess Earnings during the preceding five Bond Years and 100% of the investment earnings on such Excess Earnings. In addition, not later than 60 days after each Final Computation Date for each Financial Obligation, the Issuer shall pay or cause to be paid to the United States of America all amounts required to be paid thereto pursuant to Section 148(f) of the Code as set forth in the final Rebate Report for such Financial Obligation, said payment to be made out of moneys on deposit in the General Revenue Bond Fund in accordance with the priorities set forth in Section 501 hereof or out of other moneys set aside by the Issuer for such purpose.

Notwithstanding anything expressed or implied herein to the contrary, it is the intent that there shall be paid to the United States of America, out of moneys on deposit in the Rebate Account or payments made by the Issuer pursuant to and in accordance with the priorities set forth in Section 501 hereof, all amounts required to be paid pursuant to Section 148(f) of the Code at the times required thereby.

**(c) Payment of Penalty on Construction Issues.** The Issuer hereby covenants and agrees that if an issue of Bonds constitutes a construction issue within the meaning of Code Section 148(f)(4)(C)(iv) (or any successor provision thereto) and if the Issuer, pursuant to Code Section 148(f)(4)(C)(vii), elects in connection with such construction issue to pay a penalty in lieu of rebate, the Issuer shall deposit into the Rebate Account the amounts of such penalties as required by this Section 507(c). Such deposits shall be made no later than 60 days after each period to which a penalty relates, such periods being defined in Code Section 148(f)(4)(C)(ii). Not later than 90 days after each period to which a penalty relates, the Trustee shall pay to the United States of America the amount of such penalty, such payment to be made from moneys on deposit in the Rebate Account or, if the moneys on deposit in the Rebate Account are insufficient or unavailable for such purpose, from payments made by the Issuer pursuant to and in accordance with the priorities set forth in Section 501 hereof.

**(d) Conformance to the Code Requirements; "Issue of Bonds" Defined; Covenant to Survive Payment.** Notwithstanding anything expressed or implied herein to the contrary:

(i) the provisions of this Section 507 may be amended from time to time by the Issuer and the Trustee without the consent of or notice to any Owners in order to conform to the requirements of the Code regarding the payment of the Rebate Amount to the United States of America or the manner or time of calculating such Rebate Amount; and

(ii) in no event shall the Issuer be deemed to be in default in respect of its obligations under this Section 507 so long as all actions taken by the Issuer with respect to the calculation of the Rebate Amount and the payment thereof to the United States of America conform to the requirements of the Code as such requirements may be changed, modified or amended from time to time.

As used in this Section 507 and as used in the definitions of the terms "Bond Year", "Calculation Period", "Excess Earnings" and "Rebate Amount" that appear in Article I hereof, the phrases "issue of Bonds" and "each Financial Obligation" or any words of similar import shall mean all Bonds of whatever Series and all Financial Obligations howsoever incurred which, for purposes of the arbitrage rebate provisions of the Code, are considered to be a single "issue" of obligations.

Notwithstanding anything expressed or implied herein or in any Supplemental Ordinance to the contrary, the covenants of the Issuer set forth in this Section 507 shall survive the payment in full and/or defeasance of all Outstanding Bonds or any particular issue of Bonds.

## **ARTICLE VI DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS**

**Section 601. Depositaries.** All moneys held by the Trustee or any Paying Agent under the provisions of this Ordinance or any Supplemental Ordinance may be deposited with one or more Depositaries in trust for the Trustee or any related Paying Agent and shall be applied only in accordance with the provisions of this Ordinance or the governing Supplemental Ordinance (as the case may be), and each of the Funds and Accounts shall be a trust fund for the purposes specified in the ordinance establishing such Fund or Account.

**Section 602. Deposits and Investments.** Except as otherwise expressly provided in a Supplemental Ordinance or in this Ordinance, all moneys held by any Fiduciary under this Ordinance or any Supplemental Ordinance, to the extent not invested pursuant to the applicable provisions of a Supplemental Ordinance, may be invested in Permitted Investments, *provided that* such investments shall permit the moneys so held to be available for use at the time when needed. The Depositary shall not be liable for any loss or depreciation in value resulting from any investment made pursuant to this Ordinance or the applicable provisions of any Supplemental Ordinance. Any such investment consisting of a demand or time deposit may be made through the commercial or trust banking department of any Fiduciary, acting as a Depositary, which may honor checks and drafts on such deposit with the same force and effect as if it were not such Fiduciary. Such moneys held by any Fiduciary, as such, may be deposited by such Fiduciary in its banking department on demand or, if and to the extent directed by the Issuer and acceptable to such Fiduciary, on time deposit, provided that such moneys on deposit be available for use at the time when needed. Such Fiduciary shall allow and credit on such moneys such interest, if any, as it customarily allows upon similar funds of similar size and under similar conditions or as required by law. The moneys on deposit from time to time in any Fund or Account may be commingled for purposes of investment with the moneys on deposit in any other Fund or Account.

**Section 603. Valuation and Sale of Investments.** Obligations purchased as an investment of moneys in any Fund or Account created under the provisions of this Ordinance or any Supplemental Ordinance shall be deemed at all times to be a part of such Fund or Account and any profit realized from the liquidation of such investment shall be credited to such Fund or Account and any loss resulting from the liquidation of such investment shall be charged to the respective Fund or Account.

The amount on deposit in each Fund and Account created under the provisions of this Ordinance or any Supplemental Ordinance shall be computed at such periodic intervals as shall be specified pursuant to a Supplemental Ordinance. Except as otherwise expressly provided in this Ordinance or a Supplemental Ordinance, in computing the amount in any Fund or Account created under the provisions of this Ordinance or any Supplemental Ordinance for any purpose provided in this Ordinance or any Supplemental Ordinance, obligations purchased as an



investment of moneys therein shall be valued at the lesser of market value or amortized cost of such obligations, exclusive of accrued interest.

Except as otherwise provided in a Supplemental Ordinance, the Trustee shall sell at the best price reasonably obtainable, or present for redemption, any obligation so purchased as an investment whenever it shall be directed by the Issuer or another party authorized to give such direction so to do or whenever it shall be necessary in order to provide moneys to meet any payment or transfer from any Fund or Account held by it. The Trustee shall not be liable or responsible for making any such investment in the manner provided above or for any loss resulting from any such investment.

## **ARTICLE VII**

### **PARTICULAR COVENANTS OF THE ISSUER**

**Section 701. General Covenants.** The Issuer covenants and agrees with the Trustee and the Owners of the Outstanding Bonds issued hereunder from time to time that, so long as any Bonds remain Outstanding:

(a) **Payment of Bonds.** The Issuer shall duly and punctually pay or cause to be paid, but solely from Revenues, Available Funds and the Trust Estate, the principal of, premium, if any, and interest on every Bond and any obligations under any Credit Agreement at the dates and places and in the manner mentioned in the Bonds or any Credit Agreement, according to the true intent and meaning thereof, subject to the provisions of this Ordinance and the applicable provisions of any Supplemental Ordinance.

(b) **Extension of Payment of Bonds.** The Issuer shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any interest on the Bonds. Nothing herein shall be deemed to limit the right of the Issuer to issue Refunding Obligations and such issuance shall not be deemed to constitute an extension of maturity of Bonds.

(c) **Further Assurance.** At any and all times the Issuer shall, as far as it may be authorized by law, comply with any reasonable request of the Trustee to pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, pledging, assigning and confirming in all and singular the rights, the Trust Estate and other moneys, securities and funds pledged or assigned as security for any Series of Bonds, or intended so to be, or which the Issuer may become bound to pledge or assign.

(d) **Power to Issue Bonds and to Pledge the Trust Estate and Other Funds.** The Issuer, at the time of enactment of this Ordinance and the issuance of the first Series of Bonds hereunder, is, and at the time of enactment of any Supplemental Ordinance and the issuance of any Series of Bonds thereunder, will be, duly authorized under all applicable laws to issue the Bonds and to enact this Ordinance and to pledge the Trust Estate and other moneys, securities and funds purported to be pledged as security for particular Series of Bonds in the manner and to the extent provided in this Ordinance and any Supplemental Ordinance. Except to the extent otherwise provided in this Ordinance or any Supplemental Ordinance, the Trust Estate and other moneys, securities and funds so pledged are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge created by this Ordinance or any Supplemental Ordinance, and all action on the part of the Issuer to that end has been and will be duly and validly taken. The Bonds and the provisions of this

Ordinance and each Supplemental Ordinance are and will be the valid and legally enforceable obligations of the Issuer in accordance with their terms and the terms of this Ordinance and such Supplemental Ordinance. The Issuer shall at all times, to the extent permitted by law, defend, preserve and protect the pledges of the Trust Estate and other moneys, securities and funds pledged under this Ordinance and any Supplemental Ordinance and all the rights of the Owners of the Bonds and the Credit Providers, if any, under this Ordinance, any Supplemental Ordinance and any Credit Agreement, respectively, against all claims and demands of all persons whomsoever.

(e) **General Tax Covenants.** Except with respect to Bonds issued by the Issuer which are not Tax-Exempt Obligations, the Issuer will take all actions within its control required by the Code as necessary to preserve the exclusion of interest received on Bonds issued or, then to be issued, from gross income for federal income tax purposes.

The Issuer will not direct or permit any action within its control which would cause any Bond issued as a Tax-Exempt Obligation to be or become an "arbitrage bond" within the meaning of section 148 of the Code or direct or permit any action inconsistent with the applicable regulations thereunder as amended from time to time and as applicable to such Bond.

Except with respect to Bonds issued by the Issuer which are not Tax-Exempt Obligations, the Issuer shall at all times comply with the Tax Covenants.

(f) **Performance of Covenants in General.** The Issuer shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Issuer under the provisions of the Act, this Ordinance and each Supplemental Ordinance. Upon the date of authentication and delivery of any of the Bonds, all conditions, acts and things required by law and this Ordinance and any applicable Supplemental Ordinance to exist, to have happened and to have been performed precedent to and in the issuance of such Bonds shall exist, have happened and have been performed and the issue of such Bonds, together with all other indebtedness of the Issuer, shall comply in all respects with the applicable laws of the State.

**Section 702. Financial and Related Covenants.** The Issuer covenants and agrees with the Trustee and the Owners of the Outstanding Bonds issued hereunder from time to time that, so long as any Bonds remain Outstanding:

(a) **Accounts and Reports.** The Issuer shall keep or cause to be kept proper books of records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Funds and Accounts established under this Ordinance and the operations and activities of each Department, and which books of records and accounts, together with all other books and papers of the Issuer relating to this Ordinance and any Bonds issued hereunder, shall at all times be subject to the inspection of the Trustee, the issuers of any Credit Facility for the Bonds and the Owners of an aggregate of not less than 5% in principal amount of the Bonds then Outstanding or their representatives duly authorized in writing.

Except as otherwise expressly provided in a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the Trustee shall advise the Issuer and the issuer of any Credit Facility for a Series of Bonds within ten (10) days after the end of each month of the respective transactions during such month relating to each Fund and Account held by it under this Ordinance. The Issuer and the issuer of any Credit Facility for a Series of Bonds shall have the right upon reasonable notice and during reasonable business hours to audit the books and records of the Trustee with respect to the Funds and Accounts held by the Trustee under this Ordinance.

Within one hundred eighty (180) days after the close of each Fiscal Year, the Issuer shall cause to be filed with the Trustee and the issuer of any Credit Facility for a Series of Bonds, and otherwise as provided by law, a copy

of the Issuer's annual audit report for such Fiscal Year, accompanied by an Accountant's Opinion, and including the following statements in reasonable detail: a statement of assets and liabilities as of the end of such Fiscal Year; and a summary with respect to each Fund and Account established under this Ordinance for the Bonds of the receipts therein and disbursements therefrom during such Fiscal Year and the amount held therein at the end of such Fiscal Year. Such Accountant's Opinion shall state whether or not, to the knowledge of the signer, the Issuer is in default with respect to any of the covenants, agreements or conditions on its part contained in this Ordinance, and if so, the nature of such default.

The Issuer shall file with the Trustee and the issuer of any Credit Facility for a Series of Bonds:

(i) forthwith upon becoming aware of any Event of Default or default in the performance by the Issuer of any covenant, agreement or condition contained in this Ordinance with respect to the Bonds, a certificate of an Authorized Issuer Representative specifying such Event of Default or default; and

(ii) simultaneous with the filing of the annual audit report described above, a certificate of an Authorized Issuer Representative stating that, to the best of the signer's knowledge and belief, the Issuer has kept, observed, performed and fulfilled its covenants and obligations contained in this Ordinance with respect to the Bonds and there does not exist at the date of such certificate any default by the Issuer under this Ordinance with respect to the Bonds or any Event of Default or other event which, with the giving of notice or the lapse of time or both, would become a Event of Default, or, if any such default or Event of Default or other event shall so exist, specifying the same and the nature and status thereof.

The reports, statements and other documents required to be furnished to the Trustee pursuant to any provisions of this Ordinance shall be available for the inspection of Owners of the Bonds at the office of the Trustee and shall be mailed to each such Owner who shall file a written request therefor with the Trustee. The Trustee shall charge each Owner requesting such reports, statements and other documents a reasonable fee to cover reproduction, handling and postage.

The covenants set forth in this Section 702(a) shall be applicable only from and after the issuance of the first Series of Bonds hereunder.

**(b) Acquisition and Construction of any Project and its Operation and Maintenance.** The Issuer shall use its best efforts to cause any Project financed in whole or in part out of the proceeds of any Bonds to be acquired and constructed in accordance with due diligence and in a sound and economical manner. The Issuer shall use its best efforts at all times to cause each such Project to be operated properly and in an efficient and economical manner, and shall cause the same to be maintained, preserved, reconstructed and kept, with the appurtenances and every part and parcel thereof, in good repair, working order and condition.

**(c) Payment of Taxes and Charges.** The Issuer from time to time duly will pay and discharge, or cause to be paid and discharged, all taxes, assessments and other governmental charges, or required payments in lieu thereof, lawfully imposed upon the Issuer, its assets or properties or its operations, or upon any Project financed in whole or in part from the proceeds of any Bonds, or upon the rights, revenues, income, receipts, and other moneys, securities and funds of the Issuer, when the same shall become due (including all rights, moneys and other property transferred, assigned or pledged under this Ordinance or any Supplemental Ordinance in connection with any Bonds), and all lawful claims for labor and material and supplies, except those taxes, assessments, charges or claims which the Issuer shall in good faith contest by proper legal proceedings if the Issuer shall in all such cases have set aside on its books reserves deemed adequate with respect thereto.

(d) **Collection of Revenues.** The Issuer shall take all necessary legal action to assure the collection of all Revenues.

(e) **Creation of Liens.** Except as otherwise provided in Section 205 hereof, the Issuer hereafter shall not issue any bonds, notes, debentures, or other evidences of indebtedness of similar nature payable out of or secured by the pledge or assignment of the Trust Estate on a parity with or prior to the payment of the amounts owing under and with respect to the Bonds and shall not create or cause to be created any lien or charge on the Trust Estate equal or superior to the lien on the Trust Estate securing the Bonds; *provided, however, that* nothing contained in this Ordinance shall prevent the Issuer from issuing or incurring, if and to the extent permitted by law, indebtedness:

(i) payable out of moneys in the Construction Account as part of the Capital Costs of any Project to be financed in whole or part out of the proceeds of any Bonds;

(ii) payable out of, or secured by, a pledge and assignment of any part of the Trust Estate to be derived on and after such date as the pledge of the Trust Estate provided in this Ordinance shall be discharged and satisfied as provided in Section 1201 hereof; or

(iii) arising under any Credit Agreement pursuant to which a Credit Facility is given as security for some or all of the Outstanding Bonds or for the purpose of meeting the Reserve Requirement, it being expressly understood that the Issuer reserves the right to pledge the Trust Estate as security for the obligations arising under such Credit Agreement as permitted under Section 204 hereof.

In addition, the Issuer shall not hereafter pledge or create any liens against the Revenues or Available Funds as security for the payment of any Debt Obligation or bond, note, indebtedness or other financing instrument, regardless of whether such pledge or lien is on a parity with or prior to the payment of the amounts owing under and with respect to the Bonds out of the Revenues and Available Funds; *provided, however, that* nothing contained in this Ordinance shall prevent the Issuer from:

(i) pledging and creating a lien on the Department Revenues of a particular Department as security for Department Obligations issued or incurred for the benefit of such Department;

(ii) incurring any indebtedness payable out of, or secured by, a pledge and assignment of any part of the Revenues to be derived on and after such date as Bonds are no longer Outstanding hereunder; or

(iii) issuing or incurring Subordinated Debt.

(f) **Annual Budget.** On or before the fifteenth day of each Fiscal Year, the Issuer shall adopt and file with the Trustee and any issuer of any Credit Facility given as security for any Bonds an Annual Budget for such Fiscal Year, which shall comply with all applicable laws.

Each such Annual Budget shall set forth in reasonable detail the estimated Revenues and expenditures of the Issuer, and shall include as separate line items the estimated Department Assessment for each Department for such Fiscal Year, any General Assessment for such Fiscal Year, the estimated amounts to be deposited in such Fiscal Year in the Reserve Account and the Debt Service Account, and the amounts to be applied to pay the debt service on Financial Obligations and otherwise meet the requirements of Section 501(a)(i), (ii), (iii) and (iv) with respect to Financial Obligations.

Such Annual Budget shall be structured so as to permit compliance by the Issuer with the Issuer's covenant with respect to Total Assessments set forth in Section 501(b). Such Annual Budget also shall set forth such detail

with respect to such Revenues and other expenditures and such deposits, as shall be required by law and may set forth such additional material as the Issuer may determine.

Following the end of each quarter of each Fiscal Year the Issuer shall review its estimates set forth in the Annual Budget for such Fiscal Year, and in the event such estimates do not substantially correspond with actual Revenues, expenditures, debt service or other requirements as set forth above, the Issuer shall, in accordance with the applicable requirements of law, revise such Annual Budget for the remainder of such Fiscal Year, a copy of which revised Annual Budget shall be filed with the Trustee and any Credit Provider. If there are at any time during any such Fiscal Year extraordinary receipts or payments of unusual costs, the Issuer shall, in accordance with the applicable requirements of law, revise such Annual Budget for the remainder of such Fiscal Year, a copy of which revised Annual Budget shall be filed with the Trustee.

**(g) Limitations on Expenditures and Other Costs.** The Issuer shall not incur expenditures or other costs payable from the Revenues in any Fiscal Year in excess of the reasonable and necessary amount of such expenses or costs, respectively.

**(h) Revenue Covenant.** At all times, the Issuer shall establish, levy, impose, maintain and collect fees, rates and charges with respect to its undertakings and operations and, subject to the limitations imposed by law, taxes, as shall be necessary to provide the Revenues needed to pay all Expenditures and to make the required Total Assessments in each Fiscal Year.

**(i) Maintenance of Insurance.** The Issuer shall at all times keep or cause to be kept its properties which are of an insurable nature and of the character usually insured by those constructing or operating similar properties insured against loss or damage by fire and from other causes customarily insured against and in such relative amounts as are usually obtained. The Issuer shall maintain or cause to be maintained insurance or reserves against loss or damage from such hazards and risks to the person and property of others as are usually insured or reserved against by those constructing or operating properties similar to the properties of the Issuer. The Issuer shall maintain or cause to be maintained any and all such insurance as may be required by law.

Any such insurance shall be:

(i) in the form of policies or contracts for insurance with insurers of good standing and shall be payable to the Issuer; or

(ii) in the form of self-insurance.

The Issuer agrees that it will, pursuant to a Supplemental Ordinance, establish such fund or funds or reserves as are necessary to provide for its share of any such self-insurance.

The Issuer shall file or cause to be filed with the Trustee annually, within 100 days after the close of each Fiscal Year, a certificate setting forth:

(A) a description in reasonable detail of the insurance then in effect, including any self-insurance fund maintained, pursuant to the requirements of this Section 702(i); and

(B) whether during such year any portion of the System has been damaged or destroyed and, if so, the amount of insurance proceeds, including the proceeds of any self-insurance fund, covering such loss or damage and specifying the reasonable and necessary costs of reconstruction or replacement thereof.

(j) **Prudent Use of Projects.** The Issuer shall use, occupy, operate and otherwise deal with all Projects financed out of the proceeds of any Bonds issued hereunder in a prudent manner consistent with, and in a manner which, in the Issuer's judgment, is designed to promote the efficient and effective prosecution of, the governmental functions and duties of the Issuer and to enable the Issuer to make, in accordance with all applicable legal requirements, Department Assessments which, together with any General Assessments, will be sufficient to provide the Total Assessments required hereunder in each Fiscal Year.

## **ARTICLE VIII EVENTS OF DEFAULT; REMEDIES OF BONDHOLDERS**

**Section 801. Events of Default.** The occurrence of any one or more of the following events shall constitute a "Event of Default":

(i) if default shall be made by the Issuer in the due and punctual payment of the principal of, premium (if any) or interest on any Bond when and as the same shall become due and payable, whether at maturity or by call for redemption, or otherwise;

(ii) if default with respect to the Bonds shall be made by the Issuer in the performance or observance of any other of the covenants, agreements or conditions on its part in this Ordinance, any Supplemental Ordinance or in the Bonds contained, and such default shall continue for a period of sixty (60) days after written notice thereof to the Issuer by the Trustee or to the Issuer and to the Trustee by the Owners of not less than fifty percent (50%) in principal amount of the Bonds outstanding;

(iii) if the Issuer shall file a petition or otherwise seek relief under any federal or state bankruptcy law or similar law;

(iv) if an order or decree shall be entered, with the consent or acquiescence of the Issuer, appointing a receiver or receivers of for the Issuer, or any substantial part of its properties or operations, or of any substantial part of the Revenues, or if such order or decree having been entered without the consent or acquiescence of the Issuer, shall not be vacated or discharged or stayed within ninety (90) days after the entry thereof;

(v) written notice shall have been received by the Trustee from the issuer of a Credit Facility for any Series of Bonds that an event of default has occurred under the related Credit Agreement or there shall have been a failure by said issuer to make said Credit Facility available or to reinstate the interest component of said Credit Facility in accordance with the terms of said Credit Facility, to the extent said notice or failure is established as an event of default under the terms of any Supplemental Ordinance executed and delivered in connection with the issuance of any Series of Bonds; or

(vi) the occurrence of any other event that shall be expressly stated to constitute an Event of Default under any Supplemental Ordinance relating to the Bonds.

So long as an Event of Default shall have occurred and be continuing, unless the principal of all the Bonds shall have already become due and payable, the Trustee (by notice in writing to the Issuer) may, and upon the written request of the Owners of not less than fifty percent (50%) in principal amount of the Bonds Outstanding (by notice in writing to the Issuer and the Trustee), shall declare the principal of all the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable, anything in this Ordinance or in any Supplemental Ordinance contained to the contrary notwithstanding.

The right of the Trustee or of the Owners of not less than fifty percent (50%) in principal amount of Bonds then Outstanding to make any such declaration as aforesaid, however, is subject to the condition that if, at any time after such declaration, but before the Bonds shall have matured by their terms, all overdue installments of interest upon the Bonds, together with interest on such overdue installments of interest to the extent permitted by law and the reasonable and proper charges, expenses and liabilities of the Trustee, and all other sums then payable by the Issuer or the Trustee under this Ordinance (except the principal of, and interest accrued since the next preceding Interest Payment Date on the Bonds due and payable solely by virtue of such declaration) shall be paid for the account of the Issuer or provision satisfactory to the Trustee shall be made for such payment, and all defaults under the Bonds or under this Ordinance (other than the payment of principal and interest due and payable solely by reason of such declaration) shall be cured or be secured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall be made therefor, then and in every such case the Trustee, by written notice to the Issuer and the Owners of the Outstanding Bonds, or the Owners of fifty percent (50%) in principal amount of the Bonds Outstanding, by written notice to the Issuer and to the Trustee, may rescind such declaration and annul such default in its entirety, but no such recession or annulment shall extend to or affect any subsequent default or impair or exhaust any right or power consequent thereon.

**Section 802. Accounting and Examination of Records After Default.** The Issuer covenants that if an Event of Default shall have happened and shall not have been remedied, the books of record and accounts of the Issuer and all other records relating to the Revenues shall at all times be subject to the inspection and use of the Trustee and of its agents and attorneys.

The Issuer covenants that if an Event of Default shall have happened and shall not have been remedied, the Issuer, upon demand of the Trustee, will account, as if it were the trustee of an express trust, for all Revenues and other moneys, securities and funds pledged or held under this Ordinance for such period as shall be stated in such demand.

**Section 803. Application of Revenues and Other Moneys After Default.** The Issuer covenants that if an Event of Default shall happen and shall not have been remedied, the Issuer, upon the demand of the Trustee, shall cause to be paid over to the Trustee:

(a) forthwith, all moneys, securities and funds held by the Issuer or a Depositary in any Fund or Account established under this Ordinance or any Supplemental Ordinance with respect to the Bonds; and

(b) as promptly as practicable after receipt thereof, all Total Assessments or other Revenues and Available Funds needed to meet the Issuer's obligations hereunder.

During the continuance of an Event of Default, the Trustee shall apply all moneys, securities, funds, Total Assessments and other Revenues and Available Funds received by the Trustee pursuant to any right given or action taken under the provisions of this Article or held by the Trustee in any Fund or Account established with respect to the Bonds (other than the Rebate Fund) as follows and in the following order:

(i) **Rebate Payments:** to the payment of any amounts required to be rebated to the United States of America in accordance with the Rebate Covenants described in Section 513 hereof;

(ii) **Expenses of Fiduciaries:** to the payment of the reasonable and proper charges, expenses and liabilities of the Fiduciaries for the Bonds;

(iii) **Payment of Bonds and Financial Obligations:** to the payment of the interest and principal then due on the Outstanding Debt Obligations (other than any Debt Obligations which constitute Subordinated Debt) and for payment of obligations under any Credit Agreement relating to a Credit Facility given as security for any Series of Debt Obligation (other than any Debt Obligations which constitute Subordinated Debt), but not including a Credit Facility given for the purpose of meeting in whole or in part the related Reserve Requirement, as follows:

(A) unless the principal of all of the Bonds shall have become or have been declared due and payable,

**First:** To the payment to the persons entitled thereto of all installments of interest then due on the Outstanding Debt Obligations in the order of the maturity of such installments together with accrued and unpaid interest on the Debt Obligations theretofore called for redemption or prepayment, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference;

**Second:** To the payment to the persons entitled thereto of the unpaid principal of any Outstanding Debt Obligations which shall have become due, whether at maturity or by call for redemption or prepayment, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the Debt Obligations due on any date, then to the payment thereof ratably, according to the amounts of principal due on such date, to the persons entitled thereto, without any discrimination or preference;

**Third:** To the payment of any amounts owing to the issuer or issuers of any Credit Facility given as security for any Series of Debt Obligations (other than a Credit Facility given for the purpose of meeting in whole or in part the related Reserve Requirement) entitled thereto, of the obligations due and payable, ratably according to the amounts due thereon, without any discrimination or preference; and

**Fourth:** To the payment of any amounts owing to the issuer or issuers of any Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement or the Reserve Requirement for any Debt Obligation; and

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

**First:** to the payment of the principal and interest then due and unpaid upon the Outstanding Debt Obligations and for payment of obligations under any



Credit Agreement relating to a Credit Facility given as security for any Series of Debt Obligations (other than a Credit Facility given for the purpose of meeting in whole or in part the related Reserve Requirement), without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond or any such Financial Obligation or Credit Agreement over any other Bond, Financial Obligation or Credit Agreement, ratably, according to the amounts due respectively of principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds, Financial Obligation or Credit Agreement, of the obligations due and payable, ratably according to the amounts due thereon, without any discrimination or preference; and

**Second:** to the payment of any amounts owing under a Credit Agreement relating to a Credit Facility given for the purpose of meeting in whole or in part the related Reserve Requirement for any Outstanding Debt Obligation.

With respect to the payment of any Financial Obligation out of Total Assessments or other Revenues or Available Funds collected by the Trustee pursuant to this Article following the occurrence of an Event of Default hereunder, the Trustee shall cause such Total Assessments or other Revenues or Available Funds to be paid, in accordance with the priorities set forth above, to the person or persons entitled to the same as set forth in the related Financing Agreement.

If and whenever all overdue installments of interest on all Debt Obligations, or under any Credit Agreement relating to a Credit Facility given as security for a Series of Debt Obligations, together with the reasonable and proper charges, expenses and liabilities of the Trustee, and all other sums payable for the account of the Issuer under this Ordinance shall be paid for by the account of the Issuer, or provision satisfactory to the Trustee shall be made for such payment, and all defaults under this Ordinance or the Bonds or under any Credit Agreement relating to a Credit Facility given as security for a Series of Debt Obligations, shall be made good or secured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall be made therefor, the Trustee shall pay over all moneys, securities, and funds then remaining unexpended in the hands of the Trustee (except moneys, securities and funds deposited or pledged, or required by the terms of this Ordinance or any Supplemental Ordinance to be deposited or pledged, with the Trustee), and thereupon the Issuer and the Trustee shall be restored, respectively, to their former positions and rights under this Ordinance and all Supplemental Ordinances. No such payment by the Trustee nor such restoration of the Issuer and the Trustee to their former positions and rights shall extend to or affect any subsequent default under this Ordinance or any Supplemental ordinance relating to the Bonds or impair any right consequent thereon.

**Section 804. Appointment of Receiver.** Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners of the Bonds under this Ordinance, the Trustee shall be entitled to make application for the appointment of a receiver or custodian of the Revenues and Available Funds for the purpose of collecting the Total Assessments required to be made hereunder, with such power as the court making such appointment shall confer.

**Section 805. Proceedings Brought by Trustee.** If an Event of Default shall happen and shall not have been remedied, then and in every such case, the Trustee, by its agents and attorneys, may proceed, and upon written request of the Owners of not less than twenty-five percent (25%) in principal amount of the Bonds Outstanding shall proceed, to protect and enforce its rights and the rights of the Owners of the Bonds or the issuer of any Credit Facility given as security for any Series of Bonds, under this Ordinance forthwith by a suit or suits in

equity or at law, whether for the specific performance of any covenant herein contained, or in aid of the execution of any power herein granted or any remedy granted under the Act, or for an accounting against the Issuer as if the Issuer were the trustee of an express trust, or in the enforcement of and other legal or equitable right as the Trustee, being advised by counsel, shall deem most effectual to enforce any of its rights or to perform any of its duties under this Ordinance.

All rights of action under this Ordinance may be enforced by the Trustee without the possession of any of the Bonds or the production thereof on the trial or other proceedings, and any such suit or proceedings instituted by the Trustee shall be brought in its name.

The Owners of not less than a majority in principal amount of the Bonds at the time Outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or of exercising any trust or power conferred upon the Trustee, *provided that* the Trustee shall have the right to decline to follow any such direction if the Trustee shall not be provided adequate security and indemnity or shall be advised by counsel that the action or proceeding so directed may not lawfully be taken or shall be inconsistent with the provisions of this Ordinance, or if the Trustee in good faith shall determine that the action or proceeding so directed would involve the Trustee in personal liability or be unjustly prejudicial to the Owners of Bonds not parties to such direction.

Upon commencing a suit in equity or upon other commencement of judicial proceedings by the Trustee to enforce any right under this Ordinance, the Trustee shall be entitled to exercise any and all rights and powers conferred in this Ordinance and provided to be exercised by the Trustee upon the occurrence of any Event of Default.

Regardless of the happening of an Event of Default, the Trustee shall have power to, but unless requested in writing by the Owners of a majority in principal amount of the Bonds then Outstanding, and furnished with reasonable security and indemnity, shall be under no obligation to, institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient to prevent any impairment of the security under this Ordinance by any acts which may be unlawful or in violation of this Ordinance, and such suits and proceedings as the Trustee may be advised shall be necessary or expedient to preserve or protect its interests and the interests of the Owners of the Outstanding Bonds.

**Section 806. Restriction on Bondholder's Action.** No Owner of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of this Ordinance or the execution of any trust under this Ordinance or for any remedy under this Ordinance, unless such Owner shall have previously given to the Trustee written notice of the happening of an Event of Default, as provided in this Article, and the Owners of at least 25% in principal amount of the Bonds then outstanding shall have filed a written request with the Trustee, and shall have offered it reasonable opportunity, either to exercise the powers granted in this Ordinance or by the Act or by the laws of the State or to institute such action, suit or proceeding in its own name, and unless such Owners shall have offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused to comply with such request for a period of sixty (60) days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the pledge created by this Ordinance, or to enforce any right under this Ordinance, except in the manner therein provided; and that all proceedings at law or in equity to enforce any provision of this Ordinance shall be instituted, had and maintained in the manner provided in this Ordinance and for the equal benefit of all Owners of the Outstanding Bonds and, except as otherwise provided in a Supplemental Ordinance, the issuers of all Credit Facilities given as security for any Bonds (other than a Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement).

Nothing in this Ordinance or in the Bonds shall affect or impair the obligation of the Issuer, which is absolute and unconditional, to pay, but solely and only from the Trust Estate pledged therefor, at the respective dates of maturity and places therein expressed the principal of (and premium, if any) and interest on the Bonds to the respective Owners thereof or the issuer of any Credit Facility given as security for any Series of Bonds or affect or impair the right of action, which is also absolute and unconditional, of any Owner or the issuer of such Credit Facility to enforce such payment of his Bond.

**Section 807. Not Exclusive.** No remedy by the terms of this Ordinance conferred upon or reserved to the Trustee or the Owners of the Bonds is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Ordinance or existing at law, including under the Act, or in equity or by statute on or after the effective date of this Ordinance.

**Section 808. Effect of Waiver and Other Circumstances.** No delay or omission of the Trustee or any Owner of any Bonds to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such Event of Default or be an acquiescence therein; and every power and remedy given by this Article to the Trustee or to the Owners of the Bonds may be exercised from time to time and as often as may be deemed expedient by the Trustee or by the Owners of the Bonds.

Prior to the declaration of maturity of the Bonds as provided in Section 801, the Owners of not less than a majority in principal amount of the Bonds at the time Outstanding, or their attorneys-in-fact duly authorized, may on behalf of the Owners of all of the Bonds waive any past default under this Ordinance and its consequences, except a default in the payment of interest on or principal of or premium (if any) on any of the Bonds. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

**Section 809. Termination of Proceedings.** In case any proceeding taken by the Trustee on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, the Owners of the Bonds or the issuer of any Credit Facility given as security for any Bonds, the Issuer, the Trustee, the issuers of any Credit Facilities given as security for any Bonds and the Owners of the Bonds shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee, the issuers of any Credit Facilities given as security for any Bonds and the Owners of the Bonds shall continue as if no such proceeding had been taken.

**Section 810. Notice of Default.** The Trustee shall notify the issuer of any Credit Facility given as security for any Series of Bonds and the Bond Registrars of the happening of an Event of Default and the Bond Registrars shall promptly mail written notice of the occurrence of any Event of Default to each Owner of Bonds then Outstanding at his address, if any, appearing upon the registry books of the Issuer.

**Section 811. Credit Facility Issuer's Rights Upon Events of Default.** Anything in this Ordinance to the contrary notwithstanding, if any Event of Default hereof has occurred and is continuing while a Credit Facility securing all or a portion of the Bonds Outstanding is in effect (other than a Credit Facility given for the purpose of meeting all or part of the Reserve Requirement), the issuer of such Credit Facility, to the extent so authorized in the applicable Supplemental Ordinance, shall have the right, in lieu of the Owners of the Bonds secured by said Credit Facility, by an instrument in writing, executed and delivered to the Trustee, to direct the time, method and place of conducting all remedial proceedings available to the Trustee under this Ordinance, or exercising any trust or power conferred on the Trustee by this Ordinance to the same extent and subject to the same conditions and limitations as if it were the Owner of the Bonds secured by such Credit Facility.

Notwithstanding the foregoing, no issuer of a Credit Facility given as security for any Bonds shall be entitled to exercise any rights under this Section 811 during any period where:

(i) the Credit Agreement or Credit Facility to which such Credit Provider is a party shall not be in full force and effect;

(ii) such Credit Provider shall have filed a petition or otherwise sought relief under any federal or state bankruptcy or similar law;

(iii) such Credit Provider shall, for any reason, have failed or refused to honor a proper demand for payment under such Credit Facility; or

(iv) an order or decree shall have been entered, with the consent or acquiescence of such Credit Provider, appointing a receiver or receivers of the assets of the Credit Provider, or if such order or decree having been entered without the consent or acquiescence of such Credit Provider, shall not have been vacated or discharged or stayed within ninety (90) days after the entry thereof.

## **ARTICLE IX CONCERNING THE FIDUCIARIES**

**Section 901. Acceptance of Duties by Trustee; Appointment of Trustees, Paying Agents and Bond Registrars.** First Interstate Bank of Oregon, N.A., Portland, Oregon, is hereby appointed Trustee. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Ordinance, including but not limited to its duties as Paying Agent and Bond Registrar, by executing and delivering to the Issuer a written acceptance thereof. Only one entity shall be appointed to act at any one time as Trustee.

Unless otherwise provided in a Supplemental Ordinance with respect to a particular Series of Bonds, the Trustee shall be the Paying Agent and Bond Registrar for all Bonds issued hereunder. In a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the Issuer may appoint one or more Paying Agents in lieu of the Trustee for such Series of Bonds, and the Issuer may at any time or from time to time appoint one or more Paying Agents in addition to the Trustee for one or more Series of Bonds having the qualifications set forth in Section 911 for a successor Paying Agent. Each Paying Agent other than the Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Ordinance or under any Supplemental Ordinance by executing and delivering to the Issuer and to the Trustee a written acceptance thereof.

In a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the Issuer may appoint one or more Bond Registrars in lieu of the Trustee for such Series of Bonds, and the Issuer may at any time or from time to time appoint one or more other Bond Registrars to act as co-registrar with the Trustee having the qualifications set forth in Section 912 for a successor Bond Registrar. Each Bond Registrar other than the Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Ordinance by executing and delivering to the Issuer and to the Trustee a written acceptance thereof.

**Section 902. Responsibilities of Fiduciaries.** Any recitals of fact herein, in any Supplemental Ordinance and in the Bonds contained shall be taken as the statements of the Issuer and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representations as to the validity or

sufficiency of this Ordinance, any Supplemental Ordinance or of any Bonds issued thereunder or as to the security afforded by this Ordinance or any Supplemental Ordinance, and no Fiduciary shall incur any liability in respect thereof. The Trustee and each Fiduciary authorized to authenticate Bonds shall, however, be responsible for its representation contained in its certificate of authentication on the related Bonds. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid by such Fiduciary in accordance with the provisions of this Ordinance or any Supplemental Ordinance to any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act which would involve it in any expense or liability or to institute or defend any suit in respect thereof, or to advance any of its own moneys, unless properly indemnified. Subject to the provisions of the second paragraph of this Section 902, no Fiduciary shall be liable in connection with the performance of its duties hereunder except for its own negligence, misconduct or default.

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 Ordinance. 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 Ordinance and any applicable Supplemental Ordinance, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of her own affairs.

**Section 903. Evidence on Which Fiduciaries May Act.** Each Fiduciary, 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 Ordinance or any Supplemental Ordinance, shall examine such instrument to determine whether it conforms to the requirements of this Ordinance or the applicable provisions of a Supplemental Ordinance and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with counsel, who may or may not be Bond Counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it under this Ordinance in good faith and in accordance therewith.

Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Ordinance or any Supplemental Ordinance, 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 the Issuer, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Ordinance or such Supplemental Ordinance upon the faith thereof; but in its discretion the Fiduciary 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.

Except as otherwise expressly provided in this Ordinance or a Supplemental Ordinance, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision thereof by the Issuer to any Fiduciary shall be sufficiently executed in the name of the Issuer by an Authorized Issuer Representative thereof.

**Section 904. Compensation.** The Issuer shall cause to be paid to each Fiduciary from time to time reasonable compensation for all services rendered under this Ordinance, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents, and employees, incurred in and about the performance of their powers and duties under this Ordinance and any Supplemental Ordinance and each Fiduciary shall have a lien therefor on any and all funds at any time held by it under this Ordinance or any Supplemental Ordinance except with respect to any monies drawn under a Credit Facility.

**Section 905. Certain Permitted Acts.** Any Fiduciary may become the owner of any Bonds, with the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depositary for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect

to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Ordinance, whether or not any such committee shall represent the Owners of a majority in principal amount of the Bonds then Outstanding.

**Section 906. Resignation of Trustee.** Except as otherwise expressly provided in a Supplemental Ordinance, the Trustee may at any time resign and be discharged of the duties and obligations created by this Ordinance or any Supplemental Ordinance by giving not less than sixty (60) days' written notice to the Issuer and the issuer of any related Credit Facility, and mailing notice thereof, postage prepaid, specifying the date when such resignation shall take effect, to each registered Owner of related Bonds then Outstanding at his address appearing upon the registry books of the Issuer, and such resignation shall take effect upon the latest to occur of the day specified in such notice or the date upon which the Issuer has appointed a successor and such successor has agreed to act in such capacity. Unless otherwise agreed to in writing by the Issuer, any such resignation by the Trustee shall, when effective, also serve to remove the Trustee as Bond Registrar and Paying Agent hereunder.

**Section 907. Removal of Trustee.** Except as otherwise expressly provided in a Supplemental Ordinance, the Trustee may be removed at any time by an instrument in writing, filed with the Trustee, and signed by the Issuer.

The Issuer may appoint a successor Trustee upon such removal, but no such removal shall be effective until the Issuer has appointed a successor and such successor has agreed to act in such capacity. Unless otherwise agreed to in writing by the Issuer, any such removal of the Trustee shall, when effective, also serve to remove the Trustee as Bond Registrar and Paying Agent hereunder.

**Section 908. Failure of Issuer to Appoint Successor; Financial Qualifications of Trustee and Successor Trustee.** If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article IX within forty-five (45) days after the Trustee shall have given to the Issuer written notice as provided in Section 906 or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, removal, or for any other reason whatsoever, the Trustee (in the case of its resignation under Section 906) or the Owner of any Bond may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

The Trustee appointed under the provisions of this Article or any successor to the Trustee shall be a bank or trust company or national banking association, doing business and having its principal office in the State of Oregon, and shall have (or its parent company or holding company shall have) capital stock and surplus aggregating at least \$50,000,000, if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by the law to perform all the duties imposed upon it by the Ordinance.

**Section 909. Transfer of Rights and Property to Successor Trustee.** Any successor Trustee appointed under this Ordinance shall execute, acknowledge and deliver to its predecessor Trustee, and also to the Issuer, an instrument accepting such appointment (including but not limited to its appointment as Paying Agent and Bond Registrar hereunder), and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, power, duties and obligations of such predecessor Trustee, with like effect as if originally named as such Trustee; but the Trustee ceasing to act shall nevertheless, on the written request of the Issuer, or of the successor Trustee, execute, acknowledge, deliver, file and record such instrument of conveyance 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 any such lien, states, rights, power and

duties, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the Issuer.

**Section 910. Merger or Consolidation.** Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act, *provided that* such company 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 the duties imposed upon it by this Ordinance.

**Section 911. Resignation or Removal of Paying Agent and Appointment of Successor.** Any Paying Agent may at any time resign and be discharged of the duties and obligations created by the Ordinance and any Supplemental Ordinance by giving at least sixty (60) days' written notice to the Issuer and the Trustee. Any Paying Agent may be removed at any time by an instrument filed with the Paying Agent and the Trustee and signed by an Authorized Issuer Representative. Any successor Paying Agent shall be appointed by the Issuer with the approval of the Trustee, and shall be a bank or trust company organized under the laws of any state of the United States or a national banking association having capital stock and surplus aggregating at least \$25,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Ordinance or any applicable Supplemental Ordinance.

In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent 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 such Paying Agent, the Trustee shall act as such Paying Agent.

**Section 912. Resignation or Removal of Bond Registrar and Appointment of Successor.** Any Bond Registrar may at any time resign and be discharged of the duties and obligations created by this Ordinance and any Supplemental Ordinance by giving at least sixty (60) days' written notice to the Issuer and the Trustee. Any Bond Registrar may be removed at any time by an instrument filed with such Bond Registrar and the Trustee (in the case of a Paying Agent for the Bonds) or the Trustee (in the case of a Paying Agent for the Bonds) and signed by an Authorized Issuer Representative. Any successor Bond Registrar shall be appointed by the Issuer with the approval of the Trustee, and shall be a bank or trust company organized under the laws of any state of the United States or a national banking association, having capital stock and surplus aggregating at least \$25,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Ordinance.

In the event that for any reason there shall be a vacancy in the office of such Bond Registrar, the Trustee shall act as such Bond Registrar.

**Section 913. Adoption of Authentication.** In case any of the Bonds contemplated to be issued under this Ordinance shall have been authenticated but not delivered, any successor to the Trustee may adopt the certificate of authentication of any predecessor trustee so authenticating such Bonds and deliver such Bonds so authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Trustee may authenticate related Bonds in the name of the predecessor Trustee, or in the name of the successor Trustee, and in all such cases such certificate shall have the full force which it is anywhere in said Bonds or in this Ordinance provided that the certificate of the Trustee shall have.

## **ARTICLE X SUPPLEMENTAL ORDINANCES**

**Section 1001. Supplemental Ordinances Effective Without Consent of Owners.** For any one or more of the following purposes and at any time, a Supplemental Ordinance of the Issuer may be enacted without the consent of Owners and shall be fully effective in accordance with its terms:

(1) To close this Ordinance against, or provide limitations and restrictions contained in this Ordinance on, the authentication and delivery of Bonds or the issuance of other evidences of indebtedness;

(2) To add to the covenants and agreements of the Issuer in this Ordinance, other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with this Ordinance as theretofore in effect;

(3) To add to the limitations and restrictions in this Ordinance, other limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with this Ordinance as theretofore in effect;

(4) To authorize the issuance of any Series of Bonds and, in connection therewith, to specify and determine the matters and things referred to in Article II, and also any other matters and things relative to such Bonds which are not contrary to or inconsistent with the provisions of this Ordinance as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such Series of Bonds;

(5) With the prior Opinion of Bond Counsel that to do so will not adversely affect the prior status of any Bonds intended to be, and which still are, Tax-Exempt Obligations, to authorize, in compliance with all applicable law, Bonds of any Series to be issued in the form of coupon Bonds registrable as to principal only and, in connection therewith, specify and determine the matters and things relative to the issuance of such coupon Bonds, including provisions relating to the timing manner of provision of any notice required to be given hereunder to the holders of such coupon Bonds, which are not contrary to or inconsistent with the applicable provisions of this Ordinance or any Supplemental Ordinance as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such coupon Bonds;

(6) To authorize, in compliance with all applicable law, Bonds of any Series to be issued in the form of Bonds issued and held in book-entry form on the books of any Fiduciary appointed for that purpose by the Issuer and in connection therewith, make such additional changes herein, not adverse to the rights of the Owners of the related Bonds, as are necessary or appropriate to accomplish or recognize such book-entry form Bonds and specify and determine the matters and things relative to the issuance of such book-entry form Bonds as are appropriate or necessary;

(7) To modify, amend or supplement this Ordinance or any Supplemental Ordinance in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended,



or any similar federal statute hereafter in effect or to permit the qualification of any Bonds for sale under the securities laws of any of the states of the United State of America;

(8) To add additional security as part of any Trust Estate subject to the pledge and lien of this Ordinance or any Supplemental Ordinance;

(9) To provide any of the Tax Covenants not provided by this Ordinance or to modify in any respect any Tax Covenant so as to conform to the then applicable requirements of the Code or to delete or restrict the applicability of any Tax Covenant which, under the Code as then in effect, is no longer applicable to all or any Bonds issued or to be issued hereunder;

(10) To surrender any right, power or privilege reserved to or conferred upon the Issuer by the terms of this Ordinance or any Supplemental Ordinance, but only if the surrender of such right, power or privilege is not contrary to or inconsistent with the applicable covenants and agreement of the Issuer contained in this Ordinance or any Supplemental Ordinance;

(11) To confirm, as further assurance, any security interest or pledge created under this Ordinance or any Supplemental Ordinance;

(12) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in this Ordinance or any Supplemental Ordinance;

(13) To insert such provisions clarifying matters or questions arising under this Ordinance or any Supplemental Ordinance as are necessary or desirable and are not contrary to or inconsistent with the applicable provisions of this Ordinance or any Supplemental Ordinance as theretofore in effect;

(14) Prior to the issuance of the first Series of Bonds, to make any change whatsoever to the terms and provisions of this Ordinance;

(15) To modify any of the provisions of this Ordinance or any Supplemental Ordinance in any other respect whatever, *provided that*:

(i) no Bonds affected by such modification shall be Outstanding at the date of the adoption of such Supplemental Ordinance; or

(ii)(a) such modification shall be, and be expressed to be, effective only after all affected Bonds Outstanding at the date of the adoption of such Supplemental Ordinance shall cease to be Outstanding, and (b) such Supplemental Ordinance shall be specifically referred to in the text of all Bonds authenticated and delivered after the date of the adoption of such Supplemental Ordinance and of Bonds issued in exchange therefor or in place thereof; or

(iii) such modification does not materially and adversely affect the rights of the Owners of any Outstanding Bonds;

(16) To make any change required by a Rating Agency as a precondition to the issuance of a rating on any Series of Bonds which is not to the prejudice of the Owners of the Bonds of any other Series;

(17) So long as a Credit Facility is in full force and effect with respect to the Bonds affected by such Supplemental Ordinance, to make any other change which is consented to in writing by the issuer of such Credit Facility other than any change which:

(A) would result in a downgrading or withdrawal of the rating then assigned to the affected Bonds by the Rating Agencies; or

(B) changes the Stated Maturity (except as expressly permitted herein), the Interest Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption and purchase applicable to the affected Bonds or diminishes the security afforded by such Credit Facility; or

(C) materially and adversely affects the rights and security afforded to the Owners of any Outstanding Bonds not secured by such Credit Facility; or

(18) To incorporate into this Ordinance or any Supplemental Ordinance any financing powers hereafter granted to or conferred upon the Issuer by law.

**Section 1002. Supplemental Ordinances Effective With Consent of Owners; Limitations.** At any time or from time to time, a Supplemental Ordinance may be enacted by the Issuer subject to consent by Owners in accordance with and subject to the provisions of Article XI, which Supplemental Ordinance, upon compliance with the provisions of said Article XI, shall become fully effective in accordance with its terms as Provided in said Article XI.

Notwithstanding anything expressed or implied herein or in any Supplemental Ordinance to the contrary, any amendment or supplement to this Ordinance which affects only a portion of the outstanding Bonds need not be consented to by the Owners of all outstanding Bonds but such consent shall be effective if obtained from the requisite percentage of the Owners of the affected Bonds.

**Section 1003. General Provisions.** The Ordinance shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of this Article X and Article XI hereof. Any Supplemental Ordinance referred to and permitted or authorized by Section 1001 may be enacted by the Issuer without the consent of any of the Owners, but shall become effective only on the conditions, to the extent and at the time provided in said Section. A copy of every Supplemental Ordinance shall be placed on file with the Trustee and shall be accompanied by an Opinion of Bond Counsel stating that such Supplemental Ordinance:

(i) has been duly and lawfully enacted by the Issuer in accordance with the provisions of this Ordinance, is authorized or permitted by this Ordinance, and is valid and binding upon the Issuer and enforceable in accordance with its terms; and

(ii) will not adversely affect the maintenance of any existing exclusion of interest payable on the affected Bonds from gross income for federal income tax purposes.

The Trustee is hereby authorized to accept the delivery of a certified copy of any Supplemental Ordinance referred to and permitted or authorized by Section 1001 or 1002 and to make all further agreements and stipulations which may be therein contained, and the Trustee, in taking such action, shall be fully protected in relying on an Opinion of Bond Counsel that such Supplemental Ordinance is authorized or permitted by the provisions of this Ordinance.

No Supplemental Ordinance shall change or modify any of the rights or obligations of any issuer of a Credit Facility or any Fiduciary, including any agent appointed by the Issuer in connection with issuance of Variable Rate Obligations or Options Bonds, without its written assent thereto.

## **ARTICLE XI**

### **NOTICE OF AND CONSENT TO AMENDMENTS**

**Section 1101. Mailing of Notice.** Any provision in this Article for the mailing of a notice or other paper to Owners shall be fully complied with if it is mailed by first class mail, postage prepaid, only (i) to each Owner of affected Bonds then Outstanding at his address appearing upon the registry books of the Issuer and (ii) to the Trustee, any related Paying Agent, any Bond Registrar and any related Credit Provider.

**Section 1102. Powers of Amendment.** Any modification or amendment of this Ordinance and of the rights and obligations of the Issuer and of the Owners of the Bonds, in any particular other than for the purposes set forth in Section 1001, may be made by a Supplemental Ordinance with the written consent given as provided in Section 1103 of the Owners of at least a majority in principal amount of the affected Bonds Outstanding at the time such consent is given and any affected Credit Provider; *provided, however, that* if such modification or amendment will, by its terms, not take effect so long as any Bonds of like maturity remain Outstanding, the consent of the Owners of such Bonds and affected Credit Provider with respect to such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under Articles X or XI hereof.

No such modification or amendment shall permit 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 premium (if any) thereof or in the rate of interest thereon or diminish the security afforded by any Credit Facility, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Owners of which is required to effect any such modification or amendment, without the consent of the Owner of each Bond affected thereby, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto.

For the purposes of this Section 1102, Bonds of a particular maturity shall be deemed to be affected by a modification or amendment of this Ordinance if the same adversely affects or diminishes the rights of the Owners of Bonds of such maturity. The Trustee may in its discretion determine whether or not in accordance with the foregoing powers of amendment Bonds of any particular maturity would be affected by any modification or amendment of this Ordinance, and may rely upon the advice of Bond Counsel, and any such determination shall be binding and conclusive on the Issuer and all Owners of Bonds.

**Section 1103. Consent of Owners.** The Issuer may at any time enact a Supplemental Ordinance making a modification or amendment permitted by the provisions of Section 1102 to take effect at the time provided in such Supplemental Ordinance (if the consent of the Owners of the affected Bonds and the issuers of any affected Credit Facilities is not required) or when and as provided in this Section 1103 (if the consent of the Owners of the affected Bonds and the issuers of any affected Credit Facilities is required). If consent of any Owners or Credit Providers is required in connection therewith, a brief summary of such Supplemental Ordinance, together with a

request to affected Owners and affected Credit Facility Providers for their consent thereto in form satisfactory to the Trustee, shall be mailed by the Issuer to affected Owners and the issuer of any affected Credit Facility. Such Supplemental Ordinance shall not be effective unless and until:

(i) there shall have been filed with the Trustee:

(a) if required, the written consents of Owners of the percentages of Outstanding Bonds specified in Section 1102 which are affected by such Supplemental Ordinance and the issuer of any affected Credit Facility; and

(b) an Opinion of Bond Counsel stating that such Supplemental Ordinance has been duly and lawfully entered into by the Issuer in accordance with the provisions of this Ordinance, is authorized or permitted by this Ordinance, and is valid and binding upon the Issuer and enforceable in accordance with its terms, subject to bankruptcy, insolvency and other laws affecting creditors' rights generally; and

(ii) a notice shall have been given as hereinafter in this Section 1103 provided.

Each required consent shall be effective only accompanied by proof of the ownership, 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 1202. A certificate or certificates executed by the Trustee and filed with the Issuer stating that it has examined such proof and that such proof is sufficient in accordance with Section 1202 shall be conclusive that the consents have been given by the Owners of the affected Bonds and the issuer of any affected Credit Facility described in such certificates of the Trustee.

Any such consent shall be binding upon the Owner of the Bonds and the issuer of any affected Credit Facility giving such consent and, anything in Section 1202 to the contrary notwithstanding, upon any subsequent Owner of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Owner thereof has notice thereof) unless such consent is revoked in writing by the Owner of such Bonds or the issuer of any Credit Facility giving such consent or a subsequent Owner thereof by filing such revocation with the Trustee, prior to the time when the written statement of the Trustee hereinafter in this paragraph provided for is filed. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Issuer to the effect that no revocation thereof is on file with the Trustee. Within 10 days after the Owners of the required percentages of affected Bonds and the issuer of any affected Credit Facility shall have filed their consents to the Supplemental Ordinance or resolution, the Trustee shall make and file with the Issuer a written statement that the Owners of such required percentages of affected Bonds and the issuer of any affected Credit Facility have filed such consents. Such written statements shall be conclusive that such consents have been so filed.

At any time thereafter, notice stating in substance that the Supplemental Ordinance (which may be referred to as a Supplemental Ordinance enacted by the Issuer on a stated date, a copy of which is on file with the Trustee) has been consented to by the Owners of the required percentages of affected Bonds and the issuer of any affected Credit Facility, and will be effective as provided in this Section 1103, shall be given to affected Owners and the issuer of any affected Credit Facility by mailing such notice to affected Owners and the issuer of any affected Credit Facility not more than ninety (90) days after the Owners of the required percentages of affected Bonds and the issuer of any affected Credit Facility shall have filed their consents to the Supplemental Ordinance and the written statement of the Trustee provided for in the preceding paragraph is filed. A record, consisting of the certificates or statements required or permitted by this Section 1103 to be made by the Trustee shall be proof of the matters therein stated. Such Supplemental Ordinance making such amendment or modification shall be deemed conclusively binding upon the

Issuer, the Fiduciaries, the Owners of all affected Bonds and the issuer of any affected Credit Facility upon the mailing of such last mentioned notice.

**Section 1104. Modifications by Unanimous Consent.** The terms and provisions of this Ordinance and the rights and obligations of the Issuer and of the Owners of the Bonds may be modified or amended in any respect upon the enactment by the Issuer of a Supplemental Ordinance and the consent of the issuer of any affected Credit Facility, and the Owners of all of the affected Bonds then outstanding, such consent to be given as provided in Section 1103 except that no notice to affected Owners by mailing shall be required; provided, however, that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary without the filing with the Issuer of the written assent thereto of such Fiduciary in addition to the consent of the affected Owners and the issuer of any affected Credit Facility.

**Section 1105. Exclusion of Bonds.** Bonds owned or held by or for the account of the Issuer shall not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in Articles X or XI hereof, and the Issuer shall not be entitled with respect to such Bonds to give any consent or take any other action provided for in Articles X or XI hereof. At the time of any consent or other action taken under Articles X or XI hereof, the Issuer shall furnish the Trustee a certificate of an Authorized Issuer Representative upon which the Trustee may rely, describing all Bonds so to be excluded.

**Section 1106. Notation on Bonds.** Affected Bonds authenticated and delivered after the effective date of any action taken as in Article X or this Article XI provided may, and, if the Issuer so determines, shall bear a notation by endorsement or otherwise in form approved by the Issuer as to such action, and in that case upon demand of the Owner of any affected Bond Outstanding at such effective date and presentation of such affected Bond at the corporate trust office of the Trustee or upon any transfer or exchange of any affected Bond Outstanding at such effective date, suitable notation shall be made on such Bond or upon any Bond issued upon any such transfer or exchange by the Trustee shall so determine, new Bonds so modified as in the opinion of the Trustee are necessary to conform to such action shall be prepared, authenticated and delivered, and upon demand of the holder of any affected Bond then Outstanding shall be exchanged, without cost to such Owner, for Bonds of the same maturity then Outstanding, upon surrender of such Bonds.

**Section 1107. Issuer of a Credit Facility as Owner of the Bonds.** Except as otherwise expressly provided in a Supplemental Ordinance, as long as a Credit Facility securing all or a portion of any Bonds Outstanding is in effect, the issuer of such Credit Facility shall be deemed to be the Owner of the Bonds secured by such Credit Facility:

(i) at all times for the purpose of the execution and delivery of a Supplemental Ordinance or of any amendment, change or modification of this Ordinance or the initiation by Owners of any action to be undertaken by the Trustee at the Owner's request, which under this Ordinance requires the written approval or consent of or can be initiated by the Owners of at least a majority in principal amount of the affected Bonds at the time Outstanding; and

(ii) following an Event of Default for all other purposes.

Notwithstanding the foregoing, the issuer of such Credit Facility shall not be deemed to be an Owner of the Bonds secured thereby with respect to any such Supplemental Ordinance or of any amendment, change or modification of this Ordinance which:

(a) would result in a downgrading or withdrawal of the rating then assigned to the affected Bonds by the Rating Agencies; or

(b) changes the Stated Maturity (except as expressly permitted herein), the Interest Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption and purchase applicable to the affected Bonds or diminishes the security afforded by such Credit Facility; or

(c) reduces the percentage or otherwise affecting the classes of affected Bonds the consent of the Owners of which is required to effect any such modification or amendment.

In addition and notwithstanding the foregoing, no issuer of a Credit Facility given as security for any Bonds shall be entitled to exercise any rights under this Section 1107 during any period where:

(i) the Credit Agreement or Credit Facility to which such Credit Provider is a party shall not be in full force and effect;

(ii) such Credit Provider shall have filed a petition or otherwise sought relief under any federal or state bankruptcy or similar law;

(iii) such Credit Provider shall, for any reason, have failed or refused to honor a proper demand for payment under such Credit Facility; or

(iv) an order or decree shall have been entered, with the consent or acquiescence of such Credit Provider, appointing a receiver or receivers of the assets of the Credit Provider, or if such order or decree having been entered without the consent or acquiescence of such Credit Provider, shall not have been vacated or discharged or stayed within ninety (90) days after the entry thereof.

**Section 1108. Treatment of Owners of Capital Appreciation Obligations.** For purposes of determining the percentage of Owners consenting to, waiving or otherwise acting with respect to any matter that may arise under this Ordinance, the Owners of Bonds which constitute Capital Appreciation Obligations shall be treated as Owners of Bonds in an aggregate principal amount equal to the Accreted Value of such Bonds as of the date the Trustee sends out notice of requesting consent, waiver or other action as provided in Section 1103 hereof.

## **ARTICLE XII DEFEASANCE AND MISCELLANEOUS PROVISIONS**

**Section 1201. Defeasance.** If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Owners or holders of any Debt Obligations the principal of, premium (if any) and interest due or to become due thereon and the obligations under any related Credit Agreement at the times and in the manner stipulated therein, in this Ordinance and in any related Supplemental Ordinance or Financing Agreement, then the lien (if any) of this Ordinance and any related Supplemental Ordinance or Financing Agreement securing such Debt Obligations and all covenants, agreements and other obligations of the Issuer to the Owners of such Debt Obligations and the issuer of any related Credit Facility shall thereupon cease, terminate and become void and be discharged and satisfied. In such event (but only with respect to any Series of Bonds), the Trustee shall cause an accounting for such period or periods as shall be requested by the Issuer to be prepared and filed with the Issuer and, upon the request of the Issuer,

shall execute and deliver to the Issuer all such instruments as may be desirable to evidence such discharge and satisfaction, and the Fiduciaries shall pay over or deliver, as directed by the Issuer, all moneys or securities held by them pursuant to this Ordinance or any Supplemental Ordinance with respect to such discharged Series of Bonds and which are not required for the payment of principal of, premium (if any) and interest on Bonds of such Series not theretofore surrendered for such payment or redemption or for payment of obligations under any related Credit Agreement.

Debt Obligations or interest installments thereon for the payment or redemption of which moneys or Government Obligations shall have been set aside and shall be held in trust by the Trustee (in the case of Bonds) or another corporate trustee appointed for such purpose (in the case of a Financial Obligation) shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section 1201; *provided that* in connection with any such deposit there shall be provided to the Trustee or other corporate trustee, as appropriate, a verification report of nationally recognized independent certified public accountants confirming the sufficiency of the moneys or Government Obligations so deposited as contemplated in subpart (b) of this Section. All Outstanding Debt Obligations of any particular Series or maturity shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section 1201 if:

(a) in case any of said Debt Obligations are to be redeemed on any date prior to their maturity, the Issuer shall have given irrevocable instructions to provide notice of such redemption in the manner required by this Ordinance or the related Financing Agreement, which instructions shall be given to:

(i) the Trustee in the case of a Series of Bonds; or

(ii) in the case of a Financial Obligation, to the responsible fiduciary (if any) with respect thereto; *provided that* if there is no such responsible fiduciary, the Issuer shall have made appropriate arrangements to cause notice of redemption thereof to be given to the holders of such Financial Obligation at the time(s) and in the manner required under the related Financing Agreement;

(b) there shall have been deposited with the Trustee (in the case of a Series of Bonds) or another corporate trustee appointed for such purpose (in the case of a Series of Financial Obligations) either moneys in an amount which shall be sufficient, or Government Obligations (including any Government Obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited at the same time, shall be sufficient, to pay when due the principal of, premium (if any) and interest due and to become due on said Debt Obligations on or prior to the redemption date or maturity date thereof, as the case may be; and

(c) the Issuer shall have given the Trustee (in the case of Bonds) or other responsible fiduciary, if any (in the case of Financial Obligations), in form satisfactory to it, irrevocable instructions to mail, postage prepaid, to each owner of the Debt Obligations then outstanding at his address, if any, appearing upon the registry books of the Issuer, a notice to the registered owners of such Debt Obligations that the deposit required by (b) above has been made with the Trustee or other corporate trustee, as appropriate, and that said Debt Obligations are deemed to have been paid in accordance with this Section 1201 and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal or Redemption Price, if applicable, on said Debt Obligations; *provided that* if there is no fiduciary for the affected Financial Obligations, the Issuer shall itself undertake to provide such notice to the holders of such Financial Obligations.

Neither Government Obligations nor moneys deposited pursuant to this Section 1201 with the Trustee (in the case of Bonds) or a corporate trustee appointed for such purpose (in the case of Financial Obligations) or principal or interest payments on any such Government Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium (if any) and interest on the related Debt Obligation, as the case may be; *provided that* any cash received from such principal or interest payments on such Government Obligations deposited with the Trustee (in the case of Bonds) or such other corporate trustee (in the case of Financial Obligations):

(A) to the extent such cash will not be required at any time for such purpose as determined by the Trustee (in the case of Bonds) or such other corporate trustee (in the case of Financial Obligations), and to the extent all obligations under any related Credit Agreement are satisfied, as determined by the Credit Provider thereunder, shall be paid over to or upon the direction of the Issuer as received by the Trustee (in the case of Bonds) or such other corporate trustee (in the case of Financial Obligations), free and clear of any trust, lien, pledge or assignment securing said Debt Obligations or otherwise existing under this Ordinance or any Supplemental Ordinance; and

(B) to the extent such cash will be required to pay amounts to become owing on such Debt Obligations at a later date, it shall, to the extent practicable, be reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the principal of, premium (if any) and interest to become due on said Debt Obligations on or prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments, to the extent such interest earnings will not be required at any time for such purpose as determined by the Trustee (in the case of Bonds) or such other corporate trustee (in the case of Financial Obligations) shall be paid over as received to the Issuer, free and clear of any lien, pledge, or security interest securing said Debt Obligations or otherwise existing under this Ordinance.

As to the Variable Rate Obligations discharged and satisfied under the foregoing provisions, the amount required for the interest thereon shall be calculated at the maximum rate permitted by the terms of the Supplemental Ordinance or Financing Agreement (as the case may be) which authorized the issuance or incurrence of such Variable Rate Obligations; *provided, however, that* if on any date, as a result of such Variable Rate Obligations having borne interest at less than such maximum rate for any period, the total amount of moneys and Government Obligations on deposit for the payment of interest on such Variable Rate Obligations is in excess of the total amount which would have been required to be deposited on such date in respect of such Variable Rate Obligations in order to fully discharge and satisfy such Variable Rate Obligations and obligations under any Credit Agreement pursuant to the provisions of this Section, the Issuer may use the amount of such excess free and clear of any trust, lien, security interest, pledge or assignment securing said Variable Rate Obligations or otherwise existing under this Ordinance, any Supplemental Ordinance or under any related Credit Agreement.

Notwithstanding any of the provisions of this Ordinance to the contrary, Option Obligations may only be fully discharged and satisfied either pursuant to the foregoing provisions by depositing in the Debt Service Account (in the case of Bonds), or in such other accounts which are irrevocably dedicated to the payment of the Option Obligations (in the case of Financial Obligations), moneys which together with other moneys lawfully available therefor shall be sufficient at the time of such deposit to pay when due the maximum amount of principal of and Redemption Price, if any, and interest on such Option Obligations which could become payable to the Owners or holders of such Option Obligations upon the exercise of any options provided to such Owners or holders; *provided, however, that* if, at the time a deposit is made pursuant to this paragraph, the options originally exercisable by the Owner or holder of an Option Obligation are no longer exercisable, such Option Obligation shall not be considered an Option Obligation for purposes of this paragraph. If any portion of the moneys deposited for the payment of the principal of, premium (if any) and interest on Option Obligations is not required for such purpose and is not needed



to reimburse the obligee under any related Credit Agreement, the Issuer may use the amount of such excess free and clear of any trust, lien, security interest, pledge or assignment securing said Option Obligations or otherwise existing under this Ordinance or any related Credited Agreement or other agreement.

**Section 1202. Evidence of Signatures of Owners and Ownership of Bonds.** Any request, consent, revocation of consent or other instrument which this Ordinance may require or permit to be signed and executed by the Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their attorneys appointed in writing. The ownership of Bonds and the amount, numbers and other identification, and date of holding the same shall be proved by the registry books therefor. Any request or consent by the Owner of any Bond or the issuer of any Credit Facility shall bind all future Owners of such Bond and all future issuers of any Alternate Credit Facility given in replacement or substitution of such Credit Facility in respect of anything done or suffered to be done by the Issuer or any Fiduciary in accordance therewith.

**Section 1203. Moneys Held for Particular Bonds; Unclaimed Moneys.** The amounts held by any Fiduciary for the payment of the interest, 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 Owners of the Bonds entitled thereto.

Anything in this Ordinance to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of any of the Bonds which remain unclaimed for six years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Fiduciary at such date, or for six years after the date of deposit of such moneys if deposited with the Fiduciary after the date when such Bonds became due and payable, shall, at the written request of the Issuer be repaid by the Fiduciary to the Issuer, as its absolute property and free from trust, and the Fiduciary shall thereupon be released and discharged with respect thereto and the Owners shall look only to the Issuer for the payment of such Bonds; *provided, however, that* before being required to make any such payment to the Issuer the Fiduciary shall, at the expense of the Issuer, cause to be mailed, postage prepaid, to the obligee under any Credit Agreement and to each registered owner of any unpaid Bonds at his address, if any, appearing upon the related registry books of the Issuer, a notice that said moneys remain unclaimed and that after a date named in said notice, which date shall be not less than 30 days after the date of the mailing of such notice, the balance of such moneys then unclaimed will be returned to the Issuer.

**Section 1204. Preservation and Inspection of Documents.** All documents received by any Fiduciary under the provisions of this Ordinance shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Issuer, any other Fiduciary, and any related Owner and their agents and their representatives, any of whom may make copies thereof.

**Section 1205. Parties Interested Herein.** Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or corporation, other than the Issuer, the Fiduciaries, the Credit Providers and the Owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation thereof; and all the covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Fiduciaries, the Credit Providers and the Owners of the Bonds.

**Section 1206. No Recourse.** No recourse shall be had for the payment of the principal of or interest on the Bonds or on any obligation under a Credit Agreement or for any claim based thereon or on this Ordinance against any member or officer of the Issuer or any person executing the Bonds. It is hereby recognized and agreed that neither the members of the Council of the Issuer nor any officer, employee or agent of the Issuer shall be

individually liable on the Bonds or the interest thereon, on any obligation under a Credit Agreement or in respect of any undertakings by the Issuer under this Ordinance.

**Section 1207. Severability of Invalid Provisions.** If any one or more of the covenants or agreements provided in this Ordinance on the part of the Issuer or any Fiduciary to be performed should 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 Ordinance.

**Section 1208. Holidays.** 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 Ordinance, shall be a legal holiday or a day on which banking institutions in the city in which is located the principal office of the Trustee or the issuer of any Credit Facility are authorized bylaw to remain closed, 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 Ordinance.

**Section 1209. Limitation of Issuer's Liability.** The obligations of the Issuer under this Ordinance as well as any costs or expenses of the Issuer incurred in respect of its obligations and duties hereunder shall never constitute a general obligation debt or indebtedness of the Issuer within the meaning of any provision or limitation of the Constitution or statutes of the State of Oregon but shall be payable solely from the Revenues, Available Funds and the Trust Estate.

**Section 1210. Governing Law.** This Ordinance shall be interpreted, governed by and construed under the laws of the State, including the Act, as if executed and to be performed wholly within the State.

**Section 1211. Headings Not Binding.** The headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

**Section 1212. Effective Date.** This Ordinance shall, except as otherwise provided by law, become effective immediately upon enactment.

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## Certification of Ordinance

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*The undersigned do hereby certify that we are the duly elected or appointed, qualified and acting Executive Officer, Presiding Officer of the Council and Clerk of the Council of the Metropolitan Service District, Counties of Multnomah, Clackamas and Washington, State of Oregon; that the foregoing is a true and complete copy of Ordinance No. 91-439 as enacted by the Council of said district at a regular meeting duly called and held in accordance with law on December 12, 1991; and that the following Councilors voted in favor of said Ordinance.*

Bauer, Buchanan, DeJardin, Gardner, Hansen, Knowles, McFarland,  
McLain, Van Bergen, Wyers and Collier

*the following Councilors voted against said Ordinance:*

None

*and the following Councilors abstained from voting on said Ordinance:*

None

*In addition, the Executive Officer hereby certifies that the foregoing ordinance has not been vetoed thereby.*

*In witness whereof, the undersigned have hereunto set their hands as of the dates set forth below.*

*Attest:*



*Presiding Officer*

*Date: 12/12/91*



*Clerk of the Council*

*Date: 12/12/91*



*Rena Cusma, Executive Officer*

*Date: 12/14/91*

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# Ordinance No. 91-439

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## The Council of the Metropolitan Service District

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An ordinance establishing a plan for the financing from time to time of various facilities and operations of the Metropolitan Service District; authorizing the issuance of one or more series of revenue bonds for such purpose under the provisions of supplemental ordinances adopted pursuant hereto; and establishing and determining other matters in connection therewith.

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Enacted on December 12, 1991

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*Prepared by:*

*Stoel Rives Boley Jones & Grey,  
Bond Counsel*

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**Note: This Table of Contents is provided solely for the convenience of the reader. It does not constitute a part of Ordinance No. 91-439.**

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**Metropolitan Service District**  
Counties of Multnomah, Clackamas and Washington  
State of Oregon

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**Ordinance No. 91-439**

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**An ordinance establishing a plan for the financing from time to time of various facilities and operations of the Metropolitan Service District; authorizing the issuance of one or more series of revenue bonds for such purpose under the provisions of supplemental ordinances adopted pursuant hereto; and establishing and determining other matters in connection therewith.**

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**Be it enacted by the Council of the Metropolitan Service District:**

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33

**Section A. Findings.** The Council (the "Council") of the Metropolitan Service District, a political subdivision organized and existing under the laws of the State of Oregon (the "Issuer"), hereby finds and determines as follows:

34  
35  
36  
37

(a) Pursuant to and in accordance with the provisions of Article II, Section 14 of the Oregon Constitution, Oregon Revised Statutes Chapter 268 and related provisions of the Oregon Revised Statutes, the Issuer is responsible for various regional governmental functions and operations.

38  
39  
40  
41  
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43

(b) In order to meet the present and continuing needs of the Issuer to carry out the duties, functions and operations which are now or which may hereafter become its responsibility or within its powers, it is and will be necessary to borrow money for the purposes of financing the operations of the Issuer and the acquisition, construction, renovation, furnishing and equipping of the facilities necessary or appropriate in connection with such operations.

44  
45  
46

(c) Pursuant to the provisions of the Act (as hereinafter defined) and other applicable provisions of law, the Issuer is authorized, without voter approval, to issue and sell from time to time revenue bonds for the purpose of carrying into effect all or any of the powers granted to it.

1  
2 (d) The Issuer has determined to enact this Ordinance to provide for the issuance of its revenue bonds and  
3 other obligations (as more particularly described herein, the "Bonds") for the purpose of financing the operations of  
4 the Issuer and the acquisition, construction, renovation, furnishing and equipping of the facilities necessary or  
5 appropriate in connection with such operations, as well as for any other lawful purpose for which the Issuer is now  
6 or may hereafter be authorized to issue Bonds of the character provided for herein.  
7  
8  
9

## 10 **ARTICLE I**

## 11 **DEFINITIONS**

12  
13 **Section 101. Definitions.** As used in this Ordinance, unless the context shall otherwise require, the  
14 following terms shall have the following respective meanings set forth below:  
15

16 "Account" or "Accounts" shall mean one or more of the special trust accounts created and established  
17 pursuant to this Ordinance or any Supplemental Ordinance.  
18

19 "Accountant's Opinion" shall mean an opinion, certificate or report (as appropriate to the purposes for  
20 which the same is required) signed by an independent certified public accountant or a firm of independent certified  
21 public accountants selected by the Issuer.  
22

23 "Accreted Value" shall mean, as of the date of computation with respect to any Capital Appreciation  
24 Obligations, an amount equal to:  
25

26 (i) the principal amount of such Capital Appreciation Obligations (the issue price at the date of  
27 issuance), plus  
28

29 (ii) the interest accrued on such Capital Appreciation Obligations from the date of original  
30 issuance of such Capital Appreciation Obligations to the Interest Payment Date next preceding the date of  
31 computation or the date of computation if an Interest Payment Date, such interest to accrue at an  
32 approximate rate *per annum* of the Capital Appreciation Obligations set forth in the Supplemental  
33 Ordinance providing for the issuance of, or the Financing Agreement giving rise to, such Capital  
34 Appreciation Obligations, compounded at such intervals as shall be specified in such Supplemental  
35 Ordinance or Financing Agreement, plus  
36

37 (iii) with respect to matters related to the payment upon redemption of such Capital Appreciation  
38 Obligations, if such date of computation shall not be an Interest Payment Date, a portion of the difference  
39 between the Accreted Value as of the immediately preceding Interest Payment Date (or the date of original  
40 issuance if the date of computation is prior to the first Interest Payment Date succeeding the date of original  
41 issuance) and the Accreted Value as of the immediately succeeding Interest Payment Date, calculated based  
42 on the assumption that Accreted Value accrues during any period in equal daily amounts on the basis of a  
43 year of twelve 30-day months.  
44

45 A table of Accreted Values for each Series of Bonds issued as Capital Appreciation Obligations shall be incorporated  
46 in a Supplemental Ordinance or Financing Agreement relating to such Capital Appreciation Obligations.  
47

1 "Act" shall mean: (i) when used with respect to the governmental powers of the Issuer, Oregon Revised  
2 Statutes Chapter 268, as amended, and other applicable provisions of the laws of the State of Oregon or any charter  
3 or other law hereafter enacted or in effect dealing with the governmental powers of the Issuer; and (ii) when used with  
4 respect to the legal authority pursuant to which a particular Series of Debt Obligations are issued or incurred, the  
5 statute, charter or other provision of law specified in the Supplemental Ordinance or in the related Financing  
6 Agreement pursuant to which such Debt Obligation is issued or incurred, which may include (but is not limited to)  
7 Oregon Revised Statutes, Chapter 268, as amend, Oregon Revised Statutes, Chapter 288, as amended, and other  
8 applicable provisions of the laws of the State of Oregon or any charter provision or other law hereafter enacted or in  
9 effect dealing with the financing powers of the Issuer..

10  
11 "Additional Bonds" shall mean Bonds issued pursuant to Section 205 hereof.

12  
13 "Alternate Credit Facility" means with respect to a particular Series of Debt Obligations, any Credit  
14 Facility meeting the applicable requirements of the Supplemental Ordinance or Financing Agreement under which  
15 such Series of Debt Obligations is issued or incurred and which is given in substitution for or replacement of an  
16 existing Credit Facility securing such Series.

17  
18 "Annual Budget" shall mean the annual budget of the Issuer, as amended or supplemented, adopted or in  
19 effect for a particular Fiscal Year as provided in Section 702(f) hereof.

20  
21 "Annual Debt Service" shall mean the amount required to be paid in the then current or any succeeding  
22 Fiscal Year in respect of the principal of or interest on any Outstanding Debt Obligations; *providing, however, that:*

23  
24 (i) there shall be credited against such sum any interest capitalized or otherwise payable from  
25 proceeds derived from the sale of such Debt Obligations;

26  
27 (ii) the amount of Term Obligations subject to mandatory redemption in any Fiscal Year pursuant  
28 to a Mandatory Redemption Schedule shall be deemed to mature in the Fiscal Year in which such Term  
29 Obligations are subject to such mandatory redemption and only the principal amount of such Term  
30 Obligations scheduled to remain Outstanding on the maturity date thereof shall be included in determining  
31 the Annual Debt Service for Debt Obligations in the Fiscal Year in which such maturity date occurs;

32  
33 (iii) for purposes of determining Annual Debt Service for the Outstanding Debt Obligations which  
34 constitute Option Obligations, any such Option Obligations Outstanding at the time of such determination  
35 shall be assumed to mature on their stated dates of maturity; *provided that* if such Option Obligations are  
36 subject, without contingency, to scheduled mandatory redemption on specific determinable dates and in  
37 specific amounts, then such Option Obligations shall be deemed to mature on the dates and in the amounts  
38 provided in connection with such scheduled mandatory redemption;

39  
40 (iv) for purposes of computing Annual Debt Service for the Outstanding Debt Obligations which  
41 constitute Variable Rate Obligations, such Variable Rate Obligations shall be deemed to bear interest at all  
42 times to maturity thereof at the Estimated Average Interest Rate applicable thereto and if such Variable Rate  
43 Obligations are subject, without contingency, to scheduled mandatory redemption on specific or  
44 determinable dates and in specific amounts, then such Variable Rate Obligations shall be deemed to mature  
45 on the dates and in the amounts provided in connection with such scheduled mandatory redemption;

46  
47 (v) for purposes of computing Annual Debt Service on Outstanding Debt Obligations which  
48 constitute Capital Appreciation Obligations, only the principal and interest portion of the Accreted Value

becoming due at maturity or by virtue of a scheduled mandatory redemption prior to maturity shall be included in the calculations of accrued and unpaid interest and principal requirements; and

(vi) for purposes of computing Annual Debt Service on any Debt Obligations which constitute Balloon Indebtedness, it shall be assumed that the principal of such Balloon Indebtedness, together with interest thereon at the rate applicable to such Balloon Indebtedness, shall be amortized in equal annual installments over a term equal to the lesser of:

(1) twenty five (25) years; or

(2) the average weighted useful life (expressed in years and rounded to the next highest integer) of the properties and assets constituting the Project (if any) financed out of the proceeds of such Balloon Indebtedness.

**"Authorized Denominations"** means, with respect to a particular Series of Bonds, the denominations in which the Bonds of such Series are authorized to be issued as provided in the Supplemental Ordinance under which such Series of Bonds is issued.

**"Authorized Issuer Representative"** shall mean the Executive Officer of the Issuer or any person designated by the Executive Officer in writing to act on behalf of such Executive Officer for purposes of this Ordinance.

**"Available Funds"** means any funds, investments or other liquid assets of the Issuer that are not restricted by law to a use which is not consistent with the payment of the amounts owing under and with respect to Debt Obligations, including but not limited to cash on hand, bank deposits, fund balances and investment income derived therefrom, but not including Revenues.

**"Balloon Indebtedness"** shall mean any Series of Debt Obligations more than twenty five percent (25%) of the principal of which, in accordance with the terms of such Debt Obligations, is due and payable in any one Fiscal Year either by reason of the stated maturity date of such Debt Obligations or pursuant to a Mandatory Redemption Schedule; *provided that* with respect to any Debt Obligations issued as Term Obligations, such Debt Obligations shall only be treated as Balloon Indebtedness if more than twenty five percent (25%) of the principal thereof is due in any one Fiscal Year pursuant to the applicable Mandatory Redemption Schedule or upon the stated maturity date thereof (assuming that the only principal due on the stated maturity date thereof will be the principal remaining outstanding after all redemptions have been made pursuant to the applicable Mandatory Redemption Schedule).

**"Bond" or "Bonds"** shall mean all bonds, notes or other debt obligations issued under the provisions of this Ordinance and any Supplemental Ordinance which are: (i) payable from the Revenues and Available Funds on an equal and ratable (*pari passu*) basis with all other Outstanding Debt Obligations, and (ii) secured by a pledge of the Trust Estate on an equal and ratable (*pari passu*) basis with all other Outstanding Bonds.

**"Bond Counsel"** shall mean Stoel Rives Boley Jones & Grey or an attorney or firm of attorneys of recognized national standing in the field of law relating to municipal bonds selected by the Issuer.

**"Bond Registrar"** shall mean, with respect to a particular Series of Bonds, any bank, trust company or national banking association, which may include the Trustee or its successor, authorized by the Issuer pursuant to a Supplemental Ordinance to act as bond registrar for such Series of Bonds and having the duties, responsibilities and rights provided for in this Ordinance and such Supplemental Ordinance, and its successor or successors and any other

1 corporation or association which at any time may be substituted in its place pursuant to this Ordinance or the  
2 applicable provisions of any Supplemental Ordinance.

3  
4 **"Bond Year"** means, with respect to a particular issue of Debt Obligations, each one year period  
5 commencing on: (i) the date of issuance and delivery or incurrence of the Debt Obligations of such issue; or  
6 (ii) such other date as the Issuer may elect in accordance with the application provisions of Section 148(f) of the  
7 Code and the regulations thereunder.

8  
9 **"Calculation Period"** means, with respect to a particular issue of Debt Obligations, the period elected  
10 by the Issuer in accordance with and pursuant to the regulations promulgated pursuant to Section 148(f) of the Code  
11 (or any successor thereto) for calculating the Rebate Amount with respect to such issue.

12  
13 **"Capital Appreciation Obligations"** shall mean those Debt Obligations as to which interest is  
14 compounded periodically on each of the applicable periodic dates designated for compounding and payable in an  
15 amount equal to the then current Accreted Value only at the maturity or earlier redemption thereof, all as so  
16 designated in a Supplemental Ordinance of the Issuer providing for the issuance thereof or in the Financing  
17 Agreement giving rise to such Debt Obligation, including any Debt Obligations which accrue and compound interest  
18 thereon as aforesaid for a period of time, after which period such Debt Obligations commence paying interest on a  
19 periodic basis and convert into Current Interest Obligations.

20  
21 **"Code"** means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated  
22 or applicable thereunder, and any successor statute (but only to the extent that such successor statute is applicable to  
23 particular Debt Obligations).

24  
25 **"Completion Obligations"** shall mean, with respect to a particular Series of Debt Obligations, Debt  
26 Obligations issued or incurred under and pursuant to the provisions of Section 205(b) hereof for the purpose of  
27 providing funds to finance the completion of a Project.

28  
29 **"Construction Account"** shall mean the Account by that name established with the Trustee pursuant to  
30 Section 502 hereof.

31  
32 **"Costs of Issuance"** shall mean, with respect to a particular Series of Debt Obligations, all costs  
33 necessary or attributable to the issuance of such Series including, but ~~are~~ not limited to, legal fees and expenses, fees  
34 and expenses of any consulting engineer and financial advisors, costs of audits, advertising and printing expenses,  
35 fees and expenses of the Fiduciaries, costs of credit ratings, costs of premiums on insurance on the Debt Obligations,  
36 the initial fees, expenses and other amounts payable to any indexing agent, depository, remarketing agent, tender  
37 agent or any other person whose services are required with respect to the issuance of any Debt Obligations, and also  
38 including discounts to the underwriters or other purchasers of the Debt Obligations incurred in the issuance and sale  
39 of thereof, the proceeds of which have been or will be required to be applied to one or more purposes for which Debt  
40 Obligations could be issued or incurred.

41  
42 **"Counsel"** shall mean an attorney, or firm of attorneys, admitted to practice law before the highest court  
43 of any state in the United States of America or the District of Columbia.

44  
45 **"Credit Agreement"** shall mean an agreement with a Credit Provider pursuant to which a Credit Facility  
46 is issued or given as security for a particular Series of Debt Obligations.

47  
48 **"Credit Facility"** shall mean a letter of credit, a municipal bond insurance policy, a surety bond, standby  
49 bond purchase agreement or other credit enhancement device given, issued or posted as security for one or more

1 Series of Debt Obligations, including any Alternate Credit Facility; *provided that* with respect to any Credit Facility  
2 given or provided for purposes of meeting in whole or in part the Reserve Requirement, such Credit Facility shall be  
3 issued or provided by a Credit Provider whose long-term debt obligations or claims-paying ability (as appropriate) is  
4 rated within one of the three highest categories by ~~a~~ each Rating Agency rating, at the request of the Issuer, the  
5 Series of Bonds in connection with which such Credit Facility is being given or provided.  
6

7 "Credit Provider" shall mean the person or entity, if any, providing a Credit Facility as security for a  
8 Series of Debt Obligations.  
9

10 "Current Interest Obligations" shall mean those Debt Obligations which bear interest payable  
11 periodically on specified or determinable dates prior to the maturity or redemption dates thereof, including any  
12 Capital Appreciation Obligations from and after the date upon which interest becomes payable on a periodic basis  
13 prior to the maturity thereof, all as so designated in a Supplemental Ordinance or Financing Agreement providing for  
14 the issuance or incurrence of such Debt Obligation, and which may be either Serial Obligations or Term  
15 Obligations, including Variable Rate Obligations and Option Obligations.  
16

17 "Debt Obligations" means any Outstanding Bonds or Financial Obligations.  
18

19 "Debt Service Account" shall mean the Account by that name established in Section 502 hereof.  
20

21 "Department" means each functional unit of the Issuer, whether now existing or hereafter established,  
22 through which the Issuer carries out its governmental functions and purposes; it being the intent of this Ordinance  
23 that the Issuer shall at all times retain the right to organize and reorganize its functional units in whatever manner it  
24 deems most appropriate for purposes of carrying out its governmental functions and purposes.  
25

26 "Department Assessment" shall mean, with respect to a particular Department, the amount required to  
27 be assessed against such Department each Fiscal Year as provided in Section 501(b)(i) hereof.  
28

29 "Department Obligations" means any bonds, notes or similar financing obligations, including but  
30 not limited to installment purchase agreements and lease purchase agreements (but not including true leases), issued  
31 or incurred by the Issuer or any of its Departments which are: (i) issued or incurred pursuant to or within the  
32 limitations and restrictions imposed by an indenture, ordinance or similar governing documents which establishes a  
33 comprehensive method for financing the undertakings of a Department in a manner similar to the comprehensive  
34 financing method provided for the Issuer's Solid Waste Department pursuant to Ordinance No. 89-319 including but  
35 not limited to any such obligations which constitute parity or subordinated indebtedness under such a comprehensive  
36 governing document; and (ii) payable solely and only out of the related Department Revenues; it being the intent of  
37 this Ordinance that no Department Assessment shall constitute a "Department Obligation" within the meaning  
38 hereof.  
39

40 "Department Revenues" means, with respect to a particular Department, the gross revenues generated  
41 by the operations of, or the exercise of the Issuer's governmental powers and functions carried out by, such  
42 Department.  
43

44 "Depository" shall mean any bank or trust company organized under the laws of any state of the United  
45 States or any national banking association selected by the Issuer as a depository of moneys and securities held under  
46 the provisions of this Ordinance, and may include the Trustee.  
47

1 "Estimated Average Interest Rate" shall mean:

2  
3 (i) as to any Outstanding Debt Obligations during any period in which such Debt Obligations are  
4 Variable Rate Obligations, the higher of:

5  
6 (a) to the extent such Variable Rate Obligations have been Outstanding for a period of 12  
7 months or more, the higher of:

8  
9 (1) the weighted average rate of interest applicable to such Bonds or Issuer  
10 Financial Obligation, as the case may be, during the immediately preceding 12 month  
11 period, plus one percent; or

12  
13 (2) the rate of interest applicable to such Bonds or Issuer Financial Obligation,  
14 as the case may be, as of the date of determination; or

15  
16 (b) to the extent such Variable Rate Obligations have not been Outstanding for a period  
17 of 12 months or more, the most current actual interest rate on such Variable Rate Obligations,  
18 plus one percent; and

19  
20 (ii) as to any Debt Obligations which have been authorized to be issued or incurred but have not  
21 yet been issued or incurred, 100% of the most recently published interest rate for municipal bonds with  
22 similar terms and credit ratings published in *The Bond Buyer*.

23  
24 "Event of Default" shall mean, with respect to the Bonds, any of those events defined as Events of  
25 Default in Section 801 hereof.

26  
27 "Excess Earnings" means, with respect to a particular issue of Debt Obligations issued as Tax-Exempt  
28 Obligations, the amount of investment earnings derived from moneys on deposit from time to time in the Debt  
29 Service Account, the Reserve Account, the Construction Account and any other Account or Fund or other fund or  
30 account established in connection therewith, to the extent that such investment earnings are required to be taken into  
31 account for purposes of determining the Rebate Amount for such Debt Obligations, or the investment earnings  
32 derived from moneys on deposit in any other fund or account containing funds the investment earnings on which are  
33 required to be taken into account for purposes of determining the Rebate Amount for such Debt Obligation, to the  
34 extent that such investment earnings exceed the amount that would have been earned on such moneys had such  
35 moneys been invested at a yield equal to the yield on the related Debt Obligation (with the yield on the related Debt  
36 Obligation being determined in accordance with the provisions of Section 148(f) of the Code); *provided that* with  
37 respect to the investment earnings on amounts on deposit from time to time in the Debt Service Account or any  
38 "bona fide debt service fund" (within the meaning of Section 148(f) of the Code) established in connection with such  
39 Debt Obligation and which investment earnings are attributable to such Debt Obligation, such investment earnings  
40 shall not be taken into account to the extent that the gross investment earnings on such account for the Bond Year  
41 are less than \$100,000, all within the meaning of and as contemplated by Code Section 148(f)(4)(A)(ii); it being the  
42 intent of this definition that "Excess Earnings" shall be calculated so that the Rebate Amount is determined in  
43 accordance with the requirements with Section 148(f) of the Code (or any successor thereto).

44  
45 "Executive Officer" shall mean the duly elected or appointed, qualified and acting Executive Officer of  
46 the Issuer, or any officer of the Issuer hereafter succeeding to the powers and duties of such Executive Officer.

47  
48 "Expenditures" ~~or "expenditures"~~ <sup>[amended]</sup> means all current costs of the Issuer required to be paid during a  
49 Fiscal Year or other relevant period in question, but only to the extent the same are to be paid from Revenues,



1 including but not limited to debt service on any Department Obligations; provided that for purposes of this  
2 Ordinance, the Total Assessments (including the Department Assessments and any General Assessment) shall not be  
3 included as an expenditure, nor shall any charges for depreciation be treated as an expenditure.  
4

5 "Fiduciary" shall mean the Trustee, any Bond Registrar, any Paying Agent, any Depositary and any  
6 Remarketing Agent or Tender Agent for Bonds which constitute Variable Rate Obligations or Option Obligations, or  
7 any or all of them, as may be appropriate.  
8

9 "Financial Obligation" shall mean the obligation of the Issuer under any Financing Agreement to  
10 make lease-purchase or installment purchase payments or other payments in the nature of debt service payments (the  
11 foregoing being called "Financing Payments" for purposes of this definition); *Provided that* a Financing Agreement  
12 shall not constitute a Financial Obligation hereunder if the Financing Payments owing thereunder are not not  
13 payable from Revenues or Available Funds or if such Financing Agreement constitutes Subordinated Debt or if:  
14

15 (i) such Financing Agreement: (a) has a term of five years or less; and (b) the total Financing  
16 Payments under such Financing Agreement due in any one Fiscal Year do not exceed the total Financing  
17 Payments due thereunder in any other Fiscal year by more than fifty percent (50%); and  
18

19 (ii) at the time such Financing Agreement is entered into, the maximum aggregate amount of  
20 Financing Payments scheduled to become due in any future Fiscal Year under all Financing Agreements  
21 which do not constitute Issuer Financial Obligations by virtue of this *proviso* does not exceed one percent  
22 (1%) of the Revenues for the Issuer's last completed Fiscal Year.  
23

24 "Financing Agreement" shall mean any lease-purchase agreement (that is, a financing lease as opposed  
25 to a "true" lease) or installment sale contract or similar financing agreement entered into by the Issuer for the purpose  
26 of financing or refinancing the acquisition and/or construction or renovation of any additions, extensions, or  
27 improvements to or of any facilities for use by the Issuer or the furnishing or equipping thereof, or any other  
28 agreement (howsoever styled) pursuant to which the Issuer is expressly required to pay the financing costs of  
29 facilities used by a third party in order to perform or provide services to or on behalf of the Issuer in furtherance of its  
30 governmental duties or operations; *provided that* the term "Financing Agreement" shall not include any such lease-  
31 purchase agreement, installment sale contract or similar financing agreement to the extent the same constitutes a  
32 Department Obligation.  
33

34 "Final Computation Date" shall mean "final computation date" as such phrase is used in the  
35 regulations promulgated pursuant to Section 148(f) of the Code (or any successor thereto).  
36

37 "Fiscal Year" shall mean the fiscal year of the Issuer as prescribed by law, currently that period  
38 commencing on July 1 and continuing to and including the next succeeding June 30.  
39

40 "Fitch" means Fitch Investors Service, Inc., its successors and assigns.  
41

42 "Fund" or "Funds" means one or more of the special trust funds created and established pursuant to this  
43 Ordinance or any Supplemental Ordinance.  
44

45 "General Assessment" means an assessment made by the Issuer from any lawfully available funds for  
46 the purpose of fulfilling all or part of its obligations under Section 501(b) hereof and which is not assessed against a  
47 particular Department.  
48

1       **"General Revenue Bond Fund"** shall mean the Fund by that name established pursuant to Section 502  
2 hereof.

3  
4       **"Government Obligations"** shall mean, to the extent permitted by law for investment as herein  
5 contemplated, any general obligations of the United States of America of any agency or instrumentality thereof.

6  
7       **"Installment Computation Date"** shall mean "installment computation date" as such phrase is used  
8 in the regulations promulgated pursuant to Section 148(f) of the Code (or any successor thereto).

9  
10       **"Interest Payment Date"** shall mean, with respect to a particular Series of Debt Obligations, any date  
11 upon which interest and/or principal on such Series is due and payable in accordance with the terms thereof, whether  
12 at maturity or upon redemption or prepayment prior to maturity.

13  
14       **"Investment Securities"** shall mean and include any securities or investments in which the moneys on  
15 deposit in the Funds and Accounts established under this Ordinance are permitted to be invested

16  
17       **"Issuer"** shall mean the Metropolitan Service District, located within the Counties of Multnomah,  
18 Clackamas and Washington, a political subdivision duly organized and existing under the laws of the State of  
19 Oregon.

20  
21       **"Issuer Contribution"** shall mean any moneys, other than Bond proceeds and the interest earned  
22 thereon, which are to be applied to the payment of any costs relating to any Project or Series of Bonds, or to the  
23 defeasance or redemption of any Bonds.

24  
25       **"Local Budget Law"** means ORS 294.305 to 294.565, as amended, and the administrative rules  
26 promulgated thereunder.

27  
28       **"Mandatory Redemption Schedule"** shall mean with respect to particular Debt Obligations, the  
29 schedule pursuant to which the principal portions thereof (howsoever designated) are subject, without contingency, to  
30 mandatory redemption or prepayment prior to maturity, all as set forth in the Supplemental Ordinance or the  
31 Financing Agreement pursuant to which such Debt Obligation is issued or incurred.

32  
33       **"Minimum Authorized Denomination"** shall mean with respect to a particular Bond, the minimum  
34 denomination in which such Bond is permitted to be issued as set forth in the Supplemental Ordinance authorizing  
35 the issuance of such Bond.

36  
37       **"Moody's"** shall mean Moody's Investors Service, a corporation organized and existing under the laws of  
38 the State of Delaware, its successors and their assigns.

39  
40       **"Opinion of Bond Counsel"** shall mean an opinion of Stoel Rives Boley Jones & Grey, attorneys of  
41 Portland, Oregon, or other Bond Counsel acceptable to the Issuer, addressed to the Issuer and the Trustee, to the effect  
42 that the action proposed to be taken is authorized or permitted by this Ordinance or the applicable provisions of any  
43 Supplemental Ordinance and will not adversely affect the excludability for federal income tax purposes of the interest  
44 on any Bonds issued as, and which at the time of rendition of such opinion still are, Tax-Exempt Obligations from  
45 the gross incomes of the Owners thereof.

46  
47       **"Option Obligations"** shall mean, with respect to a particular Series of Debt Obligations, Bonds or  
48 other similar portions of such Series which by their terms may be tendered by and at the option of the Owner or  
49 holder thereof for purchase prior to the stated maturity thereof.

1  
2 "Ordinance" shall mean this Ordinance No. 91-439 enacted December 12, 1991, as from time to time  
3 amended, modified or supplemented by Supplemental Ordinances.  
4

5 "Outstanding", when used with reference to a particular Series of Debt Obligations, shall mean, as of a  
6 particular date, all Bonds of such Series theretofore authenticated and delivered under this Ordinance and the  
7 Supplemental Ordinance pursuant to which such Bonds are issued or the unpaid amount of a Financial Obligation, as  
8 the case may be, except:  
9

10 (i) Bonds theretofore canceled by the Trustee or delivered to the Trustee for cancellation;  
11

12 (ii) Bonds (or portions of Bonds) for the payment or redemption of which moneys, equal to the  
13 principal amount or Redemption Price thereof, as the case may be, with interest to the date of maturity or  
14 redemption date, shall be held in trust under this Ordinance or any Supplemental Ordinance and set aside for  
15 such payment or redemption (whether at or prior to the maturity or redemption date), *provided that* if such  
16 Bonds (or portions of Bonds) are to be redeemed, notice of such redemption shall have been given or  
17 provision satisfactory to the Trustee shall have been made for the giving of such notice as provided in this  
18 Ordinance or the applicable provisions of any Supplemental Ordinance;  
19

20 (iii) that portion of a Financial Obligation for the payment or prepayment of which moneys, equal  
21 to the principal amount or Redemption Price thereof, as the case may be, with interest to the date of  
22 maturity or prepayment date, shall be held in trust by a person other than the Issuer and set aside for such  
23 payment or redemption (whether at or prior to the maturity or prepayment date);  
24

25 (iv) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and  
26 delivered pursuant to Article III or Section 1106 hereof or the applicable provisions of any Supplemental  
27 Ordinance unless proof satisfactory to the Trustee is presented that any such Bonds are held by a *bona fide*  
28 purchaser in due course; and  
29

30 (v) Bonds or the amount of a Financial Obligation paid or deemed to have been paid as provided in  
31 Section 1201.  
32

33 In addition, Bonds of a Series held by or for the Issuer shall not be deemed to be Outstanding for the  
34 purposes and within the purview of Article X and Article XI of this Ordinance.  
35

36 "Owner" shall mean any person who shall be the registered owner of any Bond or Bonds as shown by the  
37 registration books maintained by the related Bond Registrar.  
38

39 "Paying Agent" shall mean, with respect to a particular Series of Bonds, any bank, trust company or  
40 national banking association, which may include the Trustee or its successor or successors, authorized by the Issuer  
41 pursuant to a Supplemental Ordinance to pay the principal or Redemption Price of or interest due on such Series of  
42 Bonds and having the duties, responsibilities and rights provided for in this Ordinance and such Supplemental  
43 Ordinance and its successor or successors and any other corporation or association which at any time may be  
44 substituted in its place pursuant to this Ordinance or the applicable provisions of any Supplemental Ordinance.  
45

46 "Permitted Investments" shall mean those investments in which, under the applicable laws of the  
47 State of Oregon or the applicable provisions of any charter hereinafter adopted for the Issuer, the Issuer is permitted  
48 to invest its funds. The laws of the State of Oregon which, as of the date of enactment of this Ordinance, set forth  
49 such investments are contained in ORS 294.035.

1  
2       **"Presiding Officer"** shall mean the duly elected, appointed and acting presiding officer of the Council of  
3 the Issuer.  
4

5       **"Project"** means any buildings, structures, land, interests in land, improvements, furnishings, machinery  
6 or equipment and any tangible personal or real property of every kind and description deemed necessary or appropriate  
7 by the Issuer for use in its operations or in furtherance of its governmental purposes and functions.  
8

9       **"Qualified Consultant"** means a independent engineer, an independent financial advisor, or similar  
10 independent professional consultant of nationally recognized standing and having experience and expertise in the area  
11 for which such person or firm is retained by the Issuer.  
12

13       **"Rating Agency"** shall mean: (i) with respect to any Bonds which, at the request of the Issuer, are then  
14 rated by S&P, S&P; (ii) with respect to any Bonds which, at the request of the Issuer, are then rated by Moody's,  
15 Moody's; (iii) with respect to any Bonds which, at the request of the Issuer, are then rated by Fitch, Fitch; and  
16 (iv) with respect to any Bonds rated which, at the request of the Issuer, are then rated by any other financial rating  
17 service, such financial rating service; *provided that* when used with respect to a Credit Facility given or provided for  
18 the purpose of meeting in whole or in part the Reserve Requirement, the term "Rating Agency" shall mean S&P,  
19 Moody's, Fitch or any other nationally recognized financial rating agency, including but not limit to such agencies  
20 that rate the claims-paying ability of insurance companies.  
21

22       **"Rebate Account"** shall mean the Account by that name established in Section 502.  
23

24       **"Rebate Amount"** shall mean, with respect to a particular Series of Debt Obligations, the sum of the  
25 Excess Earnings plus all investment earnings on such Excess Earnings; it being the intent of this definition that the  
26 Rebate Amount shall be calculated in accordance with the requirements of Section 148 of the Code (or any successor  
27 thereto).  
28

29       **"Rebate Analyst"** shall mean any entity selected by the Issuer which is competent to perform the  
30 calculations required by Section 507 hereof, which entity may be the Trustee.  
31

32       **"Rebate Payment"** shall mean the amounts required to be deposited in the Rebate Account pursuant to  
33 Section 507 hereof.  
34

35       **"Rebate Report"** shall mean a report for each Calculation Period prepared by the Issuer or a Rebate  
36 Analyst pursuant to Section 507 hereof calculating the Rebate Amount, all for the purpose of enabling the Issuer to  
37 comply with the requirements of Section 507 and Section 148 of the Code (or any successor thereto).  
38

39       **"Record Date"** means, with respect to a particular Series of Bonds, a date which is the fifteenth day of the  
40 month immediately preceding the month in which each Interest Payment Date occurs, whether or not a business day,  
41 or such other date or dates established by Supplemental Ordinance with respect to a Series of Bond authorized by  
42 such Supplemental Ordinance.  
43

44       **"Redemption"** shall mean any mandatory or optional redemption or prepayment of any Debt Obligation.  
45

46       **"Redemption Price"** shall mean, with respect to any Debt Obligation, the amount payable upon the  
47 redemption or prepayment thereof prior to maturity, including the principal of, premium (if any) and accrued or  
48 accreted interest thereon.  
49

1       **"Refunding Obligations"** shall mean any Debt Obligation issued or incurred to the extent such Debt  
2       Obligation is issued or incurred for the purpose of paying, whether at or prior to the stated maturity thereof, the  
3       principal of, premium (if any) and interest on any Outstanding Debt Obligation or any other bonds or obligations of  
4       the Issuer previously issued or incurred.

5  
6       **"Remarketing Agent"** shall mean with respect to a particular Series of Bonds, the person or entity  
7       designated to act in such capacity with respect to such Series of Bonds pursuant to the Supplemental Ordinance under  
8       which such Bonds are issued.

9  
10       **"Reserve Account"** shall mean the Account by that name established pursuant to Section 502 hereof.

11       **"Reserve Requirement"** shall mean, as of any date of calculation, the lower of:

12  
13               (i) an amount equal to the maximum Annual Debt Service on all Outstanding Bonds for any  
14               future Fiscal Year; or

15  
16               (ii) the maximum amount that can be funded out of the proceeds derived from the issuance and sale  
17               of any Bonds without: (a) resulting in a violation of the Tax Covenants, or (b) causing the Issuer to restrict  
18               the yield on investments made from moneys on deposit in the Reserve Account in order to comply with the  
19               Tax Covenants;

20  
21  
22       *provided that* the Issuer may provide by Supplemental Ordinance authorizing a Series of Bonds that the amount  
23       described in clause (i) of this definition shall be greater than required by this definition.

24  
25       **"Revenues"** shall mean, with respect to a particular Fiscal Year or other relevant period, all taxes  
26       (including but not limited to any excise taxes, *ad valorem* taxes and other taxes), fees, charges or other income  
27       (including investment income) levied, imposed, received or generated in such Fiscal Year or other period by the  
28       Issuer (including all Department Revenues); but not including any of the foregoing to the extent the same are  
29       restricted by law to a use which is not consistent with the payment of debt service on Debt Obligations.

30  
31       **"S&P"** shall mean Standard & Poor's Corporation, a corporation organized and existing under the laws of  
32       the State of New York, its successors and their assigns.

33  
34       **"Serial Obligations"** shall mean, with respect to a particular Series of Debt Obligations, the portions  
35       of such Series which shall be stated to mature or become due and payable serially in annual installments but not  
36       including Term Obligations.

37  
38       **"Series"** shall mean: (i) all of the Bonds issued, authenticated and delivered pursuant to a Supplemental  
39       Ordinance on original issuance of a stipulated aggregate principal amount in a simultaneous transaction and any  
40       Bonds thereafter authenticated and delivered in lieu of or in substitution therefor pursuant to such Supplemental  
41       Ordinance regardless of variations in maturity, interest rate or other provisions, including: (a) any Additional Bonds  
42       issued under such Supplemental Ordinance, and (b) any Refunding Obligations issued under such Supplemental  
43       Ordinance; and (ii) the Financial Obligation incurred under a particular Financing Agreement.

44  
45       **"Subordinated Debt"** shall mean any bonds, notes or other obligations of the Issuer which: (i) are  
46       payable out of the Revenues and Available Funds on a basis which is second and subordinate to the payment from  
47       Revenues and Available Funds of the amounts owing on the Outstanding Debt Obligations, and (ii) are not secured  
48       by a pledge of and lien on the Trust Estate.

1       **"Supplemental Ordinance"** shall mean any ordinance supplemental to or amendatory of this Ordinance,  
2 entered into by the Issuer in accordance with this Ordinance.  
3

4       **"State"** shall mean the State of Oregon.  
5

6       **"Taxable Obligation"** shall mean any Debt Obligation, the interest on which is included in gross  
7 income for federal income tax purposes.  
8

9       **"Tax Covenants"** shall mean, with respect to those Debt Obligations issued as Tax-Exempt  
10 Obligations, the covenants of the Issuer to effect the Issuer's compliance with the Code to ensure the initial and  
11 continued exclusion from gross income for federal income tax purposes of the interest on such Debt Obligations.  
12

13       **"Tax-Exempt Obligation"** shall mean any Debt Obligation, the interest on which is excluded from  
14 gross income for federal income tax purposes.  
15

16       **"Tender Agent"** shall mean with respect to a particular Series of Bonds, the person or entity designated  
17 to act in such capacity with respect to such Series of Bonds pursuant to the Supplemental Ordinance under which  
18 such Bonds are issued.  
19

20       **"Total Assessments"** means, for any given period, the sum of all Department Assessments and  
21 General Assessments required to be assessed and applied by the Issuer as provided in Article V hereof.  
22

23       **"Term Obligations"** shall mean the portion of a Series of Debt Obligations which shall be stated to  
24 mature on one date and which are subject to scheduled mandatory redemption prior to maturity pursuant to a  
25 Mandatory Redemption Schedule.  
26

27       **"Trustee"** shall mean First Interstate Bank of Oregon, N.A., and its successors and any other corporation  
28 which may at any time be substituted in its place as Trustee under this Ordinance.  
29

30       **"Trust Estate"** shall mean the properties and assets hereafter pledged as security for the payment of the  
31 Bonds pursuant to Section 201 hereof.  
32

33       **"Variable Rate Obligations"** shall mean any Debt Obligation, which may be either Serial  
34 Obligations, Term Obligations, Capital Appreciation Obligations or Option Obligations, issued with a variable,  
35 adjustable, convertible, or other similar interest rate which is not fixed for the entire term thereof at the date of issue  
36 or is not, as of the date of issuance, determinable as to percentage through maturity.  
37

38       **Section 102. Miscellaneous Definitions and Conventions.** Words of the masculine or  
39 feminine gender shall be deemed and construed to include correlative words of the masculine, feminine and neuter  
40 genders (as the case may be). Except where the context otherwise requires, words importing the singular numbers  
41 shall include the plural number and *vice versa*, and words importing persons shall include firms, associations,  
42 corporations, districts, agencies and bodies as well as natural persons. All reference in this Ordinance to Articles,  
43 Sections, and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Ordinance, and  
44 the words herein, hereof, hereunder and other words of similar import refer to this Ordinance as a whole and not to  
45 any particular Article, Section subdivision of this Ordinance, and any Table of Contents appended to copies of this  
46 Ordinance, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this  
47 Ordinance.  
48  
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## ARTICLE II AUTHORIZATION AND ISSUANCE OF BONDS; PLEDGE OF TRUST ESTATE

Section 201. Authorization of Bonds in Series; Financial Obligations; Designation;  
Pledge of Trust Estate.

(a) **Authorization of Bonds and Financial Obligations.** In order to provide sufficient funds for the costs of the facilities, improvements, equipment, furnishings and other property of every kind and description necessary or appropriate for use by the Issuer in connection with its operations and functions, to provide working capital for the Issuer or to provide such other funds as may be necessary or appropriate in connection with the Issuer's operations and functions, or for the purpose of refunding any Bonds or other bonds or obligations of the Issuer, the Issuer, pursuant to and in accordance with the terms and provisions of this Ordinance and such Supplemental Ordinances as may hereafter be enacted as provided herein, may issue from time to time Bonds in one or more Series without limitation as to amount except as may be limited by law or the provisions of this Ordinance or any Supplemental Ordinance.

In addition, in order to provide sufficient funds for the costs of the facilities, improvements, equipment, furnishings and other property of every kind and description necessary or appropriate for use by the Issuer in connection with its operations and functions, to provide working capital for the Issuer or to provide such other funds as may be necessary or appropriate in connection with the Issuer's operations and functions, or for the purpose of refunding or refinancing any Financial Obligation or other bonds or obligations of the Issuer, the Issuer, subject to the limitations set forth in Section 205 hereof, may incur from time to time Financial Obligations without limitation as to amount except as may be limited by law or the provisions of Section 205 of this Ordinance or any Supplemental Ordinance; it being understood that such Financial Obligations need not be incurred pursuant to a Supplemental Ordinance nor shall the terms or conditions thereof be governed by this Ordinance or any Supplemental Ordinance except as expressly provided herein or in any Supplemental Ordinance.

(b) **Designation.** Each Series of Bonds shall be designated "Metropolitan Service District General Revenue Bonds, *[insert calendar year in which such Series is issued]* Series *[insert series designation]*", but with such variations in said designation as may be necessary or appropriate in connection therewith.

(c) **Pledge of Trust Estate.** As security for the payment of the principal of, premium (if any) and interest on all Outstanding Bonds issued from time to time hereunder, the Issuer does hereby pledge unto the Trustee, in trust for the benefit of the Owners of the Bonds from time to time issued and Outstanding hereunder, all of the Issuer's right, title and interest to, in and under the following:

(i) the moneys and investments (including investment earnings thereon) on deposit from time to time in the Construction Account, the Debt Service Account and the Reserve Account, including without limitation the Issuer's right, title and interest to, in and under any Credit Facility given for the purpose of meeting all or part of the Reserve Requirement and any moneys drawn or paid under such Credit Facility;

(ii) any Credit Facility given as security for the payment of any amounts owing under or with respect to any Bonds (other than any Credit Facility given for the purpose of meeting all or part of the Reserve Requirement) together with all moneys drawn or paid thereunder; *provided that* with respect to any

1 such Credit Facility which is given as security for some, but not all, of the Outstanding Bonds, such Credit  
2 Facility together with the moneys drawn or paid thereunder shall be held by the Trustee solely as security  
3 for the Bonds for which such Credit Facility was given as security and neither such Credit Facility nor any  
4 moneys drawn or paid thereunder shall secure the payment of any amounts owing under or with respect to  
5 any other Bonds; and  
6

7 (iii) such other properties and assets and interests in properties and assets as may hereafter be  
8 pledged to the payment of the Bonds pursuant to any Supplemental Ordinance or which may be delivered,  
9 pledged, mortgaged or assigned by any person to the Trustee as security for the Bonds.  
10

11 The foregoing are herein collectively referred to as the "Trust Estate".  
12

13 **Section 202. Contents of Supplemental Ordinance Authorizing Series of Bonds.** Each  
14 Series of Bonds issued hereunder shall be authorized pursuant to a Supplemental Ordinance, which Supplemental  
15 Ordinance shall:  
16

17 (a) Specify which, if any, of the Bonds of such Series are intended to be Tax-Exempt Obligations;  
18

19 (b) Specify the maximum aggregate principal amount of such Series, the maturity dates, the  
20 redemption provisions, the interest rates or method for determining the interest rates and other terms and  
21 conditions applicable to the Bonds of such Series; *provided that* a Supplemental Ordinance may authorize  
22 the Executive Officer to determine the maturity dates, the redemption provisions, the interest rates and other  
23 terms and conditions applicable to the Bonds of such Series;  
24

25 (c) Specify the manner in which the Bonds of such Series shall be sold;  
26

27 (d) Direct the disposition of the proceeds of such Series and the required deposits into the various  
28 Accounts established in connection with such Series;  
29

30 (e) Specify whether the Bonds of such Series shall be supported or secured by a Credit Facility;  
31

32 (f) Specify provisions for Variable Rate Obligations, Option Obligations, Current Interest  
33 Obligations, Capital Appreciation Obligations and any Credit Facilities and the appointment of Tender  
34 Agents and Remarketing Agents, if any;  
35

36 (g) Specify the Authorized Denominations of, and the manner of dating, numbering and lettering,  
37 the Bonds of such Series;  
38

39 (h) Specify the purposes to which the proceeds of such Bonds are to be applied;  
40

41 (i) Set forth the forms of Bonds of such Series and of the Trustee's certificate of authentication;  
42 and  
43

44 (j) Set forth such other terms and provisions of such Series and other matters related thereto as  
45 shall be necessary or appropriate, which other terms and provisions shall not be inconsistent with the  
46 applicable provisions of this Ordinance.  
47

48 **Section 203. Conditions Precedent to Delivery of a Series of Bonds.** After their  
49 authorization by a Supplemental Ordinance, Bonds of a Series may be executed by or on behalf of the Issuer and



1 delivered to the Trustee for authentication and, upon compliance with the requirements, if any, set forth in the  
2 Supplemental Ordinance authorizing such Series, the Trustee shall thereupon authenticate and deliver such Bonds to  
3 or upon the order of the Issuer, but only upon the receipt by the Trustee of:

4  
5 (a) an opinion of Bond Counsel to the effect that:

6  
7 (i) the Issuer has the legal authority and power to issue the Bonds of such Series;

8  
9 (ii) the Bonds of such Series have been validly authorized and executed and have been  
10 issued for a purpose provided in and authorized by the Act;

11  
12 (iii) the Bonds of such Series constitute legal, valid and binding limited obligations of  
13 the Issuer enforceable in accordance with their terms and entitled to the benefit of the related Trust  
14 Estate; it being intended that such opinion as to the enforceability of the Bonds of such Series and  
15 this Ordinance may be subject to the exercise of judicial discretion in accordance with general  
16 equitable principles and to bankruptcy, insolvency, reorganization, moratorium and other similar  
17 laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally  
18 applicable, and subject to such other exceptions as are customary in connection with the rendition  
19 of opinions for like purposes;

20  
21 (b) a written order as to the delivery of the Bonds of such Series, signed by an Authorized Issuer  
22 Representative;

23  
24 (c) copies of this Ordinance and the related Supplemental Ordinance, certified by an Authorized  
25 Issuer Representative;

26  
27 (d) a certificate of an Authorized Issuer Representative stating that the Issuer is not in default in  
28 the performance of any of the covenants, conditions, agreements or provisions contained in this Ordinance,  
29 the Supplemental Ordinance authorizing such Series or any other Supplemental Ordinance relating to,  
30 affecting or otherwise limiting the issuance of Bonds of such Series; and

31  
32 (e) such other documents, instruments, agreements, opinions of counsel, certificates, money and  
33 securities as are necessary or appropriate or required by the provisions of this Ordinance and any  
34 Supplemental Ordinance.

35  
36 **Section 204. *Pari Passu* Series of Bonds and Financial Obligations; Credit Agreement**  
37 **Obligations.** Except as otherwise expressly provided herein or in a Supplemental Ordinance or Financing  
38 Agreement, all Bonds issued pursuant to this Ordinance or any Supplemental Ordinance and all Financial Obligations  
39 incurred shall be payable from the Revenues and Available Funds *pari passu* with all other Bonds issued hereunder or  
40 under any other Supplemental Ordinance and all Financial Obligations incurred and, except as otherwise expressly set  
41 forth in the Supplemental Ordinance authorizing a particular Series of Bonds, all of the covenants and other  
42 provisions relating to the Bonds set forth herein or in any Supplemental Ordinance shall be for the equal benefit,  
43 protection and security of the Owners of any Bonds, including, but not limited to any Additional Bonds and any  
44 Refunding Obligations.

45  
46 Except as otherwise expressly provided in a Supplemental Ordinance, all Bonds issued pursuant to this  
47 Ordinance or any Supplemental Ordinance, regardless of time or times of their issuance, shall rank equally with  
48 respect to their lien on the Trust Estate (other than any Credit Facility constituting a part of the Trust Estate) pledged  
49 as security for the payment of the Bonds, and their sources and security for payment therefrom, without preference of

1 any Bonds over any other Bonds. Notwithstanding anything expressed or implied herein to the contrary, except as  
2 otherwise expressly provided in a duly enacted Supplemental Ordinance each Credit Facility given as security for  
3 some, but less than all, Outstanding Bonds and any moneys drawn under such Credit Facility shall secure only those  
4 Bonds for which such Credit Facility was given as security; *provided that* the foregoing provision shall not apply to  
5 any Credit Facility to the extent such Credit Facility is provided for the purpose of meeting all or part of the Reserve  
6 Requirement.  
7

8 In connection with any Credit Agreement pursuant to which a Credit Facility is provided as security for all  
9 or some of the Outstanding Bonds (other than a Credit Facility which is provided for the purpose of meeting, in  
10 whole or in part, the Reserve Requirement), the Issuer may provide in a Supplemental Ordinance that the pecuniary  
11 obligations arising under such Credit Agreement shall be equally and ratably secured by the Trust Estate with all  
12 Outstanding Bonds and shall be payable from the Revenues *pari passu* with all Outstanding Debt Obligations, to the  
13 same extent and with the same force and effect as if the financial obligations under such Credit Agreement were a  
14 Bond. In connection with any Credit Agreement pursuant to which a Credit Facility is provided for the purpose of  
15 meeting, in whole or in part, the Reserve Requirement, the Issuer may provide in a Supplemental Ordinance that the  
16 financial obligations arising under such Credit Agreement shall be secured by a lien on the Trust Estate which is  
17 second and subordinate only to the lien on the Trust Estate securing the Outstanding Bonds and the financial  
18 obligations under any Credit Agreement described in the immediately preceding sentence and shall be payable from  
19 the Trust Estate on a basis which is second and subordinate only to the payment from the Trust Estate of the  
20 Outstanding Bonds and the financial obligations under any Credit Agreement described in the immediately preceding  
21 sentence.  
22

23 **Section 205. Additional Bonds and Financial Obligations; Completion Obligations**  
24 **and Refunding Obligations.**  
25

26 (a) **Additional Bonds and Financial Obligations.** Subject to the conditions set forth in this  
27 Section 205(a), the Issuer may from time to time issue one or more series of Additional Bonds ~~as Bonds~~ and may  
28 incur from time to time Financial Obligations for one or more of the following purposes:  
29

30 (i) to finance all or a portion of the costs of any Project;

31  
32 (ii) the making of deposits into the Reserve Account in the amounts, if any, required by this  
33 Ordinance or any Supplemental Ordinance to satisfy the Reserve Requirement with respect to such Series or  
34 the making of deposits into any debt service reserve fund or account established in connection with a  
35 Financial Obligation for the purpose of meeting the Reserve Requirement;  
36

37 (iii) the making of deposits into the Debt Service Account as and for accrued interest on Bonds of  
38 the Series then to be issued or the making of deposits into any debt service fund or account established in  
39 connection with a Financial Obligation as and for accrued interest on such Financial Obligation;  
40

41 (iv) to provide such working capital or other moneys for the Issuer's operations and undertakings  
42 as is deemed necessary or appropriate by the Issuer;  
43

44 (v) funding any special trust fund established by a Supplemental Ordinance and to be held by the  
45 Trustee or any special trust fund or account established in connection with a Financial Obligation, to  
46 provide for the payment to maturity or redemption prior to maturity of the principal or Redemption Price, if  
47 applicable, and interest due on specified Bonds of any Series and maturity or any Financial Obligation or  
48 Subordinated Debt, with or without the effect of achieving the defeasance of such Bonds or Financial  
49 Obligation from the lien and/or provisions of this Ordinance as provided in Section 1201 hereof;

(vi) for any lawful purpose of the Issuer or the operations thereof for which Bonds may be issued or Financial Obligations incurred under the Act or other applicable law; and

(vii) any combination thereof.

**(b) Conditions Precedent to Additional Bonds and Financial Obligations.** The following shall be conditions precedent to the issuance of any Additional Bonds hereunder and also to the incurrence of any Financial Obligation:

**(i) Reports and Certificates of Issuer and Qualified Consultant.** The Issuer shall cause to be delivered to the Trustee either:

**(A) Report of Qualified Consultant as to Future Revenues and Debt Service.** A report of a Qualified Consultant setting forth:

**(1) Maximum Annual Debt Service.** The maximum Annual Debt Service for the Debt Obligations then Outstanding, including in the calculation of such maximum Annual Debt Service the estimated debt service on the Debt Obligations proposed to be issued or incurred, during the three Fiscal Years following the Fiscal Year through which interest on such proposed Debt Obligations will be capitalized; and

**(2) Estimated Revenues and Expenditures.** The estimated Revenues and ~~annual~~ Expenditures of the Issuer during the three Fiscal Years following the Fiscal Year through which interest on such proposed Debt Obligations will be capitalized; and

**(3) Sufficiency of Revenues.** Stating that in the opinion of such Qualified Consultant the Issuer, in each of the three Fiscal Years described in (2) above, can reasonably expect to generate and collect Revenues sufficient to pay all estimated expenditures of the Issuer and make all Total Assessments required to be made hereunder (including the Total Assessments required to be made with respect to the Debt Obligations proposed to be issued or incurred) in each such Fiscal Year; or

**(B) Report of Qualified Consultant as to Historical Revenues and Debt Service.** A report of a Qualified Consultant to the effect that, based upon the actual results of operations for the last three completed Fiscal Years prior to the issuance or incurrence of the proposed Debt Obligations, the Revenues remaining in each such Fiscal Year after payment of all Expenditures and the Total Assessments required to be made in such Fiscal Year were equal to or in excess of average Total Assessments that will be required to be made with respect to the proposed Debt Obligations. For purposes of the certificate described in this subsection, the average Total Assessments for the proposed Debt Obligations shall be calculated by reference to the estimated Annual Debt Service for such proposed Debt Obligations but excluding from such Annual Debt Service calculation those years in which interest on such Debt Obligations will be capitalized.

**(ii) Opinion of Bond Counsel.** The Issuer shall cause to be delivered to the Trustee an Opinion of Bond Counsel that the issuance or incurrence of such Debt Obligations will not impair the exclusion from gross income for federal income tax purposes of interest paid on any Debt Obligations then Outstanding which were issued or incurred as, and which at the time of issuance or incurrence of such Debt Obligations still are, Tax-Exempt Obligations.

1  
2 (iii) **No Event of Default.** At the time of issuance or incurrence of such proposed Debt  
3 Obligations, there shall not exist and be continuing any Event of Default hereunder other than an Event of  
4 Default which will be duly cured or waived upon the issuance or incurrence of such Debt Obligations.  
5

6 (iv) **Certificate Regarding Project Costs.** If such proposed Debt Obligations are to be  
7 used to finance the acquisition, construction or rehabilitation of a Project, a certificate of the Executive  
8 Officer stating that the proceeds of such Debt Obligations (to the extent not designated for purposes other  
9 than the payment of the costs of such Project), together with other specified amounts reasonably expected to  
10 be available for the payment of the costs of such Project, will be sufficient to pay the costs of such Project  
11 as estimated at the time of issuance or incurrence of such proposed Debt Obligations.  
12

13 (v) **Basis for Determining Revenues.** For purposes of Sections 205(b)(i)(A) hereof,  
14 "Revenues" shall be calculated as follows:  
15

16 (A) the Revenues, if any, estimated to be derived during the Fiscal Years in question  
17 from any Project to be financed from the proceeds of such proposed Debt Obligation less the  
18 Expenditures estimated to be incurred by the Issuer during such Fiscal Years in connection with  
19 such Project shall be included in calculating Revenues; and  
20

21 (B) Revenues during each of the Fiscal Years in question shall be adjusted to take account  
22 of any increase estimated to result from any increase in fees, charges or other revenues (including  
23 without limitation the implementation of any new revenue source and other increases resulting  
24 from a growth in or increase of the activities or operations of the Issuer) that the Issuer has or will  
25 put into effect for such Fiscal Years; *provided that* no such increase shall be taken into account to  
26 the extent it is premised on the imposition of a new tax or a rate increase with respect to an  
27 existing tax unless, on or before the date of issuance or incurrence of the proposed Debt  
28 Obligation, such new tax or tax rate increase has been adopted by the Issuer in the manner required  
29 by law; and  
30

31 (C) To the extent that any expenditures taken into account for any such Fiscal Years are  
32 payable from funds that do not constitute Revenues within the meaning of this Ordinance, such  
33 funds shall be included as a part of Revenues.  
34

35 (c) **Completion Obligations.** The Issuer may, from time to time and without regard to limitations  
36 otherwise imposed by Section 205(a) hereof, issue one or more series of Completion Obligations, *provided that*:  
37

38 (i) the Issuer shall first file with the Trustee:  
39

40 (a) an Opinion of Bond Counsel that the issuance of such Completion Obligations will not  
41 impair the exclusion from gross income for federal income tax purposes of interest paid on any Bonds or  
42 Financial Obligations then Outstanding which were issued or incurred as, and which at the time of issuance  
43 of such Completion Obligations still are, Tax-Exempt Obligations; and  
44

45 (b) a certificate of Qualified Consultant to the effect that, in the judgment of the Qualified  
46 Consultant the proceeds of such Completion Obligations, together with any Issuer Contribution available  
47 for such purpose, will be sufficient to pay the remaining costs of the Project or Projects with respect to  
48 which such Completion Obligations are being issued or incurred and to fund any additions to the Reserve

1 Account or any debt service fund or account established in connection with the related Financial Obligation  
2 required in connection with the issuance of such Completion Obligations; and  
3

4 (ii) such Completion Obligations are issued for the purpose of paying costs of a Project which:  
5

6 (a) were not anticipated at the time of issuance or incurrence of the original Series of Debt  
7 Obligations issued or incurred to finance such Project; and  
8

9 (b) do not materially expand the scope of the Project except to the extent necessary in order for  
10 such Project to serve the purposes intended to be served thereby at the time such Project was originally  
11 undertaken.  
12

13 (d) **Refunding Obligations.** The Issuer may, from time to time and without regard to the limitations  
14 otherwise imposed by Section 205(a) hereof, issue one or more series of Refunding Obligations; *provided that:*  
15

16 (i) the maximum Annual Debt Service for:  
17

18 (A) all Debt Obligations which were Outstanding immediately prior to the issuance of  
19 such Refunding Obligations (but not including any Debt Obligations proposed to be refunded by  
20 means of such Refunding Obligations); and  
21

22 (B) the Refunding Obligations proposed to be issued;  
23

24 during any future Fiscal Year in which any Debt Obligations will be Outstanding;  
25

26 is less than:  
27

28 (ii) the maximum Annual Debt Service for any future Fiscal Year would be on all Outstanding  
29 Debt Obligations (including the Debt Obligations proposed to be refunded) during each such Fiscal Year if  
30 such Refunding Obligations were not issued;  
31

32 *provided further that* the Issuer shall first file with the Trustee an Opinion of Bond Counsel that the issuance of such  
33 Refunding Obligations will not impair the exclusion from gross income for federal income tax purposes of interest  
34 paid on any Debt Obligations then Outstanding which were issued as, and which at the time of issuance of such  
35 Refunding Obligations still are, Tax-Exempt Obligations.  
36

37 (e) **Multipurpose Additional Bonds and Financial Obligations.** Debt Obligations may be  
38 incurred at one time hereunder, for any one or more of the purposes described in Section 205(a), Section 205(c) or  
39 Section 205(d) hereof. In the event such Debt Obligations are issued or incurred for in part for one of the purposes  
40 described in Section 205(a), Section 205(c) or Section 205(d) hereof and in part for one of the purposes described in  
41 another of such Sections, the provisions of Section 205(a) shall govern the issuance of that portion of such Debt  
42 Obligations that are issued or incurred for one of the purposes described in Section 205(a), the provisions of  
43 Section 205(c) shall govern the issuance of that portion of such Debt Obligations that are issued or incurred for  
44 Completion Obligation purposes, and the provisions of Section 205(d) shall govern the issuance of that portion of  
45 such Debt Obligations that are issued or incurred for Refunding Obligation purposes, as the case may be.  
46

47 (f) **Provisions Not Applicable to First Series of Bonds, Existing Financial**  
48 **Obligations and Certain Other Bonds and Financial Obligations.** The provisions of Sections 205(a)  
49 and (b) hereof shall not apply to the issuance of the first Series of Bonds to be issued hereunder or to any Financial

Obligation incurred prior to the date of issuance of the first Series of Bonds to be issued hereunder, nor shall Sections 205(a), (b), (c) or (d) apply to or in any way limit or restrict the ability of the Issuer to issue or incur any Debt Obligations at any point in time at which there are no other Bonds Outstanding. In addition, the provisions of Sections 205(a), (b), (c) or (d) shall not apply to or in any way limit or restrict the ability of the Issuer to issue Refunding Obligations for the purpose of refunding all Bonds which are Outstanding at the time of issuance of such Refunding Obligations.

In addition, in connection with any Debt Obligations which are Variable Rate Obligations the terms of which permit the Issuer or another party appointed for such purpose to elect to convert the rate(s) of interest applicable thereto to a rate or rates which are fixed and nonvariable through the maturity date thereof, then the provisions of Sections 205(a), (b), (c) or (d) hereof shall not apply in the following situations:

(i) any such conversion of the rate(s) of interest applicable to such Debt Obligations to a rate or rates which are fixed and nonvariable through the maturity date thereof; or

(ii) in lieu of so converting the interest rate(s) as described in Section 205(f)(i) above, the Issuer elects to issue Refunding Obligations bearing rate(s) of interest fixed to the stated maturity dates thereof, *provided that:*

(A) the stated maturity dates of such Refunding Obligations and the principal amounts to mature on such dates are the same as the stated maturity dates of the Variable Rate Obligations being refunded thereby and the principal amounts thereof to mature on such dates, subject only to such increases in principal amounts of the Refunding Obligations to mature on such dates as are necessary to amortize any increase in the aggregate principal amount of such Refunding Obligations over the aggregate principal amount of the Variable Rate Obligations being refunded as a result of the funding of the items described in Section 205(f)(ii)(B) below; and

(B) the aggregate principal amount of such Refunding Obligations does not exceed the aggregate principal amount of the Variable Rate Obligations being refunded plus such amount as may be necessary:

(1) to pay interest accruing on the Variable Rate Obligations being refunded through the date upon which the same shall be redeemed or otherwise paid;

(2) to pay the Costs of Issuance incurred in connection with such Refunding Obligations; and

(3) to fund any additions to the Reserve Account or any debt service reserve fund or account established with respect to such Financial Obligation necessary in connection with the issuance of such Refunding Obligations in order to cause the balance on deposit in the Reserve Account or such debt service reserve fund or account to equal the Reserve Requirement or other funding requirement relating to such reserve fund or account, as the case may be.

For purposes of Section 205(f)(ii)(A) above, "stated maturity dates" shall include the dates upon which the Debt Obligations in question are subject to redemption or prepayment pursuant to a Mandatory Redemption Schedule and "principal amounts to mature" on a particular date shall include the principal of the Debt Obligations in question which are subject to redemption pursuant to a Mandatory Redemption Schedule.

1 (g) Subordinated Debt, Department Obligations and Contracts. Nothing in this Ordinance  
2 is intended to in any way restrict or limit the ability of the Issuer:

3  
4 (i) to issue or incur Subordinated Debt;

5  
6 (ii) to issue bonds or other obligations payable out of a dedicated source of funds which do not  
7 constitute Revenues or Available Funds within the meaning of this Ordinance, including general obligation  
8 bonds payable from *ad valorem* taxes which the Issuer is authorized levy specifically for such purpose; other  
9 than pursuant to the provisions of this Ordinance, including bonds or other obligations payable out of the  
10 Revenues on a basis which is second and subordinate to the payment of the Outstanding Bonds issued  
11 hereunder out of the Revenues;

12  
13 (iii) except to the extent the same give rise to an Financial Obligation (but not including any  
14 Financial Obligation which constitutes Subordinated Debt), to enter into contracts with any person or  
15 entity, public or private, regarding the acquisition, lease or lease purchase of assets or facilities for use in  
16 connection with the Issuer's functions and operations or for provision of services in connection with the  
17 operation of the Issuer's functions and operations;

18  
19 (iv) to issue or incur Department Obligations and to pledge as security therefor the related  
20 Department Revenues;

21  
22 *Provided that* no such action on the part of the Issuer shall relieve it of any of its obligations, covenants and  
23 agreements hereunder or under any Supplemental Ordinance.

24  
25  
26  
27  
28  
29  
30 **ARTICLE III**  
31 **GENERAL TERMS AND PROVISIONS OF BONDS**

32  
33 **Section 301. Payment from Revenues and Available Funds; Medium of Payment;**  
34 **Form and Date; Letters and Numbers; Place of Payment.**

35  
36 (a) **Payment of Bonds.** The Bonds of each Series and any obligations under any Credit Agreement  
37 relating to a particular Series of Bonds shall be payable from:

38  
39 (i) the Revenues and Available Funds; and

40  
41 (ii) the Trust Estate specifically pledged thereto.

42  
43 (b) **Medium of Payment.** Except as may be otherwise set forth in a Supplemental Ordinance  
44 authorizing the issuance of a Series of Bonds, the Bonds of each Series shall be payable, with respect to interest,  
45 principal and premium (if any), in any coin or currency of the United States of America which at the time of  
46 payment is legal tender for the payment of public and private debts, *provided, however, that* interest shall be paid on  
47 such Bonds by checks or drafts to the persons entitled thereto or by such other method of payment as may be  
48 specified in the Supplemental Ordinance authorizing the issuance of such Bonds.

1  
2 (c) **Registered Form.** Except as may be otherwise set forth in a Supplemental Ordinance authorizing  
3 the issuance of a Series of Bonds, the Bonds of each Series shall be issued in the form of fully registered Bonds.  
4

5 (d) **Numbers and Dated Dates.** Each Bond of a Series shall be lettered and numbered as provided in  
6 the Supplemental Ordinance authorizing their issuance so as to be distinguished from every other Bond. The Bonds  
7 of each Series shall be dated as provided in the Supplemental Ordinance authorizing their issuance.  
8

9 (e) **Place of Payment.** Except as may be otherwise set forth in a Supplemental Ordinance authorizing  
10 the issuance of a Series of Bonds, the principal and premium (if any) of all fully registered Bonds of a Series shall be  
11 payable upon presentation and surrender of such Bond at the principal corporate trust office of the Trustee or other  
12 Paying Agent, as the case may be, and payment of the interest on each fully registered Bond shall be made by the  
13 Trustee or other Paying Agent, as the case may be, to the person appearing on each Record Date on the registration  
14 books of the Issuer for such Series as the Owner thereof, by check or draft mailed on the applicable Interest Payment  
15 Date, first-class postage prepaid, to such registered Owner at his or her address as it appears on such registration  
16 books or by such other method of payment as may be specified in the Supplemental Ordinance authorizing the  
17 issuance of such Bonds.  
18

19 **Section 302. Legends.** The Bonds of each Series may contain or have endorsed thereon such  
20 provisions, specifications and descriptive words not inconsistent with the provisions of this Ordinance as may be  
21 necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage  
22 board, or otherwise, as may be determined by the Issuer prior to the authentication and delivery thereof.  
23

24 **Section 303. Execution and Certificate of Authentication.**  
25

26 (a) **Execution.** The Bonds of each Series shall be executed in the name of the Issuer by the manual or  
27 facsimile signatures of the Presiding Officer of the Issuer and the Executive Officer of the Issuer and the Issuer's seal  
28 (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise reproduced thereon. In case any one or  
29 more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds  
30 so signed and sealed shall have been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be  
31 authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds  
32 had not ceased to hold such offices. Any Bond may be signed and sealed on behalf of the Issuer by such persons as at  
33 the time of the execution of such Bonds shall be duly authorized or hold the proper office in the Issuer, although at  
34 the date borne by such Bonds or at the time of authentication of such Bonds such persons may not have been so  
35 authorized or have held such office.  
36

37 (b) **Certificate of Authentication.** The Bonds of each Series shall bear thereon a certificate of  
38 authentication, in the form set forth in the related Supplemental Ordinance, executed manually by the Trustee or its  
39 authorized agent. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any  
40 right or benefit under this Ordinance or the related Supplemental Ordinance and no Bond shall be valid or obligatory  
41 for any purpose until such certificate of authentication shall have been duly executed by the Trustee. The execution  
42 of any such certificate of authentication upon any Bond executed on behalf of the Issuer shall be conclusive evidence  
43 that the Bond so authenticated has been duly authenticated and delivered under this Ordinance and that the Owner  
44 thereof is entitled to the benefits of this Ordinance and the related Supplemental Ordinance.  
45

46 **Section 304. Interchangeability of Bonds.** Except as may otherwise be provided in a  
47 Supplemental Ordinance authorizing the issuance of a particular Series of Bonds, the Bonds of each Series, upon  
48 surrender thereof at the principal corporate trust office of the related Bond Registrar with a written instrument of  
49 transfer satisfactory to such Bond Registrar, duly executed by the Owner or his duly authorized attorney, may, at the



1 option of the Owner thereof, and upon payment by such Owner of any charges which the related Bond Registrar may  
2 make as provided in Section 306 hereof, be exchanged for Bonds of the same Series, date, aggregate principal amount  
3 and maturity in any other Authorized Denominations.  
4

5 **Section 305. Transfer and Registry; Persons Treated as Owners.** The Bond Registrar for  
6 each Series shall keep books for the registration of, and for the registration of transfers of, Bonds of such Series as  
7 provided in this Ordinance and the related Supplemental Ordinance. Except as otherwise provided in the  
8 Supplemental Ordinance authorizing a particular Series of Bonds, the Bonds of a particular Series shall be  
9 transferable only upon the books of the Issuer kept by the Bond Registrar by the Owner thereof in person or by her  
10 attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory  
11 to the Bond Registrar, duly executed by the Owner or her duly authorized attorney. Upon the transfer of any such  
12 Bond, the Issuer shall issue in the name of the transferee a new Bond or Bonds of the same Series, maturity date and  
13 aggregate principal amount.  
14

15 The Issuer and each Trustee, Paying Agent and Bond Registrar may deem and treat the person in whose  
16 name any Bond shall be registered upon the books kept by the Bond Registrar as the absolute owner of such Bond,  
17 whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal  
18 and premium, if any, of and interest on such Bond and for all other purposes, and all such payments so made to any  
19 such Owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the  
20 extent of the sum or sums so paid, and neither the Issuer nor any Trustee, Paying Agent or Bond Registrar shall be  
21 affected by any notice to the contrary.  
22

23 **Section 306. Regulations With Respect to Exchanges and Transfers.** In all cases in which  
24 the privilege of exchanging Bonds or transferring Bonds is exercised, the Issuer shall execute and the Trustee or its  
25 authorized agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. All Bonds  
26 of a Series surrendered in any such exchanges or transfers shall forthwith be delivered to the Bond Registrar and  
27 canceled by such Bond Registrar in the manner provided in Section 309. For every such exchange or transfer of  
28 Bonds of any Series, the Issuer or the Bond Registrar may make a charge against the Owner sufficient to reimburse it  
29 for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Unless  
30 otherwise provided by Supplemental Ordinance, neither the Issuer nor any Bond Registrar shall be required (a) to  
31 transfer or exchange Bonds for a period of 15 days next preceding any selection of Bonds of such Series to be  
32 redeemed or thereafter until after the mailing of any notice of redemption; or (b) to transfer or exchange any Bonds  
33 called for redemption.  
34

35 **Section 307. Bonds Mutilated, Destroyed, Stolen or Lost.** If any Bond becomes mutilated or  
36 is lost, stolen or destroyed, the Issuer may execute and the Trustee or its authorized agent shall authenticate and  
37 deliver a new Bond of like Series, maturity date, principal amount and interest rate *per annum* as the Bond so  
38 mutilated, lost, stolen or destroyed, *provided that*:  
39

40 (a) in the case of such mutilated Bond, such Bond is first surrendered to the Trustee;  
41

42 (b) in the case of any such lost, stolen or destroyed Bond, there is first furnished evidence of such  
43 loss, theft or destruction satisfactory to the Issuer together with indemnity satisfactory to the Issuer and the  
44 Trustee;  
45

46 (c) all other reasonable requirements of the Issuer and the Trustee are complied with; and  
47

48 (d) expenses in connection with such transaction are paid by the Owner.  
49

1 Any mutilated Bond surrendered for exchange shall be canceled. Any new Bonds issued pursuant to this Section 307  
2 in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual  
3 obligations on the part of the Issuer, whether or not the Bonds so alleged to be destroyed, stolen or lost shall be at  
4 any time enforceable by anyone, and shall be equally secured by and entitled to equal and proportionate benefits with  
5 all other Bonds of the same Series to the lien of the Trust Estate pledged to such Series.  
6

7 **Section 308. Temporary Bonds.** Until definitive Bonds of a Series are prepared, the Issuer may  
8 execute, in the same manner as is provided in Section 303, and upon the request of the Issuer, the Trustee or its  
9 authorized agent shall authenticate and deliver, in lieu of definitive Bonds of such Series, but subject to the same  
10 provisions, limitations and conditions as the definitive Bonds of such Series, one or more temporary Bonds  
11 substantially of the tenor of the definitive Bonds of such Series in lieu of which such temporary Bond or Bonds are  
12 issued, in authorized denominations, and with such omissions, insertions and variations as may appropriate for  
13 temporary Bonds. Payment of debt service on such temporary Bonds of a Series shall be in the same manner as for  
14 definitive Bonds of the same Series. At its own expense the Issuer shall prepare and execute and, upon the surrender  
15 of such temporary Bonds for exchange and, upon the surrender of such temporary Bonds for exchange and the  
16 cancellation of such surrendered temporary Bonds, the Trustee or its authorized agent shall authenticate and, without  
17 charge to the registered owner thereof, deliver in exchange therefor, definitive Bonds of the same Series and aggregate  
18 principal amount and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall  
19 in all respects be entitled to the same benefits and security as definitive Bonds of the same Series.  
20

21 All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive  
22 Bond or Bonds shall be forthwith canceled by the Bond Registrar in the manner provided in Section 309.  
23

24 **Section 309. Cancellation and Destruction of Bonds.** All Bonds paid or redeemed, either at or  
25 before maturity shall be delivered to the Bond Registrar when such payment or redemption is made, and such Bonds,  
26 together with all Bonds purchased by the Issuer, or on its behalf, shall thereupon be promptly canceled. Bonds so  
27 canceled shall be destroyed by the Bond Registrar, who shall execute from time to time certificates of destruction in  
28 duplicate by the signature of one of its authorized officers describing any Bonds so destroyed, and one executed copy  
29 of each such certificate shall be filed with the Issuer and the other executed copy of each such certificate shall be  
30 retained by the Bond Registrar.  
31

32 **Section 310. Book-Entry System.** The provisions of this Article III may be modified as set forth  
33 in a Supplemental Ordinance authorizing the issuance of a Series of Bonds in order to implement and maintain a  
34 book-entry system of registration of the Bonds of such Series.  
35  
36  
37  
38

## ARTICLE IV REDEMPTION OF BONDS

Section 401. Redemption Provisions to be Specified in Supplemental Ordinance. The Bonds Of a particular Series shall be subject to mandatory, optional, extraordinary or other redemption prior to maturity on such terms and conditions, on such dates and at such redemption prices as shall be specified in the Supplemental Ordinance authorizing the issuance of such Series of Bonds. Except as may be otherwise expressly provided in a Supplemental Ordinance with respect to Bonds of a particular Series, the particular Bonds of a Series to be redeemed shall be selected and notice of any such redemption shall be given in the manner set forth in this Article IV.

Section 402. Selection of Bonds to be Redeemed. If less than all of the Bonds of a like Series and maturity shall be called for redemption, the particular Bonds or portions of Bonds of such Series to be redeemed shall be selected by the Trustee in such manner as such Trustee in its discretion may deem fair and appropriate; *provided, however, that* unless otherwise provided by the Supplemental Ordinance authorizing such Series of Bonds, for purposes of any redemption in part, each portion of any Bond equal to the Minimum Authorized Denomination for such Bond shall be treated as a separate Bond for purposes of such redemption and may be called for redemption separately from any other portion of such Bond so long as following such redemption all unredeemed Bonds remaining Outstanding shall be in an Authorized Denomination for such Bond. The Trustee shall promptly notify the Issuer in writing of the Bonds so selected for redemption.

Section 403. Notice of Redemption. Unless otherwise provided by a Supplemental Ordinance authorizing a Series of Bonds, the Trustee shall give notice, in the name of the Issuer, of the redemption of Bonds of such Series, 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 will be payable and, if less than all of the Bonds of such Series of the same 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 notice shall also specify the respective portions of the principal amount thereof to be redeemed. Such notice shall further state that on such 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.

Unless otherwise provided by the Supplemental Ordinance authorizing such Series of Bonds, the Trustee shall file a copy of such notice with the Issuer and shall mail or cause to be mailed a copy of such notice, by first class mail, postage prepaid, not less than forty (40) days nor more than sixty (60) days before the redemption date to the Owners of any Bonds or portions of Bonds which are to be redeemed, at their last addresses appearing upon the registration books held by the Bond Registrar immediately prior to the date on which such notice is mailed. Such mailing shall be a condition precedent to such redemption, but failure of any Owner of any Bond to receive such notice shall not affect the validity of the proceedings for the redemption of such Bonds. Notwithstanding the foregoing and unless otherwise expressly provided in a Supplemental Ordinance with respect to a particular Series of Bonds, in the event that any Bond to be redeemed was not issued in registered form (including book-entry), then and in such event notice of such redemption shall be published at least once not less than thirty (30) days prior to the redemption date in a newspaper of general circulation in any of the cities of New York, New York, San Francisco, California or Chicago, Illinois.

1 Unless otherwise provided by the Supplemental Ordinance authorizing such Series of Bonds, in addition to  
2 the foregoing notice, further notice in the form described in the first paragraph of this Section 403 shall be given by  
3 the Trustee as set out below, but no defect in said further notice nor any failure to give all or any portion of such  
4 further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above  
5 prescribed:  
6

7 (a) Notice of redemption shall be sent at least 40 days before the redemption date by registered or  
8 certified mail or overnight delivery service to all registered securities depositories then in the business of  
9 holding substantial amounts of obligations of types comprising the Bonds (such depositories now being  
10 Depository Trust Company of New York, New York, Midwest Securities Trust Company of Chicago,  
11 Illinois, Pacific Securities Depository Trust Company of San Francisco, California and Philadelphia  
12 Depository Trust Company of Philadelphia, Pennsylvania) and to one or more national information services  
13 that disseminate notices of redemption of obligations such as the Bonds (such as Financial Information,  
14 Inc.'s Financial Daily Called Bond Service, Kenny Information Service's Called Bond Service, Moody's  
15 Municipal and Government Called Bond Service and Standard & Poor's Called Bond Record).  
16

17 (b) Notice of redemption shall be published one time in the Bond Buyer of New York, New York  
18 or, if such publication is impractical or unlikely to reach a substantial number of the owners of the Bonds,  
19 in some other financial newspaper or journal which regularly carries notices of redemption of other  
20 obligations similar to the Bonds, such publication to be made at least 30 days prior to the date fixed for  
21 redemption.  
22

23 (c) Upon the payment of the Redemption Price of Bonds being redeemed, each check or other  
24 transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity,  
25 the Bonds being redeemed with the proceeds of such check or other transfer.  
26

27 **Section 404. Payment of Redeemed Bonds.** Notice having been given in the manner provided in  
28 Section 403, the Bonds or portions thereof so called for redemption shall become due and payable on the redemption  
29 date so designated at the Redemption Price and, upon presentation and surrender thereof at the office specified in such  
30 notice, such Bonds, or portions thereof, shall be paid at the Redemption Price. If there shall be selected for  
31 redemption less than all of a Bond, the Issuer shall execute and the Trustee or its authorized agent shall authenticate  
32 and the Bond Registrar shall deliver, upon the surrender of such Bond, without charge to the Owner thereof, for the  
33 unredeemed balance of the principal amount of the Bonds so surrendered Bonds of the same Series and maturity in  
34 any of the Authorized Denominations at the option of the Owner thereof. If, on the redemption date, moneys  
35 sufficient to pay the Redemption Price of all the Bonds or portions thereof to be redeemed shall be held by the  
36 Trustee so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then  
37 from and after the redemption date interest on the Bonds or portions thereof so called for redemption shall cease to  
38 accrue and become payable. If said moneys shall not be so available on the redemption date, such Bonds or portions  
39 thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called  
40 for redemption.  
41

42 **Section 405. Credits Against Mandatory Redemption Obligation.** The Issuer shall receive  
43 a credit against its obligation to redeem Bonds of a particular Series pursuant to a Mandatory Redemption Schedule,  
44 such credit to be: (i) in an amount equal to the principal amount of any Bonds of such Series subject to such  
45 mandatory redemption which have theretofore been redeemed (other than pursuant to such Mandatory Redemption  
46 Schedule) or purchased on the open market and surrendered to the Trustee for cancellation and for which such a credit  
47 has not theretofore been given; and (ii) applied against the mandatory redemption obligation for such Bonds in such  
48 years as the Issuer shall direct the Trustee in writing.  
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**ARTICLE V**  
**APPLICATION OF TOTAL ASSESSMENTS**  
**AND BOND PROCEEDS; ESTABLISHMENT OF FUNDS**  
**AND ACCOUNTS AND APPLICATION THEREOF**

Section 501. Application of Total Assessments.

(a) **Application of Total Assessments.** The Issuer hereby covenants and agrees, with and for the benefit of the Trustee and the Owners from time to time of the Bonds issued hereunder, that from and after the issuance of the first Series of Bonds hereunder and so long as any Bonds are Outstanding hereunder, the Issuer shall deposit the Total Assessments in the General Revenue Bond Fund as and when the same are collected from each Department and shall apply the moneys on deposit from time to time in the General Revenue Bond Fund in the order of priority set forth below and in such amounts as shall be necessary from time to time to meet the Issuer's obligations under this Section 501(a):

(i) **First**, to any Rebate Payments required by this Ordinance and any Supplemental Ordinance to be made into the Rebate Account and to any Rebate Payments required in connection with any Financial Obligation;

(ii) **Second**, to: (A) make any deposits into the Debt Service Account required by this Ordinance or any Supplemental Ordinance, including (without limitation) the payment of any amounts owing under a Credit Agreement as a result of amounts having been drawn under a Credit Facility given as security for the payment of any amounts owing under or with respect to any Bonds (other than any Credit Facility which is provided for the purpose of meeting in whole or in part the Reserve Requirement); and (B) pay when due all Outstanding Financial Obligations, including (without limitation) the payment of any amounts owing under a Credit Agreement as a result of amounts having been drawn under a Credit Facility given as security for the payment of any amounts owing under or with respect to any Financial Obligation (other than any Credit Facility which is provided for the purpose of meeting in whole or in part the related Reserve Requirement);

(iii) **Third**, to: (A) make any deposits into the Reserve Account which are necessary in order to maintain on deposit therein an amount equal to the Reserve Requirement, including (without limitation) the payment of any amounts owing under a Credit Agreement as a result of amounts having been drawn under a Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement, which deposits shall be made at the times and in the amounts provided in Section 506; and (B) make any deposits into any debt service reserve fund or account established in connection with any Financial Obligation which are necessary in order to maintain on deposit therein an amount equal to the applicable Reserve Requirement, including (without limitation) the payment of any amounts owing under a Credit Agreement as a result of amounts having been drawn under a Credit Facility given for the purpose of meeting in whole or in part the related Reserve Requirement;

1 (iv) Fourth, to make any deposits into any special Account as required under the provisions of  
2 any Supplemental Ordinance or to otherwise be applied for any purpose or in any manner specifically  
3 required under any Supplemental Ordinance; and  
4

5 (v) Fifth, for any other lawful purpose.  
6

7 (b) **Covenant to Pay Bonds from Revenues and Available Funds and Assess**  
8 **Departments.** The Issuer hereby covenants and agrees to: pay when due all amounts owing under and with respect  
9 to all Bonds issued hereunder and to take all lawful actions as may be necessary or appropriate in order to pay when  
10 due all amounts owing under and with respect to all Bonds issued hereunder from Revenues and Available Funds; and  
11 to cause the necessary Revenues and Available Funds to be deposited each Fiscal Year, and make and collect Total  
12 Assessments, in the amounts and at the times necessary in order to meet its obligations under Section 501(a)(i), (ii),  
13 (iii) and (iv) hereof.  
14

15 The Issuer hereby covenants and agrees that so long as any Bonds remain Outstanding, it shall take all  
16 actions as may be necessary or appropriate in order to:  
17

18 (i) In each Fiscal Year, assess each Department for:  
19

20 (A) its allocable share of the amounts required to be deposited and applied from time to  
21 time during such Fiscal Year pursuant to and for the purposes specified in Section 501(a)(i), (ii)  
22 and (iii) hereof; plus  
23

24 (B) an additional amount equal in each Fiscal Year to 10% of such Department's allocable  
25 share of the amounts of principal and interest scheduled to become due and payable (whether by  
26 maturity, scheduled due date, or scheduled mandatory redemption or prepayment) on the  
27 Outstanding Debt Obligations during such Fiscal Year; plus  
28

29 (C) if required under a Supplemental Ordinance, such Department's allocable share of any  
30 amounts needed for purposes of Section 501(a)(iv) hereof;  
31

32 *provided that*, in each Fiscal Year in which the Issuer makes a General Assessment for purposes of meeting  
33 all or a part of its obligations under Section 501(a)(i), (ii), (iii) and (iv) hereof, the aggregate amounts  
34 required to be assessed to the Departments in such Fiscal Year pursuant to Section 501(b)(i)(A), (B) and (C)  
35 above shall be reduced by an amount equal to the amount of such General Assessment, with such reduction  
36 to be applied against each Department's Assessment in such manner as the Issuer shall determine; it being  
37 the intent of this Section 501(b)(i) that the Issuer shall have the option of making or not making a General  
38 Assessment in each Fiscal Year so long as the Total Assessments in each Fiscal Year equal the sum of: (I)  
39 the amounts required to be deposited and applied from time to time during such Fiscal Year pursuant to and  
40 for the purposes specified in Section 501(a)(i), (ii), (iii) and (iv) hereof, plus (II) an additional amount equal  
41 in each Fiscal Year to 10% of such Department's allocable share of the amounts of principal and interest  
42 scheduled to become due and payable (whether by maturity, scheduled due date, or scheduled mandatory  
43 redemption or prepayment) on the Outstanding Debt Obligations during such Fiscal Year.  
44

45 (ii) cause the appropriate Department Assessment to be included in the annual budget for each  
46 assessed Department and duly appropriated for the purposes described herein and the General Assessment (if  
47 any) to be included in the Issuer's annual budget and duly appropriated for the purposes described herein, all  
48 in accordance with and as required by law; and  
49

1 (iii) cause each Department to pay over its Department Assessment, and cause each General  
2 Assessment (if any) to be paid, at the times and in the amounts necessary to duly meet the Issuer's  
3 obligations under Section 501(a)(i), (ii), (iii) and (iv) hereof and Section 505 hereof.  
4

5 (c) **Determination of Department Assessments and General Assessments.** The Issuer shall  
6 determine each Department Assessment ~~in such manner as it deems reasonable and appropriate taking into account~~  
7 ~~such factors as it deems relevant under the circumstances, including but not limited to~~ based upon the use or benefit  
8 derived by a particular Department from any ~~Bonds or Financial~~ Debt Obligations issued or incurred hereunder or any Project  
9 financed out of the proceeds of any ~~Bonds or Financial~~ Debt Obligations. In determining the extent of the use or  
10 benefit so derived by a Department the Issuer may take into account such factors as it deems reasonable and  
11 appropriate under the circumstances, ~~and the ability of a particular Department to generate Department Revenues in~~  
12 ~~an amount sufficient to enable the Issuer to meet its obligations hereunder.~~ The Issuer shall be entitled to change or  
13 revise from time to time the method of determining each Department Assessment ~~to take account of changes in~~  
14 ~~circumstances affecting the use or benefit so derived by each Department.~~  
15

16 On or before January 1 of every third year, commencing with the first January 1 which is not less than 30  
17 months following the date upon which the first Series of Bonds is issued hereunder, the Issuer shall retain a Qualified  
18 Consultant to review its method of determining the Department Assessments and provide the Issuer, not later than  
19 March 1 of such year, a written report with respect thereto. ~~In determining the Department Assessments, the Issuer~~  
20 ~~shall give due consideration to any recommendations made by the Qualified Consultant and shall implement such~~  
21 ~~recommendations unless the governing body of the Issuer, by resolution duly adopted, finds and determines that such~~  
22 ~~recommendations are unreasonable, impractical or contrary to the requirements of law or established governmental~~  
23 ~~polices of the Issuer in determining the Department Assessments.~~  
24

25 Nothing herein shall require the Issuer to impose a Department Assessment on each and every Department  
26 if, in its judgment, it is inappropriate under the circumstances to impose a Department Assessment on one or more  
27 Departments, *provided that* the Issuer shall nevertheless be required to make Total Assessments and to collect  
28 Revenues in such amounts as shall enable the Issuer to meet in a timely fashion all of its pecuniary obligations  
29 hereunder.  
30

31 The Issuer, in its sole discretion, shall determine whether or not to make a General Assessment in each  
32 Fiscal Year, *provided that* to the extent that, in a particular Fiscal Year, the Department Assessments made on the  
33 basis described in the first paragraph of this Section 501(c) are insufficient to enable the Issuer to collect Total  
34 Assessments in the amount required to meet its pecuniary obligations hereunder, the Issuer shall make a General  
35 Assessment in an amount equal to the difference between such Department Assessments and the Total Assessments  
36 required. If the Issuer determines or is required to make a General Assessment in a particular Fiscal Year, it shall  
37 determine the amount and source of payment of such General Assessment in such manner as it deems reasonable and  
38 appropriate taking into account such factors as it deems relevant under the circumstances, including but not limited  
39 to the use or benefit derived by the Issuer from the Debt Obligations with respect to which such General Assessment  
40 is made or any Project financed out of the proceeds of such Debt Obligations, the availability of revenue sources  
41 which are not Department Revenues to fund such General Assessment and the ability of a particular Department to  
42 generate Department Revenues in an amount sufficient to enable the Issuer to meet its obligations hereunder. The  
43 Issuer shall be entitled to change or revise from time to time the method of determining any General Assessment and  
44 to discontinue making a General Assessment made in prior Fiscal Years so long as the Total Assessments ~~(including~~  
45 ~~the Department Assessments made on the basis described in the first paragraph of this Section 501(c))~~ are sufficient  
46 in each Fiscal Year to enable the Issuer to meet its pecuniary obligations hereunder.  
47

48 (d) **Obligations Not Restricted to Total Assessments.** The Issuer's pecuniary obligations  
49 hereunder shall not be restricted to payment from the particular Department Assessments imposed by the Issuer

1 against each Department or any General Assessment made by the Issuer hereunder, it being the intent hereof that  
2 notwithstanding the failure of any one or more Departments to generate Department Revenues sufficient to pay when  
3 due its Department Assessment or the failure of the Issuer to make a General Assessment or collect revenues  
4 sufficient to enable it to pay any General Assessment made in a particular Fiscal Year, the Issuer shall nevertheless  
5 collect and apply, from any one or more of its Departments, from a General Assessment or from any other Revenues  
6 and Available Funds, ~~sufficient Total Assessments or other Revenues and Available Funds~~ to enable it to meet its  
7 obligations to pay when due the items described in Section 501(a)(i), (ii), (iii) and (iv) hereof. ~~Notwithstanding the~~  
8 ~~provisions of Section 501(c) hereof or any other provision of this Ordinance to the contrary, if, for any reason, any~~  
9 one or more Departments fail to generate sufficient Department Revenues to pay when due its Department  
10 Assessment or the Issuer fails to collect revenues sufficient to enable it to pay any General Assessment made, the  
11 Issuer shall promptly take such lawful action as may be necessary to make up the resulting deficiency, including but  
12 not limited to the reassessment of any one or more other Departments, the making of a General Assessment or the  
13 application of any other Revenues and Available Funds. ~~[available under law for such purpose]~~

#### 15 Section 502. Establishment of Funds and Accounts.

17 (a) **Accounts Established with Trustee.** Upon the issuance of the first Series of Bonds hereunder,  
18 the following Accounts shall be established with and shall be held by the Trustee, which Accounts shall be  
19 subaccounts of the General Revenue Bond Fund:

- 21 (i) The Rebate Account;
- 23 (ii) The Debt Service Account;
- 25 (iii) The Reserve Account; and
- 27 (iv) The Construction Account.

29 The Issuer may determine from time to time by Supplemental Ordinance to create and establish within the  
30 Construction Account, the Debt Service Account, the Reserve Account or the Rebate Account such additional  
31 Accounts as the Issuer may deem necessary or appropriate, which Accounts shall constitute a part of the Account in  
32 which they are created. Except as otherwise provided in a Supplemental Ordinance, the Issuer may abolish any such  
33 additional Accounts, or any one or more of them, whenever, in the judgment of the Issuer, such additional Accounts  
34 have served their purpose or it is otherwise no longer necessary or appropriate to maintain the same.

36 (b) **Funds and Accounts Established with Issuer.** Upon the issuance of the first Series of Bonds  
37 hereunder, the General Revenue Bond Fund shall be established with and shall be held by the Issuer.

39 The Issuer may also determine from time to time by Supplemental Ordinance to create and establish within  
40 the General Revenue Bond Fund such other Accounts as it may deem necessary or appropriate from time to time,  
41 which Accounts shall constitute a part of the Fund or Account in which they are created. Except as otherwise  
42 provided in a Supplemental Ordinance, the Issuer may abolish any such additional Accounts, or any one or more of  
43 them, whenever, in the judgment of the Issuer, such additional Accounts have served their purpose or it is otherwise  
44 no longer necessary or appropriate to maintain the same.

#### 46 Section 503. Deposits of Bond Proceeds to Certain Funds and Accounts.

48 (a) **Proceeds of Bonds.** The proceeds of sale of any Series of Bonds shall, as soon as practicable upon  
49 the delivery thereof to the Trustee, be applied as follows:



1  
2 (i) the amount, if any, stipulated by the Supplemental Ordinance authorizing the issuance of such  
3 Series of Bonds (or by the Executive Officer if so authorized by such Supplemental Ordinance) to be  
4 deposited into any Reserve Account or any subaccount thereof shall be deposited in the Reserve Account or  
5 the designated subaccount thereof (or in lieu of all or part of any such money deposit, the amount which  
6 may be drawn upon under any Credit Facility then provided for the purpose of meeting in whole or in part  
7 the Reserve Requirement shall be credited to the Reserve Account);  
8

9 (ii) the amount, if any, stipulated by the Supplemental Ordinance (or by the Executive Officer if  
10 so authorized by the Supplemental Ordinance) to be deposited into the Construction Account or any  
11 subaccount thereof shall be deposited in the Construction Account or the designated subaccount thereof;  
12

13 (iii) the amount, if any, of accrued interest paid by the initial purchasers of such Series of Bonds  
14 shall be deposited into the Debt Service Account or the designated subaccount thereof; and  
15

16 (iv) the amount, if any, stipulated by Supplemental Ordinance (or by the Executive Officer if so  
17 authorized by the Supplemental Ordinance) to be deposited into any other Funds or Accounts shall be  
18 deposited in the designated Funds or Accounts.  
19

20 **Section 504. The Construction Account.**  
21

22 (a) **Deposits.** Upon the issuance and sale of each Series of Bonds there shall be paid into the  
23 Construction Account or a designated subaccount thereof:  
24

25 (i) the amounts, if any, required to be paid into the Construction Account or a designated  
26 subaccount thereof by the provisions of the Supplemental Ordinance authorizing the issuance of a Series of  
27 Bonds; and  
28

29 (ii) at the option of the Issuer, any Issuer Contribution to be used for the purpose of financing a  
30 portion of the items sought to be financed out of the proceeds of such Series of Bonds.  
31

32 (b) **Disbursements from Construction Account.** Except as otherwise expressly provided in a  
33 Supplemental Ordinance authorizing the issuance of a Series of Bonds, amounts on deposit in the Construction  
34 Account shall be applied to pay the costs of the related Project upon written requisition of the Issuer, signed by an  
35 Authorized Issuer Representative and given to the Trustee. Such payments for costs shall be made by the Trustee  
36 only upon compliance with any applicable conditions or requirements that may be set forth in any Supplemental  
37 Ordinance and upon receipt of such written requisition, which requisition shall state with respect to each payment to  
38 be made:  
39

40 (i) the requisition number;  
41

42 (ii) the name and address of the person, firm or corporation to whom payment is due or to whom a  
43 reimbursable advance, if any, has been made; and  
44

45 (iii) the amount to be paid.  
46

47 (c) **Additional Requirements Imposed By Supplemental Ordinance.** The Issuer may impose  
48 by Supplemental Ordinance additional procedures and covenants to be followed in connection with the withdrawal of  
49 amounts from the Construction Account or any Accounts thereof. Any such additional procedures and covenants

1 may be made applicable to all moneys on deposit from time to time in the Construction Account or only to moneys  
2 on deposit from time to time in various Accounts established within the Construction Account.

3  
4 (d) **Trustee May Rely on Written Instructions.** All requisitions and written instructions received  
5 by the Trustee, as required by this Section 504 in connection with the payment of moneys from the Construction  
6 Account and any Account thereof, may be relied upon by the Trustee in making such payments, without need to  
7 verify or investigate matters set forth in such instruments. The Trustee shall retain copies of all such requisitions  
8 and written instructions for a period of seven (7) years from the dates of receipt.

9  
10 (e) **Completion Certificate.** The completion of the acquisition and construction and, if applicable,  
11 acceptance testing, of any Project financed out of the proceeds of a Series of Bonds shall be evidenced by a certificate  
12 of the Authorized Issuer Representative, which shall be filed promptly with the Trustee, stating the date of such  
13 completion and the amount, if any, required in the opinion of the Authorized Issuer Representative for the payment  
14 of any remaining part of the costs of such Project, and that such Project has been completed in accordance with the  
15 plans and specifications therefor and the terms of any construction contract applicable thereto. Upon the filing of  
16 such certificate, the balance in the Construction Account (or in any separate Accounts thereof) in excess of the  
17 amount, if any, stated in such certificate and to the extent not then held for the purpose of paying the costs of any  
18 other Project:

19  
20 (i) as directed by the Issuer, shall be deposited in the Debt Service Account and applied to the  
21 retirement of the related Series of Bonds by purchase or redemption at the earliest date permissible under the  
22 terms of this Ordinance without the payment of a call premium or penalty on a date as determined by the  
23 certificate of an Authorized Issuer Representative delivered to the Trustee, *provided that*, if such Bonds are  
24 Tax-Exempt Obligations, then prior to any such application, the Issuer shall cause to be delivered to the  
25 Trustee an Opinion of Bond Counsel that such application will not adversely affect any the excludability of  
26 the interest on such Bonds from gross income for federal income tax purposes; and

27  
28 (ii) if such Bonds are Tax-Exempt Obligations, shall be invested at a yield not in excess of the  
29 yield on the related Bonds unless the Issuer causes to be delivered to the Trustee an Opinion of Bond  
30 Counsel to the effect that the failure to invest such moneys at a yield not in excess of the yield on the  
31 related Bonds will not adversely affect the excludability of the interest on such Bonds from gross income for  
32 federal income tax purposes;

33  
34 *provided, however, that* such amounts may, at the request of an Authorized Issuer Representative and, if such Bonds  
35 are Tax-Exempt Obligations, upon receipt by the Trustee of an Opinion from Bond Counsel to the effect that such  
36 use of such amounts will not adversely affect the excludability of the interest on such Bonds from gross income for  
37 federal income tax purposes, be:

38  
39 (1) retained in the Construction Account and applied to the payment of any costs of any other  
40 Project; or

41  
42 (2) withdrawn from the Construction Account and transferred to such other fund or account of the  
43 Issuer to be applied for any lawful purpose.

44  
45 **Section 505. The Debt Service Account.** On or before each Interest Payment Date for any Bonds  
46 issued hereunder there shall be deposited in the Debt Service Account from amounts on deposit in the General  
47 Revenue Bond Fund, as provided and in accordance with the priorities set forth in Section 501 hereof, an amount  
48 which, when added to any amounts on deposit in the Debt Service Account which are available for such purpose,

1 shall equal the principal, interest and redemption premium (if any) due on the Bonds on such Interest Payment Date  
2 (whether by virtue of the maturity, stated due date, call for redemption or otherwise).  
3

4 In addition, there shall be deposited into the Debt Service Account any moneys delivered by or on behalf of  
5 the Issuer to the Trustee for the purpose of effecting the redemption of any Bonds.  
6

7 The moneys on deposit from time to time in the Debt Service Account shall be used to pay when due the  
8 principal of, interest on, Accreted Value and Redemption Price of the Outstanding Bonds, and the Trustee shall  
9 transfer such moneys to the appropriate Paying Agent(s) for application to the payment when due of the principal of,  
10 interest on and Redemption Price of the Outstanding Bonds. Notwithstanding the foregoing or any other provision  
11 herein to the contrary, if any amount applied to the payment of principal of, interest on, Accreted Value or  
12 Redemption Price of any Bonds that would have been paid from the Debt Service Account is paid instead by amounts  
13 drawn or paid under a Credit Facility, amounts on deposit in the Debt Service Account, and allocable to such  
14 payment for said Bonds, shall be paid to the extent required under the related Credit Agreement to the related Credit  
15 Provider.  
16

#### 17 **Section 506. The Reserve Account.** 18

19 (a) **Deposits into Reserve Account.** In connection with each issuance of Bonds hereunder, the  
20 Issuer shall cause to be deposited in the Reserve Account an amount such that, when added to the amounts already on  
21 deposit in the Reserve Account, will cause the balance on deposit in the Reserve Account to at least equal the  
22 Reserve Requirement. For purposes of the foregoing provision, there shall be deemed to be deposited in the Reserve  
23 Account an amount equal to the amount available to be drawn by the Trustee under any Credit Facility given for the  
24 purpose of meeting in whole or in part the Reserve Requirement. The Trustee shall hold to the credit of the Reserve  
25 Account any Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement and shall  
26 draw upon or demand payment under such Credit Facility and apply the moneys so drawn or paid in accordance with  
27 the provisions of this Section 506.  
28

29 (b) **Withdrawals to Make Up Deficiencies.** If, on any date upon which any amounts of principal  
30 of or interest on the Outstanding Bonds are due and payable (including any amounts of principal due and payable  
31 pursuant to a Mandatory Redemption Schedule), the amounts on deposit in the Debt Service Account, when added to  
32 moneys drawn or available to be drawn under any Credit Facility for such purpose, are insufficient to pay all  
33 amounts of principal of, premium (if any) and interest on the Outstanding Bonds due on such date, then the Trustee  
34 shall withdraw from the Reserve Account, in the order of priority set forth below, an amount equal to such deficiency  
35 and apply the amount so withdrawn to the payment of the amounts of principal of, premium (if any) and interest due  
36 on the Outstanding Bonds on such date.  
37

38 Withdrawals from the Reserve Account shall be made in the following order of priority:  
39

40 First, from any cash on deposit in the Reserve Account;  
41

42 Second, from the liquidation proceeds of any investments made from moneys on deposit in the  
43 Reserve Account, with the Trustee first liquidating those investments with the shortest term to maturity  
44 unless otherwise instructed by the Issuer; and  
45

46 Third, from moneys drawn or paid under any Credit Facility given for the purpose of meeting in  
47 whole or in part the Reserve Requirement.  
48

1 (c) **Valuation of Reserve Account.** The amounts on deposit in the Reserve Account shall be  
2 determined by the Trustee:

3  
4 (i) on July 1 of each year;

5  
6 (ii) as of the date of issuance of any Bonds hereunder; and

7  
8 (iii) as of the date of any withdrawal from the Reserve Account for the purpose of making up any  
9 deficiencies in the Debt Service Account.

10  
11 For purposes of determining the amounts on deposit from time to time in the Reserve Account:

12  
13 (1) all investments shall be valued at the lower of:

14  
15 (A) the mean between the bid and asked price therefor as shown in the Wall Street  
16 Journal last published immediately prior to the date of such determination; or

17  
18 (B) the amortized cost of such investment; and

19  
20 (2) there shall be deemed to be on deposit in the Reserve Account an amount equal to the amount  
21 available to be drawn by the Trustee under any Credit Facility given for the purpose of meeting in whole or  
22 in part the Reserve Requirement.

23  
24 (d) **Withdrawals of Excess.** If, on any July 1 of any year, the amounts on deposit in the Reserve  
25 Account are in excess of the Reserve Requirement (with investments on deposit therein being valued as provided  
26 herein), then the Trustee shall promptly inform the Issuer of such fact and, if so instructed by the Issuer, shall  
27 withdraw from the Reserve Account an amount equal to such excess and transfer the amount so withdrawn to the  
28 Debt Service Account.

29  
30 (e) **Restoration of Amounts Withdrawn.** In the event that any amounts are withdrawn from the  
31 Reserve Account for the purpose of making up any deficiency in the Debt Service Account as described above, the  
32 Issuer shall cause to be deposited in the Reserve Account, from amounts on deposit in the General Revenue Bond  
33 Fund and in accordance with the priorities set forth in Section 501 hereof, an amount such that the amount on  
34 deposit in the Reserve Account shall at least equal the Reserve Requirement, which deposits shall be made in not  
35 more than eighteen equal monthly installments commencing on the first day of the month next succeeding the date  
36 of the withdrawal from the Reserve Account giving rise to such deficiency. In addition, in the event any amounts are  
37 drawn under a Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement in order  
38 to make up any deficiency in the Debt Service Account as described above, the Issuer shall, over a period of not to  
39 exceed eighteen months, cause the amount available to be drawn under such Credit Facility to be reinstated to an  
40 amount such that the total amount on deposit in the Reserve Account shall at least equal the Reserve Requirement.  
41 For purposes of this paragraph, the Trustee shall determine the amount on deposit in the Reserve Account as of the  
42 date upon which the Issuer makes the last deposit in the Reserve Account pursuant to the first sentence of this  
43 paragraph or as of the date upon which the Issuer has caused the Credit Facility to be reinstated in the amount  
44 required by the second sentence of this paragraph, as the case may be.

45  
46 In the event the amounts on deposit in the Reserve Account are less than the Reserve Requirement solely as  
47 a result of changes in the market prices of the investments made from moneys deposited therein, the Issuer shall have  
48 no obligation to restore any such deficiency except under the circumstance described in the immediately preceding  
49 paragraph and in connection with the issuance of any Bonds hereunder.

1  
2 (f) **Application to Final Payment.** All amounts on deposit in the Reserve Account may be applied  
3 to the final payment (whether at maturity, by prior redemption or by means of a defeasance as provided in  
4 Section 1201 hereof) of all Outstanding Bonds. In addition, in connection with the final payment or defeasance of  
5 some but not all of the Outstanding Bonds, an amount equal to the difference between:

6  
7 (i) the amounts on deposit in the Reserve Account immediately prior to such payment or  
8 defeasance; and  
9

10 (ii) the Reserve Requirement immediately following such payment or defeasance;  
11  
12 may be withdrawn from the Reserve Account and applied to such payment or defeasance.  
13

14 **Section 507. The Rebate Account.**  
15

16 (a) **Calculation of Rebate Amount; Deposits to and Withdrawals from Rebate**  
17 **Account.** The Issuer hereby covenants and agrees that, in accordance with the applicable provisions of the Code, it  
18 shall calculate, or cause to be calculated, the Rebate Amount accruing with respect to each issue of Bonds and each  
19 Financial Obligation as provided herein. Within 25 days after the close of each Calculation Period for each issue of  
20 Bonds and within 25 days after the final payment in full of all Bonds of a particular issue, the Trustee shall provide  
21 the Issuer and the Rebate Analyst (if any) with detailed information concerning the investments made during the  
22 Calculation Period just ended with any moneys related to such issue of Bonds held by the Issuer or the Trustee  
23 hereunder and the Issuer or the Rebate Analyst (if any) shall compute the Rebate Amount for such issue of Bonds in  
24 accordance with the requirements of Section 148(f) of the Code and shall provide to the Trustee a Rebate Report  
25 setting forth such calculations. Within 25 days after the close of each Calculation Period for each Financial  
26 Obligation and within 25 days after the final payment in full of each Financial Obligation, the Issuer or the Rebate  
27 Analyst (if any) shall compute the Rebate Amount for such Financial Obligation in accordance with the requirements  
28 of Section 148(f) of the Code and shall prepare a Rebate Report setting forth such calculations.  
29

30 In the event a Rebate Report shows a positive Rebate Amount, the Issuer shall, pursuant to and in  
31 Accordance with the priorities set forth in Section 501 hereof, make a Rebate Payment by, in the case of a Series of  
32 Bonds, immediately depositing into the Rebate Account an amount equal to such Rebate Amount and, in the case of  
33 an Financial Obligation, by setting aside in an appropriate manner an amount equal to such Rebate Amount.  
34

35 In the event that a Rebate Report shows that the amounts on deposit in the Rebate Account exceed the  
36 cumulative Rebate Amount with respect to all issues of Bonds for all prior Calculation Periods, the Trustee is  
37 directed to transfer an amount equal to the amount of such excess from the Rebate Account to the Debt Service  
38 Account (but only to the extent of any amounts on deposit in the Rebate Account).  
39

40 Amounts on deposit from time to time in the Rebate Account shall, to the extent practicable, be invested  
41 by the Trustee in such Government Obligations as the Issuer shall direct in writing.  
42

43 (b) **Payment of Rebate Amount to United States.** Not later than 30 days after each Installment  
44 Computation Date for each Series of Bonds, the Trustee shall pay to the United States of America, from moneys on  
45 deposit in the Rebate Account or, if moneys on deposit in the Rebate Account are insufficient or unavailable to  
46 make such payments, from moneys on deposit in the General Revenue Bond Fund in accordance with the priorities  
47 set forth in Section 501 hereof, at least 90% of the Excess Earnings during the preceding five Bond Years and 100%  
48 of the investment earnings on such Excess Earnings. In addition, not later than 60 days after each Final  
49 Computation Date for each Series of Bonds, the Trustee shall pay to the United States of America all amounts

1 required to be paid thereto pursuant to Section 148(f) of the Code as set forth in the final Rebate Report, said  
2 payment to be made out of moneys on deposit in the Rebate Account or, to the extent the moneys on deposit in the  
3 Rebate Account are insufficient for such purpose, out of moneys on deposit in the General Revenue Bond Fund in  
4 accordance with the priorities set forth in Section 501 hereof.  
5

6 Not later than 30 days after each Installment Computation Date for each Financial Obligation, the Issuer  
7 shall pay or cause to be paid to the United States of America, from moneys on deposit in the General Revenue Bond  
8 Fund in accordance with the priorities set forth in Section 501 hereof or from such other moneys as the Issuer may  
9 have set aside for such purpose, at least 90% of the Excess Earnings during the preceding five Bond Years and 100%  
10 of the investment earnings on such Excess Earnings. In addition, not later than 60 days after each Final  
11 Computation Date for each Financial Obligation, the Issuer shall pay or cause to be paid to the United States of  
12 America all amounts required to be paid thereto pursuant to Section 148(f) of the Code as set forth in the final  
13 Rebate Report for such Financial Obligation, said payment to be made out of moneys on deposit in the General  
14 Revenue Bond Fund in accordance with the priorities set forth in Section 501 hereof or out of other moneys set aside  
15 by the Issuer for such purpose.  
16

17 Notwithstanding anything expressed or implied herein to the contrary, it is the intent that there shall be paid  
18 to the United States of America, out of moneys on deposit in the Rebate Account or payments made by the Issuer  
19 pursuant to and in accordance with the priorities set forth in Section 501 hereof, all amounts required to be paid  
20 pursuant to Section 148(f) of the Code at the times required thereby.  
21

22 **(c) Payment of Penalty on Construction Issues.** The Issuer hereby covenants and agrees that if  
23 an issue of Bonds constitutes a construction issue within the meaning of Code Section 148(f)(4)(C)(iv) (or any  
24 successor provision thereto) and if the Issuer, pursuant to Code Section 148(f)(4)(C)(vii), elects in connection with  
25 such construction issue to pay a penalty in lieu of rebate, the Issuer shall deposit into the Rebate Account the  
26 amounts of such penalties as required by this Section 507(c). Such deposits shall be made no later than 60 days after  
27 each period to which a penalty relates, such periods being defined in Code Section 148(f)(4)(C)(ii). Not later than 90  
28 days after each period to which a penalty relates, the Trustee shall pay to the United States of America the amount of  
29 such penalty, such payment to be made from moneys on deposit in the Rebate Account or, if the moneys on deposit  
30 in the Rebate Account are insufficient or unavailable for such purpose, from payments made by the Issuer pursuant  
31 to and in accordance with the priorities set forth in Section 501 hereof.  
32

33 **(d) Conformance to the Code Requirements; "Issue of Bonds" Defined; Covenant to**  
34 **Survive Payment.** Notwithstanding anything expressed or implied herein to the contrary:  
35

36 (i) the provisions of this Section 507 may be amended from time to time by the Issuer and the  
37 Trustee without the consent of or notice to any Owners in order to conform to the requirements of the Code  
38 regarding the payment of the Rebate Amount to the United States of America or the manner or time of  
39 calculating such Rebate Amount; and  
40

41 (ii) in no event shall the Issuer be deemed to be in default in respect of its obligations under this  
42 Section 507 so long as all actions taken by the Issuer with respect to the calculation of the Rebate Amount  
43 and the payment thereof to the United States of America conform to the requirements of the Code as such  
44 requirements may be changed, modified or amended from time to time.  
45

46 As used in this Section 507 and as used in the definitions of the terms "Bond Year", "Calculation Period",  
47 "Excess Earnings" and "Rebate Amount" that appear in Article I hereof, the phrases "issue of Bonds" and "each  
48 Financial Obligation" or any words of similar import shall mean all Bonds of whatever Series and all Financial

1 Obligations howsoever incurred which, for purposes of the arbitrage rebate provisions of the Code, are considered to  
2 be a single "issue" of obligations.  
3

4 Notwithstanding anything expressed or implied herein or in any Supplemental Ordinance to the contrary,  
5 the covenants of the Issuer set forth in this Section 507 shall survive the payment in full and/or defeasance of all  
6 Outstanding Bonds or any particular issue of Bonds.  
7  
8  
9  
10  
11

## 12 **ARTICLE VI**

### 13 **DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS**

### 14 **AND INVESTMENT OF FUNDS**

15  
16  
17

18 **Section 601. Depositaries.** All moneys held by the Trustee or any Paying Agent under the  
19 provisions of this Ordinance or any Supplemental Ordinance may be deposited with one or more Depositaries in trust  
20 for the Trustee or any related Paying Agent and shall be applied only in accordance with the provisions of this  
21 Ordinance or the governing Supplemental Ordinance (as the case may be), and each of the Funds and Accounts shall  
22 be a trust fund for the purposes specified in the ordinance establishing such Fund or Account.  
23

24 **Section 602. Deposits and Investments.** Except as otherwise expressly provided in a  
25 Supplemental Ordinance or in this Ordinance, all moneys held by any Fiduciary under this Ordinance or any  
26 Supplemental Ordinance, to the extent not invested pursuant to the applicable provisions of a Supplemental  
27 Ordinance, may be invested in Permitted Investments, *provided that* such investments shall permit the moneys so  
28 held to be available for use at the time when needed. The Depositary shall not be liable for any loss or depreciation  
29 in value resulting from any investment made pursuant to this Ordinance or the applicable provisions of any  
30 Supplemental Ordinance. Any such investment consisting of a demand or time deposit may be made through the  
31 commercial or trust banking department of any Fiduciary, acting as a Depositary, which may honor checks and drafts  
32 on such deposit with the same force and effect as if it were not such Fiduciary. Such moneys held by any Fiduciary,  
33 as such, may be deposited by such Fiduciary in its banking department on demand or, if and to the extent directed by  
34 the Issuer and acceptable to such Fiduciary, on time deposit, provided that such moneys on deposit be available for  
35 use at the time when needed. Such Fiduciary shall allow and credit on such moneys such interest, if any, as it  
36 customarily allows upon similar funds of similar size and under similar conditions or as required by law. The  
37 moneys on deposit from time to time in any Fund or Account may be commingled for purposes of investment with  
38 the moneys on deposit in any other Fund or Account.  
39

40 **Section 603. Valuation and Sale of Investments.** Obligations purchased as an investment of  
41 moneys in any Fund or Account created under the provisions of this Ordinance or any Supplemental Ordinance shall  
42 be deemed at all times to be a part of such Fund or Account and any profit realized from the liquidation of such  
43 investment shall be credited to such Fund or Account and any loss resulting from the liquidation of such investment  
44 shall be charged to the respective Fund or Account.  
45

46 The amount on deposit in each Fund and Account created under the provisions of this Ordinance or any  
47 Supplemental Ordinance shall be computed at such periodic intervals as shall be specified pursuant to a  
48 Supplemental Ordinance. Except as otherwise expressly provided in this Ordinance or a Supplemental Ordinance, in

1 computing the amount in any Fund or Account created under the provisions of this Ordinance or any Supplemental  
2 Ordinance for any purpose provided in this Ordinance or any Supplemental Ordinance, obligations purchased as an  
3 investment of moneys therein shall be valued at the lesser of market value or amortized cost of such obligations,  
4 exclusive of accrued interest.  
5

6 Except as otherwise provided in a Supplemental Ordinance, the Trustee shall sell at the best price  
7 reasonably obtainable, or present for redemption, any obligation so purchased as an investment whenever it shall be  
8 directed by the Issuer or another party authorized to give such direction so to do or whenever it shall be necessary in  
9 order to provide moneys to meet any payment or transfer from any Fund or Account held by it. The Trustee shall  
10 not be liable or responsible for making any such investment in the manner provided above or for any loss resulting  
11 from any such investment.  
12  
13  
14  
15  
16

## 17 **ARTICLE VII**

### 18 **PARTICULAR COVENANTS OF THE ISSUER**

19  
20 **Section 701. General Covenants.** The Issuer covenants and agrees with the Trustee and the Owners  
21 of the Outstanding Bonds issued hereunder from time to time that, so long as any Bonds remain Outstanding:  
22

23 (a) **Payment of Bonds.** The Issuer shall duly and punctually pay or cause to be paid, but solely from  
24 Revenues, Available Funds and the Trust Estate, the principal of, premium, if any, and interest on every Bond and  
25 any obligations under any Credit Agreement at the dates and places and in the manner mentioned in the Bonds or any  
26 Credit Agreement, according to the true intent and meaning thereof, subject to the provisions of this Ordinance and  
27 the applicable provisions of any Supplemental Ordinance.  
28

29 (b) **Extension of Payment of Bonds.** The Issuer shall not directly or indirectly extend or assent to  
30 the extension of the maturity of any of the Bonds or the time of payment of any interest on the Bonds. Nothing  
31 herein shall be deemed to limit the right of the Issuer to issue Refunding Obligations and such issuance shall not be  
32 deemed to constitute an extension of maturity of Bonds.  
33

34 (c) **Further Assurance.** At any and all times the Issuer shall, as far as it may be authorized by law,  
35 comply with any reasonable request of the Trustee to pass, make, do, execute, acknowledge and deliver, all and every  
36 such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or  
37 desirable for the better assuring, pledging, assigning and confirming in all and singular the rights, the Trust Estate  
38 and other moneys, securities and funds pledged or assigned as security for any Series of Bonds, or intended so to be,  
39 or which the Issuer may become bound to pledge or assign.  
40

41 (d) **Power to Issue Bonds and to Pledge the Trust Estate and Other Funds.** The Issuer, at  
42 the time of enactment of this Ordinance and the issuance of the first Series of Bonds hereunder, is, and at the time of  
43 enactment of any Supplemental Ordinance and the issuance of any Series of Bonds thereunder, will be, duly  
44 authorized under all applicable laws to issue the Bonds and to enact this Ordinance and to pledge the Trust Estate and  
45 other moneys, securities and funds purported to be pledged as security for particular Series of Bonds in the manner  
46 and to the extent provided in this Ordinance and any Supplemental Ordinance. Except to the extent otherwise  
47 provided in this Ordinance or any Supplemental Ordinance, the Trust Estate and other moneys, securities and funds  
48 so pledged are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto



1 prior to, or of equal rank with, the pledge created by this Ordinance or any Supplemental Ordinance, and all action on  
2 the part of the Issuer to that end has been and will be duly and validly taken. The Bonds and the provisions of this  
3 Ordinance and each Supplemental Ordinance are and will be the valid and legally enforceable obligations of the Issuer  
4 in accordance with their terms and the terms of this Ordinance and such Supplemental Ordinance. The Issuer shall at  
5 all times, to the extent permitted by law, defend, preserve and protect the pledges of the Trust Estate and other  
6 moneys, securities and funds pledged under this Ordinance and any Supplemental Ordinance and all the rights of the  
7 Owners of the Bonds and the Credit Providers, if any, under this Ordinance, any Supplemental Ordinance and any  
8 Credit Agreement, respectively, against all claims and demands of all persons whomsoever.

9  
10 (e) **General Tax Covenants.** Except with respect to Bonds issued by the Issuer which are not  
11 Tax-Exempt Obligations, the Issuer will take all actions within its control required by the Code as necessary to  
12 preserve the exclusion of interest received on Bonds issued or, then to be issued, from gross income for federal  
13 income tax purposes.

14  
15 The Issuer will not direct or permit any action within its control which would cause any Bond issued as a  
16 Tax-Exempt Obligation to be or become an "arbitrage bond" within the meaning of section 148 of the Code or direct  
17 or permit any action inconsistent with the applicable regulations thereunder as amended from time to time and as  
18 applicable to such Bond.

19  
20 Except with respect to Bonds issued by the Issuer which are not Tax-Exempt Obligations, the Issuer shall at  
21 all times comply with the Tax Covenants.

22  
23 (f) **Performance of Covenants in General.** The Issuer shall do and perform or cause to be done  
24 and performed all acts and things required to be done or performed by or on behalf of the Issuer under the provisions  
25 of the Act, this Ordinance and each Supplemental Ordinance. Upon the date of authentication and delivery of any of  
26 the Bonds, all conditions, acts and things required by law and this Ordinance and any applicable Supplemental  
27 Ordinance to exist, to have happened and to have been performed precedent to and in the issuance of such Bonds shall  
28 exist, have happened and have been performed and the issue of such Bonds, together with all other indebtedness of the  
29 Issuer, shall comply in all respects with the applicable laws of the State.

30  
31 **Section 702. Financial and Related Covenants.** The Issuer covenants and agrees with the  
32 Trustee and the Owners of the Outstanding Bonds issued hereunder from time to time that, so long as any Bonds  
33 remain Outstanding:

34  
35 (a) **Accounts and Reports.** The Issuer shall keep or cause to be kept proper books of records and  
36 accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its  
37 transactions relating to the Funds and Accounts established under this Ordinance and the operations and activities of  
38 each Department, and which books of records and accounts, together with all other books and papers of the Issuer  
39 relating to this Ordinance and any Bonds issued hereunder, shall at all times be subject to the inspection of the  
40 Trustee, the issuers of any Credit Facility for the Bonds and the Owners of an aggregate of not less than 5% in  
41 principal amount of the Bonds then Outstanding or their representatives duly authorized in writing.

42  
43 Except as otherwise expressly provided in a Supplemental Ordinance authorizing the issuance of a Series of  
44 Bonds, the Trustee shall advise the Issuer and the issuer of any Credit Facility for a Series of Bonds within ten (10)  
45 days after the end of each month of the respective transactions during such month relating to each Fund and Account  
46 held by it under this Ordinance. The Issuer and the issuer of any Credit Facility for a Series of Bonds shall have the  
47 right upon reasonable notice and during reasonable business hours to audit the books and records of the Trustee with  
48 respect to the Funds and Accounts held by the Trustee under this Ordinance.

1 Within one hundred eighty (180) days after the close of each Fiscal Year, the Issuer shall cause to be filed  
2 with the Trustee and the issuer of any Credit Facility for a Series of Bonds, and otherwise as provided by law, a copy  
3 of the Issuer's annual audit report for such Fiscal Year, accompanied by an Accountant's Opinion, and including the  
4 following statements in reasonable detail: a statement of assets and liabilities as of the end of such Fiscal Year; and  
5 a summary with respect to each Fund and Account established under this Ordinance for the Bonds of the receipts  
6 therein and disbursements therefrom during such Fiscal Year and the amount held therein at the end of such Fiscal  
7 Year. Such Accountant's Opinion shall state whether or not, to the knowledge of the signer, the Issuer is in default  
8 with respect to any of the covenants, agreements or conditions on its part contained in this Ordinance, and if so, the  
9 nature of such default.

10  
11 The Issuer shall file with the Trustee and the issuer of any Credit Facility for a Series of Bonds:

12  
13 (i) forthwith upon becoming aware of any Event of Default or default in the performance by the  
14 Issuer of any covenant, agreement or condition contained in this Ordinance with respect to the Bonds, a  
15 certificate of an Authorized Issuer Representative specifying such Event of Default or default; and

16  
17 (ii) simultaneous with the filing of the annual audit report described above, a certificate of an  
18 Authorized Issuer Representative stating that, to the best of the signer's knowledge and belief, the Issuer has  
19 kept, observed, performed and fulfilled its covenants and obligations contained in this Ordinance with  
20 respect to the Bonds and there does not exist at the date of such certificate any default by the Issuer under  
21 this Ordinance with respect to the Bonds or any Event of Default or other event which, with the giving of  
22 notice or the lapse of time or both, would become a Event of Default, or, if any such default or Event of  
23 Default or other event shall so exist, specifying the same and the nature and status thereof.

24  
25 The reports, statements and other documents required to be furnished to the Trustee pursuant to any  
26 provisions of this Ordinance shall be available for the inspection of Owners of the Bonds at the office of the Trustee  
27 and shall be mailed to each such Owner who shall file a written request therefor with the Trustee. The Trustee shall  
28 charge each Owner requesting such reports, statements and other documents a reasonable fee to cover reproduction,  
29 handling and postage.

30  
31 The covenants set forth in this Section 702(a) shall be applicable only from and after the issuance of the  
32 first Series of Bonds hereunder.

33  
34 (b) **Acquisition and Construction of any Project and its Operation and Maintenance.**  
35 The Issuer shall use its best efforts to cause any Project financed in whole or in part out of the proceeds of any Bonds  
36 to be acquired and constructed in accordance with due diligence and in a sound and economical manner. The Issuer  
37 shall use its best efforts at all times to cause each such Project to be operated properly and in an efficient and  
38 economical manner, and shall cause the same to be maintained, preserved, reconstructed and kept, with the  
39 appurtenances and every part and parcel thereof, in good repair, working order and condition.

40  
41 (c) **Payment of Taxes and Charges.** The Issuer from time to time duly will pay and discharge, or  
42 cause to be paid and discharged, all taxes, assessments and other governmental charges, or required payments in lieu  
43 thereof, lawfully imposed upon the Issuer, its assets or properties or its operations, or upon any Project financed in  
44 whole or in part from the proceeds of any Bonds, or upon the rights, revenues, income, receipts, and other moneys,  
45 securities and funds of the Issuer, when the same shall become due (including all rights, moneys and other property  
46 transferred, assigned or pledged under this Ordinance or any Supplemental Ordinance in connection with any Bonds),  
47 and all lawful claims for labor and material and supplies, except those taxes, assessments, charges or claims which  
48 the Issuer shall in good faith contest by proper legal proceedings if the Issuer shall in all such cases have set aside on  
49 its books reserves deemed adequate with respect thereto.

1  
2 (d) Collection of Revenues. The Issuer shall take all necessary legal action to assure the collection  
3 of all Revenues.  
4

5 (e) Creation of Liens. Except as otherwise provided in Section 205 hereof, the Issuer hereafter shall  
6 not issue any bonds, notes, debentures, or other evidences of indebtedness of similar nature payable out of or secured  
7 by the pledge or assignment of the Trust Estate on a parity with or prior to the payment of the amounts owing under  
8 and with respect to the Bonds and shall not create or cause to be created any lien or charge on the Trust Estate equal  
9 or superior to the lien on the Trust Estate securing the Bonds; *provided, however, that* nothing contained in this  
10 Ordinance shall prevent the Issuer from issuing or incurring, if and to the extent permitted by law, indebtedness:  
11

12 (i) payable out of moneys in the Construction Account as part of the Capital Costs of any Project  
13 to be financed in whole or part out of the proceeds of any Bonds;  
14

15 (ii) payable out of, or secured by, a pledge and assignment of any part of the Trust Estate to be  
16 derived on and after such date as the pledge of the Trust Estate provided in this Ordinance shall be discharged  
17 and satisfied as provided in Section 1201 hereof; or  
18

19 (iii) arising under any Credit Agreement pursuant to which a Credit Facility is given as security  
20 for some or all of the Outstanding Bonds or for the purpose of meeting the Reserve Requirement, it being  
21 expressly understood that the Issuer reserves the right to pledge the Trust Estate as security for the  
22 obligations arising under such Credit Agreement as permitted under Section 204 hereof.  
23

24 In addition, the Issuer shall not hereafter pledge or create any liens against the Revenues or Available Funds  
25 as security for the payment of any Debt Obligation or bond, note, indebtedness or other financing instrument,  
26 regardless of whether such pledge or lien is on a parity with or prior to the payment of the amounts owing under and  
27 with respect to the Bonds out of the Revenues and Available Funds; *provided, however, that* nothing contained in  
28 this Ordinance shall prevent the Issuer from:  
29

30 (i) pledging and creating a lien on the Department Revenues of a particular Department as security  
31 for Department Obligations issued or incurred for the benefit of such Department;  
32

33 (ii) incurring any indebtedness payable out of, or secured by, a pledge and assignment of any part  
34 of the Revenues to be derived on and after such date as Bonds are no longer Outstanding hereunder; or  
35

36 (iii) issuing or incurring Subordinated Debt.  
37

38 (f) Annual Budget. On or before the fifteenth day of each Fiscal Year, the Issuer shall adopt and file  
39 with the Trustee and any issuer of any Credit Facility given as security for any Bonds an Annual Budget for such  
40 Fiscal Year, which shall comply with all applicable laws.  
41

42 Each such Annual Budget shall set forth in reasonable detail the estimated Revenues and expenditures of the  
43 Issuer, and shall include as separate line items the estimated Department Assessment for each Department for such  
44 Fiscal Year, any General Assessment for such Fiscal Year, the estimated amounts to be deposited in such Fiscal Year  
45 in the Reserve Account and the Debt Service Account, and the amounts to be applied to pay the debt service on  
46 Financial Obligations and otherwise meet the requirements of Section 501(a)(i), (ii), (iii) and (iv) with respect to  
47 Financial Obligations.  
48

1 Such Annual Budget shall be structured so as to permit compliance by the Issuer with the Issuer's covenant  
2 with respect to Total Assessments set forth in Section 501(b). Such Annual Budget also shall set forth such detail  
3 with respect to such Revenues and other expenditures and such deposits, as shall be required by law and may set forth  
4 such additional material as the Issuer may determine.  
5

6 Following the end of each quarter of each Fiscal Year the Issuer shall review its estimates set forth in the  
7 Annual Budget for such Fiscal Year, and in the event such estimates do not substantially correspond with actual  
8 Revenues, expenditures, debt service or other requirements as set forth above, the Issuer shall, in accordance with the  
9 applicable requirements of law, revise such Annual Budget for the remainder of such Fiscal Year, a copy of which  
10 revised Annual Budget shall be filed with the Trustee and any Credit Provider. If there are at any time during any  
11 such Fiscal Year extraordinary receipts or payments of unusual costs, the Issuer shall, in accordance with the  
12 applicable requirements of law, revise such Annual Budget for the remainder of such Fiscal Year, a copy of which  
13 revised Annual Budget shall be filed with the Trustee.  
14

15 (g) **Limitations on Expenditures and Other Costs.** The Issuer shall not incur expenditures or  
16 other costs payable from the Revenues in any Fiscal Year in excess of the reasonable and necessary amount of such  
17 expenses or costs, respectively.  
18

19 (h) **Revenue Covenant.** At all times, the Issuer shall establish, levy, impose, maintain and collect  
20 fees, rates and charges with respect to its undertakings and operations and, subject to the limitations imposed by law,  
21 taxes, as shall be necessary to provide the Revenues needed to pay all Expenditures and to make the required Total  
22 Assessments in each Fiscal Year.  
23

24 (i) **Maintenance of Insurance.** The Issuer shall at all times keep or cause to be kept its properties  
25 which are of an insurable nature and of the character usually insured by those constructing or operating similar  
26 properties insured against loss or damage by fire and from other causes customarily insured against and in such  
27 relative amounts as are usually obtained. The Issuer shall maintain or cause to be maintained insurance or reserves  
28 against loss or damage from such hazards and risks to the person and property of others as are usually insured or  
29 reserved against by those constructing or operating properties similar to the properties of the Issuer. The Issuer shall  
30 maintain or cause to be maintained any and all such insurance as may be required by law.  
31

32 Any such insurance shall be:  
33

34 (i) in the form of policies or contracts for insurance with insurers of good standing and shall be  
35 payable to the Issuer; or  
36

37 (ii) in the form of self-insurance.  
38

39 The Issuer agrees that it will, pursuant to a Supplemental Ordinance, establish such fund or funds or reserves as are  
40 necessary to provide for its share of any such self-insurance.  
41

42 The Issuer shall file or cause to be filed with the Trustee annually, within 100 days after the close of each  
43 Fiscal Year, a certificate setting forth:  
44

45 (A) a description in reasonable detail of the insurance then in effect, including any self-insurance  
46 fund maintained, pursuant to the requirements of this Section 702(i); and  
47

1 (B) whether during such year any portion of the System has been damaged or destroyed and, if so,  
2 the amount of insurance proceeds, including the proceeds of any self-insurance fund, covering such loss or  
3 damage and specifying the reasonable and necessary costs of reconstruction or replacement thereof.  
4

5 (j) **Prudent Use of Projects.** The Issuer shall use, occupy, operate and otherwise deal with all  
6 Projects financed out of the proceeds of any Bonds issued hereunder in a prudent manner consistent with, and in a  
7 manner which, in the Issuer's judgment, is designed to promote the efficient and effective prosecution of, the  
8 governmental functions and duties of the Issuer and to enable the Issuer to make, in accordance with all applicable  
9 legal requirements, Department Assessments which, together with any General Assessments, will be sufficient to  
10 provide the Total Assessments required hereunder in each Fiscal Year.  
11

## 12 13 14 15 16 **ARTICLE VIII** 17 **EVENTS OF DEFAULT;** 18 **REMEDIES OF BONDHOLDERS**

19  
20 **Section 801. Events of Default.** The occurrence of any one or more of the following events shall  
21 constitute a "Event of Default":  
22

23 (i) if default shall be made by the Issuer in the due and punctual payment of the principal of,  
24 premium (if any) or interest on any Bond when and as the same shall become due and payable, whether at  
25 maturity or by call for redemption, or otherwise;  
26

27 (ii) if default with respect to the Bonds shall be made by the Issuer in the performance or  
28 observance of any other of the covenants, agreements or conditions on its part in this Ordinance, any  
29 Supplemental Ordinance or in the Bonds contained, and such default shall continue for a period of sixty (60)  
30 days after written notice thereof to the Issuer by the Trustee or to the Issuer and to the Trustee by the  
31 Owners of not less than fifty percent (50%) in principal amount of the Bonds outstanding;  
32

33 (iii) if the Issuer shall file a petition or otherwise seek relief under any federal or state bankruptcy  
34 law or similar law;  
35

36 (iv) if an order or decree shall be entered, with the consent or acquiescence of the Issuer,  
37 appointing a receiver or receivers of for the Issuer, or any substantial part of its properties or operations, or  
38 of any substantial part of the Revenues, or if such order or decree having been entered without the consent  
39 or acquiescence of the Issuer, shall not be vacated or discharged or stayed within ninety (90) days after the  
40 entry thereof;  
41

42 (v) written notice shall have been received by the Trustee from the issuer of a Credit Facility for  
43 any Series of Bonds that an event of default has occurred under the related Credit Agreement or there shall  
44 have been a failure by said issuer to make said Credit Facility available or to reinstate the interest  
45 component of said Credit Facility in accordance with the terms of said Credit Facility, to the extent said  
46 notice or failure is established as an event of default under the terms of any Supplemental Ordinance  
47 executed and delivered in connection with the issuance of any Series of Bonds; or  
48

1 (vi) the occurrence of any other event that shall be expressly stated to constitute an Event of  
2 Default under any Supplemental Ordinance relating to the Bonds.  
3

4 So long as an Event of Default shall have occurred and be continuing, unless the principal of all the Bonds shall  
5 have already become due and payable, the Trustee (by notice in writing to the Issuer) may, and upon the written  
6 request of the Owners of not less than fifty percent (50%) in principal amount of the Bonds Outstanding (by notice  
7 in writing to the Issuer and the Trustee), shall declare the principal of all the Bonds then Outstanding, and the interest  
8 accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and be  
9 immediately due and payable, anything in this Ordinance or in any Supplemental Ordinance contained to the contrary  
10 notwithstanding.  
11

12 The right of the Trustee or of the Owners of not less than fifty percent (50%) in principal amount of Bonds  
13 then Outstanding to make any such declaration as aforesaid, however, is subject to the condition that if, at any time  
14 after such declaration, but before the Bonds shall have matured by their terms, all overdue installments of interest  
15 upon the Bonds, together with interest on such overdue installments of interest to the extent permitted by law and  
16 the reasonable and proper charges, expenses and liabilities of the Trustee, and all other sums then payable by the  
17 Issuer or the Trustee under this Ordinance (except the principal of, and interest accrued since the next preceding  
18 Interest Payment Date on the Bonds due and payable solely by virtue of such declaration) shall be paid for the  
19 account of the Issuer or provision satisfactory to the Trustee shall be made for such payment, and all defaults under  
20 the Bonds or under this Ordinance (other than the payment of principal and interest due and payable solely by reason  
21 of such declaration) shall be cured or be secured to the satisfaction of the Trustee or provision deemed by the Trustee  
22 to be adequate shall be made therefor, then and in every such case the Trustee, by written notice to the Issuer and the  
23 Owners of the Outstanding Bonds, or the Owners of fifty percent (50%) in principal amount of the Bonds  
24 Outstanding, by written notice to the Issuer and to the Trustee, may rescind such declaration and annul such default  
25 in its entirety, but no such recession or annulment shall extend to or affect any subsequent default or impair or  
26 exhaust any right or power consequent thereon.  
27

28 **Section 802. Accounting and Examination of Records After Default.** The Issuer covenants  
29 that if an Event of Default shall have happened and shall not have been remedied, the books of record and accounts of  
30 the Issuer and all other records relating to the Revenues shall at all times be subject to the inspection and use of the  
31 Trustee and of its agents and attorneys.  
32

33 The Issuer covenants that if an Event of Default shall have happened and shall not have been remedied, the  
34 Issuer, upon demand of the Trustee, will account, as if it were the trustee of an express trust, for all Revenues and  
35 other moneys, securities and funds pledged or held under this Ordinance for such period as shall be stated in such  
36 demand.  
37

38 **Section 803. Application of Revenues and Other Moneys After Default.** The Issuer  
39 covenants that if an Event of Default shall happen and shall not have been remedied, the Issuer, upon the demand of  
40 the Trustee, shall cause to be paid over to the Trustee:  
41

42 (a) forthwith, all moneys, securities and funds held by the Issuer or a Depositary in any Fund or  
43 Account established under this Ordinance or any Supplemental Ordinance with respect to the Bonds; and  
44

45 (b) as promptly as practicable after receipt thereof, all Total Assessments or other Revenues and  
46 Available Funds needed to meet the Issuer's obligations hereunder.  
47

48 During the continuance of an Event of Default, the Trustee shall apply all moneys, securities, funds, <sup>and</sup> Total  
49 Assessments and other Revenues and Available Funds received by the Trustee pursuant to any right given or action

1 taken under the provisions of this Article or held by the Trustee in any Fund or Account established with respect to  
2 the Bonds (other than the Rebate Fund) as follows and in the following order:  
3

4 (i) **Rebate Payments:** to the payment of any amounts required to be rebated to the United  
5 States of America in accordance with the Rebate Covenants described in Section 513 hereof;  
6

7 (ii) **Expenses of Fiduciaries:** to the payment of the reasonable and proper charges,  
8 expenses and liabilities of the Fiduciaries for the Bonds;  
9

10 (iii) **Payment of Bonds and Financial Obligations:** to the payment of the interest  
11 and principal then due on the Outstanding Debt Obligations (other than any Debt Obligations which  
12 constitute Subordinated Debt) and for payment of obligations under any Credit Agreement relating to a  
13 Credit Facility given as security for any Series of Debt Obligation (other than any Debt Obligations which  
14 constitute Subordinated Debt), but not including a Credit Facility given for the purpose of meeting in  
15 whole or in part the related Reserve Requirement, as follows:  
16

17 (A) unless the principal of all of the Bonds shall have become or have been declared due  
18 and payable,  
19

20 **First:** To the payment to the persons entitled thereto of all installments of  
21 interest then due on the Outstanding Debt Obligations in the order of the  
22 maturity of such installments together with accrued and unpaid interest on the  
23 Debt Obligations theretofore called for redemption or prepayment, and, if the  
24 amount available shall not be sufficient to pay in full any installment or  
25 installments maturing on the same date, then to the payment thereof ratably,  
26 according to the amounts due thereon, to the persons entitled thereto, without  
27 any discrimination or preference;  
28

29 **Second:** To the payment to the persons entitled thereto of the unpaid principal  
30 of any Outstanding Debt Obligations which shall have become due, whether at  
31 maturity or by call for redemption or prepayment, in the order of their due dates,  
32 and, if the amount available shall not be sufficient to pay in full all the Debt  
33 Obligations due on any date, then to the payment thereof ratably, according to  
34 the amounts of principal due on such date, to the persons entitled thereto,  
35 without any discrimination or preference;  
36

37 **Third:** To the payment of any amounts owing to the issuer or issuers of any  
38 Credit Facility given as security for any Series of Debt Obligations (other than a  
39 Credit Facility given for the purpose of meeting in whole or in part the related  
40 Reserve Requirement) entitled thereto, of the obligations due and payable, ratably  
41 according to the amounts due thereon, without any discrimination or preference;  
42 and  
43

44 **Fourth:** To the payment of any amounts owing to the issuer or issuers of any  
45 Credit Facility given for the purpose of meeting in whole or in part the Reserve  
46 Requirement or the Reserve Requirement for any Debt Obligation; and  
47

48 (B) if the principal of all of the Bonds shall have become or have been declared due and  
49 payable:

1  
2  
3 First: to the payment of the principal and interest then due and unpaid upon  
4 the Outstanding Debt Obligations and for payment of obligations under any  
5 Credit Agreement relating to a Credit Facility given as security for any Series of  
6 Debt Obligations (other than a Credit Facility given for the purpose of meeting  
7 in whole or in part the related Reserve Requirement), without preference or  
8 priority of principal over interest or of interest over principal, or of any  
9 installment of interest over any other installment of interest, or of any Bond or  
10 any such Financial Obligation or Credit Agreement over any other Bond,  
11 Financial Obligation or Credit Agreement, ratably, according to the amounts due  
12 respectively of principal and interest, to the persons entitled thereto without any  
13 discrimination or preference except as to any difference in the respective rates of  
14 interest specified in the Bonds, Financial Obligation or Credit Agreement, of the  
15 obligations due and payable, ratably according to the amounts due thereon,  
16 without any discrimination or preference; and

17  
18 Second: to the payment of any amounts owing under a Credit Agreement  
19 relating to a Credit Facility given for the purpose of meeting in whole or in part  
20 the related Reserve Requirement for any Outstanding Debt Obligation.

21 With respect to the payment of any Financial Obligation out of Total Assessments or other Revenues or  
22 Available Funds collected by the Trustee pursuant to this Article following the occurrence of an Event of Default  
23 hereunder, the Trustee shall cause such Total Assessments or other Revenues or Available Funds to be paid, in  
24 accordance with the priorities set forth above, to the person or persons entitled to the same as set forth in the related  
25 Financing Agreement.

26  
27 If and whenever all overdue installments of interest on all Debt Obligations, or under any Credit Agreement  
28 relating to a Credit Facility given as security for a Series of Debt Obligations, together with the reasonable and  
29 proper charges, expenses and liabilities of the Trustee, and all other sums payable for the account of the Issuer under  
30 this Ordinance shall be paid for by the account of the Issuer, or provision satisfactory to the Trustee shall be made  
31 for such payment, and all defaults under this Ordinance or the Bonds or under any Credit Agreement relating to a  
32 Credit Facility given as security for a Series of Debt Obligations, shall be made good or secured to the satisfaction of  
33 the Trustee or provision deemed by the Trustee to be adequate shall be made therefor, the Trustee shall pay over all  
34 moneys, securities, and funds then remaining unexpended in the hands of the Trustee (except moneys, securities and  
35 funds deposited or pledged, or required by the terms of this Ordinance or any Supplemental Ordinance to be deposited  
36 or pledged, with the Trustee), and thereupon the Issuer and the Trustee shall be restored, respectively, to their former  
37 positions and rights under this Ordinance and all Supplemental Ordinances. No such payment by the Trustee nor  
38 such restoration of the Issuer and the Trustee to their former positions and rights shall extend to or affect any  
39 subsequent default under this Ordinance or any Supplemental ordinance relating to the Bonds or impair any right  
40 consequent thereon.

41  
42 Section 804. Appointment of Receiver. Upon the occurrence of an Event of Default, and upon  
43 the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the  
44 Owners of the Bonds under this Ordinance, the Trustee shall be entitled to make application for the appointment of a  
45 receiver or custodian of the Revenues and Available Funds for the purpose of collecting the Total Assessments  
46 required to be made hereunder, with such power as the court making such appointment shall confer.

47  
48 Section 805. Proceedings Brought by Trustee. If an Event of Default shall happen and shall not  
49 have been remedied, then and in every such case, the Trustee, by its agents and attorneys, may proceed, and upon



1 written request of the Owners of not less than twenty-five percent (25%) in principal amount of the Bonds  
2 Outstanding shall proceed, to protect and enforce its rights and the rights of the Owners of the Bonds or the issuer of  
3 any Credit Facility given as security for any Series of Bonds, under this Ordinance forthwith by a suit or suits in  
4 equity or at law, whether for the specific performance of any covenant herein contained, or in aid of the execution of  
5 any power herein granted or any remedy granted under the Act, or for an accounting against the Issuer as if the Issuer  
6 were the trustee of an express trust, or in the enforcement of and other legal or equitable right as the Trustee, being  
7 advised by counsel, shall deem most effectual to enforce any of its rights or to perform any of its duties under this  
8 Ordinance.  
9

10 All rights of action under this Ordinance may be enforced by the Trustee without the possession of any of  
11 the Bonds or the production thereof on the trial or other proceedings, and any such suit or proceedings instituted by  
12 the Trustee shall be brought in its name.  
13

14 The Owners of not less than a majority in principal amount of the Bonds at the time Outstanding may  
15 direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or of  
16 exercising any trust or power conferred upon the Trustee, *provided that* the Trustee shall have the right to decline to  
17 follow any such direction if the Trustee shall not be provided adequate security and indemnity or shall be advised by  
18 counsel that the action or proceeding so directed may not lawfully be taken or shall be inconsistent with the  
19 provisions of this Ordinance, or if the Trustee in good faith shall determine that the action or proceeding so directed  
20 would involve the Trustee in personal liability or be unjustly prejudicial to the Owners of Bonds not parties to such  
21 direction.  
22

23 Upon commencing a suit in equity or upon other commencement of judicial proceedings by the Trustee to  
24 enforce any right under this Ordinance, the Trustee shall be entitled to exercise any and all rights and powers  
25 conferred in this Ordinance and provided to be exercised by the Trustee upon the occurrence of any Event of Default.  
26

27 Regardless of the happening of an Event of Default, the Trustee shall have power to, but unless requested in  
28 writing by the Owners of a majority in principal amount of the Bonds then Outstanding, and furnished with  
29 reasonable security and indemnity, shall be under no obligation to, institute and maintain such suits and proceedings  
30 as it may be advised shall be necessary or expedient to prevent any impairment of the security under this Ordinance  
31 by any acts which may be unlawful or in violation of this Ordinance, and such suits and proceedings as the Trustee  
32 may be advised shall be necessary or expedient to preserve or protect its interests and the interests of the Owners of  
33 the Outstanding Bonds.  
34

35 **Section 806. Restriction on Bondholder's Action.** No Owner of any Bond shall have any right  
36 to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of this Ordinance  
37 or the execution of any trust under this Ordinance or for any remedy under this Ordinance, unless such Owner shall  
38 have previously given to the Trustee written notice of the happening of an Event of Default, as provided in this  
39 Article, and the Owners of at least 25% in principal amount of the Bonds then outstanding shall have filed a written  
40 request with the Trustee, and shall have offered it reasonable opportunity, either to exercise the powers granted in this  
41 Ordinance or by the Act or by the laws of the State or to institute such action, suit or proceeding in its own name,  
42 and unless such Owners shall have offered to the Trustee adequate security and indemnity against the costs, expenses  
43 and liabilities to be incurred therein or thereby, and the Trustee shall have refused to comply with such request for a  
44 period of sixty (60) days after receipt by it of such notice, request and offer of indemnity, it being understood and  
45 intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to  
46 affect, disturb or prejudice the pledge created by this Ordinance, or to enforce any right under this Ordinance, except  
47 in the manner therein provided; and that all proceedings at law or in equity to enforce any provision of this Ordinance  
48 shall be instituted, had and maintained in the manner provided in this Ordinance and for the equal benefit of all  
49 Owners of the Outstanding Bonds and, except as otherwise provided in a Supplemental Ordinance, the issuers of all

1 Credit Facilities given as security for any Bonds (other than a Credit Facility given for the purpose of meeting in  
2 whole or in part the Reserve Requirement).

3  
4 Nothing in this Ordinance or in the Bonds shall affect or impair the obligation of the Issuer, which is  
5 absolute and unconditional, to pay, but solely and only from the Trust Estate pledged therefor, at the respective dates  
6 of maturity and places therein expressed the principal of (and premium, if any) and interest on the Bonds to the  
7 respective Owners thereof or the issuer of any Credit Facility given as security for any Series of Bonds or affect or  
8 impair the right of action, which is also absolute and unconditional, of any Owner or the issuer of such Credit  
9 Facility to enforce such payment of his Bond.

10  
11 **Section 807. Not Exclusive.** No remedy by the terms of this Ordinance conferred upon or reserved  
12 to the Trustee or the Owners of the Bonds is intended to be exclusive of any other remedy, but each and every such  
13 remedy shall be cumulative and shall be in addition to every other remedy given under this Ordinance or existing at  
14 law, including under the Act, or in equity or by statute on or after the effective date of this Ordinance.

15  
16 **Section 808. Effect of Waiver and Other Circumstances.** No delay or omission of the Trustee  
17 or any Owner of any Bonds to exercise any right or power arising upon the happening of an Event of Default shall  
18 impair any right or power or shall be construed to be a waiver of any such Event of Default or be an acquiescence  
19 therein; and every power and remedy given by this Article to the Trustee or to the Owners of the Bonds may be  
20 exercised from time to time and as often as may be deemed expedient by the Trustee or by the Owners of the Bonds.

21  
22 Prior to the declaration of maturity of the Bonds as provided in Section 801, the Owners of not less than a  
23 majority in principal amount of the Bonds at the time Outstanding, or their attorneys-in-fact duly authorized, may on  
24 behalf of the Owners of all of the Bonds waive any past default under this Ordinance and its consequences, except a  
25 default in the payment of interest on or principal of or premium (if any) on any of the Bonds. No such waiver shall  
26 extend to any subsequent or other default or impair any right consequent thereon.

27  
28 **Section 809. Termination of Proceedings.** In case any proceeding taken by the Trustee on  
29 account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been  
30 determined adversely to the Trustee, the Owners of the Bonds or the issuer of any Credit Facility given as security for  
31 any Bonds, the Issuer, the Trustee, the issuers of any Credit Facilities given as security for any Bonds and the  
32 Owners of the Bonds shall be restored to their former positions and rights hereunder, and all rights, remedies and  
33 powers of the Trustee, the issuers of any Credit Facilities given as security for any Bonds and the Owners of the  
34 Bonds shall continue as if no such proceeding had been taken.

35  
36 **Section 810. Notice of Default.** The Trustee shall notify the issuer of any Credit Facility given as  
37 security for any Series of Bonds and the Bond Registrars of the happening of an Event of Default and the Bond  
38 Registrars shall promptly mail written notice of the occurrence of any Event of Default to each Owner of Bonds then  
39 Outstanding at his address, if any, appearing upon the registry books of the Issuer.

40  
41 **Section 811. Credit Facility Issuer's Rights Upon Events of Default.** Anything in this  
42 Ordinance to the contrary notwithstanding, if any Event of Default hereof has occurred and is continuing while a  
43 Credit Facility securing all or a portion of the Bonds Outstanding is in effect (other than a Credit Facility given for  
44 the purpose of meeting all or part of the Reserve Requirement), the issuer of such Credit Facility, to the extent so  
45 authorized in the applicable Supplemental Ordinance, shall have the right, in lieu of the Owners of the Bonds secured  
46 by said Credit Facility, by an instrument in writing, executed and delivered to the Trustee, to direct the time, method  
47 and place of conducting all remedial proceedings available to the Trustee under this Ordinance, or exercising any trust  
48 or power conferred on the Trustee by this Ordinance to the same extent and subject to the same conditions and  
49 limitations as if it were the Owner of the Bonds secured by such Credit Facility.

1  
2 Notwithstanding the foregoing, no issuer of a Credit Facility given as security for any Bonds shall be  
3 entitled to exercise any rights under this Section 811 during any period where:  
4

5 (i) the Credit Agreement or Credit Facility to which such Credit Provider is a party shall not be in  
6 full force and effect;  
7

8 (ii) such Credit Provider shall have filed a petition or otherwise sought relief under any federal or  
9 state bankruptcy or similar law;  
10

11 (iii) such Credit Provider shall, for any reason, have failed or refused to honor a proper demand for  
12 payment under such Credit Facility; or  
13

14 (iv) an order or decree shall have been entered, with the consent or acquiescence of such Credit  
15 Provider, appointing a receiver or receivers of the assets of the Credit Provider, or if such order or decree  
16 having been entered without the consent or acquiescence of such Credit Provider, shall not have been vacated  
17 or discharged or stayed within ninety (90) days after the entry thereof.  
18  
19  
20  
21  
22

## 23 **ARTICLE IX**

## 24 **CONCERNING THE FIDUCIARIES**

25  
26

27 **Section 901. Acceptance of Duties by Trustee; Appointment of Trustees, Paying**  
28 **Agents and Bond Registrars.** First Interstate Bank of Oregon, N.A., Portland, Oregon, is hereby appointed  
29 Trustee. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Ordinance,  
30 including but not limited to its duties as Paying Agent and Bond Registrar, by executing and delivering to the Issuer  
31 a written acceptance thereof. Only one entity shall be appointed to act at any one time as Trustee.  
32

33 Unless otherwise provided in a Supplemental Ordinance with respect to a particular Series of Bonds, the  
34 Trustee shall be the Paying Agent and Bond Registrar for all Bonds issued hereunder. In a Supplemental Ordinance  
35 authorizing the issuance of a Series of Bonds, the Issuer may appoint one or more Paying Agents in lieu of the  
36 Trustee for such Series of Bonds, and the Issuer may at any time or from time to time appoint one or more Paying  
37 Agents in addition to the Trustee for one or more Series of Bonds having the qualifications set forth in Section 911  
38 for a successor Paying Agent. Each Paying Agent other than the Trustee shall signify its acceptance of the duties  
39 and obligations imposed upon it by this Ordinance or under any Supplemental Ordinance by executing and delivering  
40 to the Issuer and to the Trustee a written acceptance thereof.  
41

42 In a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the Issuer may appoint one or  
43 more Bond Registrars in lieu of the Trustee for such Series of Bonds, and the Issuer may at any time or from time to  
44 time appoint one or more other Bond Registrars to act as co-registrar with the Trustee having the qualifications set  
45 forth in Section 912 for a successor Bond Registrar. Each Bond Registrar other than the Trustee shall signify its  
46 acceptance of the duties and obligations imposed upon it by this Ordinance by executing and delivering to the Issuer  
47 and to the Trustee a written acceptance thereof.  
48

1       **Section 902. Responsibilities of Fiduciaries.** Any recitals of fact herein, in any Supplemental  
2 Ordinance and in the Bonds contained shall be taken as the statements of the Issuer and no Fiduciary assumes any  
3 responsibility for the correctness of the same. No Fiduciary makes any representations as to the validity or  
4 sufficiency of this Ordinance, any Supplemental Ordinance or of any Bonds issued thereunder or as to the security  
5 afforded by this Ordinance or any Supplemental Ordinance, and no Fiduciary shall incur any liability in respect  
6 thereof. The Trustee and each Fiduciary authorized to authenticate Bonds shall, however, be responsible for its  
7 representation contained in its certificate of authentication on the related Bonds. No Fiduciary shall be under any  
8 responsibility or duty with respect to the application of any moneys paid by such Fiduciary in accordance with the  
9 provisions of this Ordinance or any Supplemental Ordinance to any other Fiduciary. No Fiduciary shall be under any  
10 obligation or duty to perform any act which would involve it in any expense or liability or to institute or defend any  
11 suit in respect thereof, or to advance any of its own moneys, unless properly indemnified. Subject to the provisions  
12 of the second paragraph of this Section 902, no Fiduciary shall be liable in connection with the performance of its  
13 duties hereunder except for its own negligence, misconduct or default.  
14

15       The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default  
16 which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this  
17 Ordinance. In case an Event of Default has occurred (which has not been cured) the Trustee shall exercise such of  
18 the rights and powers vested in it by this Ordinance and any applicable Supplemental Ordinance, and use the same  
19 degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the  
20 conduct of her own affairs.  
21

22       **Section 903. Evidence on Which Fiduciaries May Act.** Each Fiduciary, upon receipt of any  
23 notice resolution, request, consent, order, certificate, report, opinion, bond, or other paper or document furnished to it  
24 pursuant to any provision of this Ordinance or any Supplemental Ordinance, shall examine such instrument to  
25 determine whether it conforms to the requirements of this Ordinance or the applicable provisions of a Supplemental  
26 Ordinance and shall be protected in acting upon any such instrument believed by it to be genuine and to have been  
27 signed or presented by the proper party or parties. Each Fiduciary may consult with counsel, who may or may not  
28 be Bond Counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect  
29 of any action taken or suffered by it under this Ordinance in good faith and in accordance therewith.  
30

31       Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to  
32 taking or suffering any action under this Ordinance or any Supplemental Ordinance, such matter (unless other  
33 evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and  
34 established by a certificate of the Issuer, and such certificate shall be full warrant for any action taken or suffered in  
35 good faith under the provisions of this Ordinance or such Supplemental Ordinance upon the faith thereof; but in its  
36 discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or  
37 additional evidence as to it may seem reasonable.  
38

39       Except as otherwise expressly provided in this Ordinance or a Supplemental Ordinance, any request, order,  
40 notice or other direction required or permitted to be furnished pursuant to any provision thereof by the Issuer to any  
41 Fiduciary shall be sufficiently executed in the name of the Issuer by an Authorized Issuer Representative thereof.  
42

43       **Section 904. Compensation.** The Issuer shall cause to be paid to each Fiduciary from time to time  
44 reasonable compensation for all services rendered under this Ordinance, and also all reasonable expenses, charges,  
45 counsel fees and other disbursements, including those of its attorneys, agents, and employees, incurred in and about  
46 the performance of their powers and duties under this Ordinance and any Supplemental Ordinance and each Fiduciary  
47 shall have a lien therefor on any and all funds at any time held by it under this Ordinance or any Supplemental  
48 Ordinance except with respect to any monies drawn under a Credit Facility.  
49

1       **Section 905. Certain Permitted Acts.** Any Fiduciary may become the owner of any Bonds, with  
2 the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as  
3 depositary for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect  
4 to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of  
5 the enforcement of the Bonds or this Ordinance, whether or not any such committee shall represent the Owners of a  
6 majority in principal amount of the Bonds then Outstanding.

7  
8       **Section 906. Resignation of Trustee.** Except as otherwise expressly provided in a Supplemental  
9 Ordinance, the Trustee may at any time resign and be discharged of the duties and obligations created by this  
10 Ordinance or any Supplemental Ordinance by giving not less than sixty (60) days' written notice to the Issuer and the  
11 issuer of any related Credit Facility, and mailing notice thereof, postage prepaid, specifying the date when such  
12 resignation shall take effect, to each registered Owner of related Bonds then Outstanding at his address appearing upon  
13 the registry books of the Issuer, and such resignation shall take effect upon the latest to occur of the day specified in  
14 such notice or the date upon which the Issuer has appointed a successor and such successor has agreed to act in such  
15 capacity. Unless otherwise agreed to in writing by the Issuer, any such resignation by the Trustee shall, when  
16 effective, also serve to remove the Trustee as Bond Registrar and Paying Agent hereunder.

17  
18       **Section 907. Removal of Trustee.** Except as otherwise expressly provided in a Supplemental  
19 Ordinance, the Trustee may be removed at any time by an instrument in writing, filed with the Trustee, and signed  
20 by the Issuer.

21  
22       The Issuer may appoint a successor Trustee upon such removal, but no such removal shall be effective until  
23 the Issuer has appointed a successor and such successor has agreed to act in such capacity. Unless otherwise agreed  
24 to in writing by the Issuer, any such removal of the Trustee shall, when effective, also serve to remove the Trustee  
25 as Bond Registrar and Paying Agent hereunder.

26  
27       **Section 908. Failure of Issuer to Appoint Successor; Financial Qualifications of**  
28 **Trustee and Successor Trustee.** If no appointment of a successor Trustee shall be made pursuant to the  
29 foregoing provisions of this Article IX within forty-five (45) days after the Trustee shall have given to the Issuer  
30 written notice as provided in Section 906 or after a vacancy in the office of the Trustee shall have occurred by reason  
31 of its inability to act, removal, or for any other reason whatsoever, the Trustee (in the case of its resignation under  
32 Section 906) or the Owner of any Bond may apply to any court of competent jurisdiction to appoint a successor  
33 Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor  
34 Trustee.

35  
36       The Trustee appointed under the provisions of this Article or any successor to the Trustee shall be a bank or  
37 trust company or national banking association, doing business and having its principal office in the State of Oregon,  
38 and shall have (or its parent company or holding company shall have) capital stock and surplus aggregating at least  
39 \$50,000,000, if there be such a bank or trust company or national banking association willing and able to accept the  
40 office on reasonable and customary terms and authorized by the law to perform all the duties imposed upon it by the  
41 Ordinance.

42  
43       **Section 909. Transfer of Rights and Property to Successor Trustee.** Any successor  
44 Trustee appointed under this Ordinance shall execute, acknowledge and deliver to its predecessor Trustee, and also to  
45 the Issuer, an instrument accepting such appointment (including but not limited to its appointment as Paying Agent  
46 and Bond Registrar hereunder), and thereupon such successor Trustee, without any further act, deed or conveyance,  
47 shall become fully vested with all moneys, estates, properties, rights, power, duties and obligations of such  
48 predecessor Trustee, with like effect as if originally named as such Trustee; but the Trustee ceasing to act shall  
49 nevertheless, on the written request of the Issuer, or of the successor Trustee, execute, acknowledge, deliver, file and

1 record such instrument of conveyance and further assurance and do such other things as may reasonably be required  
2 for more fully and certainly vesting and confirming in such successor Trustee any such lien, states, rights, power and  
3 duties, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be  
4 authorized by law, be executed, acknowledged and delivered by the Issuer.  
5

6 **Section 910. Merger or Consolidation.** Any company into which any Fiduciary may be merged  
7 or converted or with which it may be consolidated or any company resulting from any merger, conversion or  
8 consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or  
9 substantially all of its corporate trust business shall be the successor to such Fiduciary without the execution or  
10 filing of any paper or the performance of any further act, *provided that* such company shall be a bank or trust  
11 company organized under the laws of any state of the United States or a national banking association and shall be  
12 authorized by law to perform all the duties imposed upon it by this Ordinance.  
13

14 **Section 911. Resignation or Removal of Paying Agent and Appointment of**  
15 **Successor.** Any Paying Agent may at any time resign and be discharged of the duties and obligations created by  
16 the Ordinance and any Supplemental Ordinance by giving at least sixty (60) days' written notice to the Issuer and the  
17 Trustee. Any Paying Agent may be removed at any time by an instrument filed with the Paying Agent and the  
18 Trustee and signed by an Authorized Issuer Representative. Any successor Paying Agent shall be appointed by the  
19 Issuer with the approval of the Trustee, and shall be a bank or trust company organized under the laws of any state of  
20 the United States or a national banking association having capital stock and surplus aggregating at least  
21 \$25,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to  
22 perform all the duties imposed upon it by this Ordinance or any applicable Supplemental Ordinance.  
23

24 In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign  
25 and deliver any moneys held by it as Paying Agent to its successor, or if there be no successor, to the Trustee. In  
26 the event that for any reason there shall be a vacancy in the office of such Paying Agent, the Trustee shall act as  
27 such Paying Agent.  
28

29 **Section 912. Resignation or Removal of Bond Registrar and Appointment of**  
30 **Successor.** Any Bond Registrar may at any time resign and be discharged of the duties and obligations created by  
31 this Ordinance and any Supplemental Ordinance by giving at least sixty (60) days' written notice to the Issuer and the  
32 Trustee. Any Bond Registrar may be removed at any time by an instrument filed with such Bond Registrar and the  
33 Trustee (in the case of a Paying Agent for the Bonds) or the Trustee (in the case of a Paying Agent for the Bonds)  
34 and signed by an Authorized Issuer Representative. Any successor Bond Registrar shall be appointed by the Issuer  
35 with the approval of the Trustee, and shall be a bank or trust company organized under the laws of any state of the  
36 United States or a national banking association, having capital stock and surplus aggregating at least \$25,000,000,  
37 and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the  
38 duties imposed upon it by this Ordinance.  
39

40 In the event that for any reason there shall be a vacancy in the office of such Bond Registrar, the Trustee  
41 shall act as such Bond Registrar.  
42

43 **Section 913. Adoption of Authentication.** In case any of the Bonds contemplated to be issued  
44 under this Ordinance shall have been authenticated but not delivered, any successor to the Trustee may adopt the  
45 certificate of authentication of any predecessor trustee so authenticating such Bonds and deliver such Bonds so  
46 authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Trustee may  
47 authenticate related Bonds in the name of the predecessor Trustee, or in the name of the successor Trustee, and in all  
48 such cases such certificate shall have the full force which it is anywhere in said Bonds or in this Ordinance provided  
49 that the certificate of the Trustee shall have.

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## ARTICLE X SUPPLEMENTAL ORDINANCES

Section 1001. Supplemental Ordinances Effective Without Consent of Owners. For any one or more of the following purposes and at any time, a Supplemental Ordinance of the Issuer may be enacted without the consent of Owners and shall be fully effective in accordance with its terms:

(1) To close this Ordinance against, or provide limitations and restrictions contained in this Ordinance on, the authentication and delivery of Bonds or the issuance of other evidences of indebtedness;

(2) To add to the covenants and agreements of the Issuer in this Ordinance, other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with this Ordinance as theretofore in effect;

(3) To add to the limitations and restrictions in this Ordinance, other limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with this Ordinance as theretofore in effect;

(4) To authorize the issuance of any Series of Bonds and, in connection therewith, to specify and determine the matters and things referred to in Article II, and also any other matters and things relative to such Bonds which are not contrary to or inconsistent with the provisions of this Ordinance as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such Series of Bonds;

(5) With the prior Opinion of Bond Counsel that to do so will not adversely affect the prior status of any Bonds intended to be, and which still are, Tax-Exempt Obligations, to authorize, in compliance with all applicable law, Bonds of any Series to be issued in the form of coupon Bonds registrable as to principal only and, in connection therewith, specify and determine the matters and things relative to the issuance of such coupon Bonds, including provisions relating to the timing manner of provision of any notice required to be given hereunder to the holders of such coupon Bonds, ~~including provisions relating to the timing and manner of provision of any notice required to be given hereunder to the holders of such coupon Bonds,~~ which are not contrary to or inconsistent with the applicable provisions of this Ordinance or any Supplemental Ordinance as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such coupon Bonds;

(6) To authorize, in compliance with all applicable law, Bonds of any Series to be issued in the form of Bonds issued and held in book-entry form on the books of any Fiduciary appointed for that purpose by the Issuer and in connection therewith, make such additional changes herein, not adverse to the rights of the Owners of the related Bonds, as are necessary or appropriate to accomplish or recognize such book-entry

1 form Bonds and specify and determine the matters and things relative to the issuance of such book-entry  
2 form Bonds as are appropriate or necessary;  
3

4 (7) To modify, amend or supplement this Ordinance or any Supplemental Ordinance in such  
5 manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended,  
6 or any similar federal statute hereafter in effect or to permit the qualification of any Bonds for sale under the  
7 securities laws of any of the states of the United State of America;  
8

9 (8) To add additional security as part of any Trust Estate subject to the pledge and lien of this  
10 Ordinance or any Supplemental Ordinance;  
11

12 (9) To provide any of the Tax Covenants not provided by this Ordinance or to modify in any  
13 respect any Tax Covenant so as to conform to the then applicable requirements of the Code or to delete or  
14 restrict the applicability of any Tax Covenant which, under the Code as then in effect, is no longer  
15 applicable to all or any Bonds issued or to be issued hereunder;  
16

17 (10) To surrender any right, power or privilege reserved to or conferred upon the Issuer by the  
18 terms of this Ordinance or any Supplemental Ordinance, but only if the surrender of such right, power or  
19 privilege is not contrary to or inconsistent with the applicable covenants and agreement of the Issuer  
20 contained in this Ordinance or any Supplemental Ordinance;  
21

22 (11) To confirm, as further assurance, any security interest or pledge created under this Ordinance  
23 or any Supplemental Ordinance;  
24

25 (12) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent  
26 provision in this Ordinance or any Supplemental Ordinance;  
27

28 (13) To insert such provisions clarifying matters or questions arising under this Ordinance or any  
29 Supplemental Ordinance as are necessary or desirable and are not contrary to or inconsistent with the  
30 applicable provisions of this Ordinance or any Supplemental Ordinance as theretofore in effect;  
31

32 (14) Prior to the issuance of the first Series of Bonds, to make any change whatsoever to the  
33 terms and provisions of this Ordinance;  
34

35 (15) To modify any of the provisions of this Ordinance or any Supplemental Ordinance in any  
36 other respect whatever, *provided that*:  
37

38 (i) no Bonds affected by such modification shall be Outstanding at the date of the  
39 adoption of such Supplemental Ordinance; or  
40

41 (ii)(a) such modification shall be, and be expressed to be, effective only after all affected  
42 Bonds Outstanding at the date of the adoption of such Supplemental Ordinance shall cease to be  
43 Outstanding, and (b) such Supplemental Ordinance shall be specifically referred to in the text of all  
44 Bonds authenticated and delivered after the date of the adoption of such Supplemental Ordinance and  
45 of Bonds issued in exchange therefor or in place thereof; or  
46

47 (iii) such modification does not materially and adversely affect the rights of the Owners of  
48 any Outstanding Bonds;  
49



1 (16) To make any change required by a Rating Agency as a precondition to the issuance of a rating  
2 on any Series of Bonds which is not to the prejudice of the Owners of the Bonds of any other Series;  
3

4 (17) So long as a Credit Facility is in full force and effect with respect to the Bonds affected by  
5 such Supplemental Ordinance, to make any other change which is consented to in writing by the issuer of  
6 such Credit Facility other than any change which:  
7

8 (A) would result in a downgrading or withdrawal of the rating then assigned to the  
9 affected Bonds by the Rating Agencies; or  
10

11 (B) changes the Stated Maturity (except as expressly permitted herein), the Interest  
12 Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding  
13 notices of redemption and purchase applicable to the affected Bonds or diminishes the security  
14 afforded by such Credit Facility; or  
15

16 (C) materially and adversely affects the rights and security afforded to the Owners of any  
17 Outstanding Bonds not secured by such Credit Facility; or  
18

19 (18) To incorporate into this Ordinance or any Supplemental Ordinance any financing powers  
20 hereafter granted to or conferred upon the Issuer by law.  
21

22 **Section 1002. Supplemental Ordinances Effective With Consent of Owners;**  
23 **Limitations.** At any time or from time to time, a Supplemental Ordinance may be enacted by the Issuer subject  
24 to consent by Owners in accordance with and subject to the provisions of Article XI, which Supplemental Ordinance,  
25 upon compliance with the provisions of said Article XI, shall become fully effective in accordance with its terms as  
26 Provided in said Article XI.  
27

28 Notwithstanding anything expressed or implied herein or in any Supplemental Ordinance to the contrary,  
29 any amendment or supplement to this Ordinance which affects only a portion of the outstanding Bonds need not be  
30 consented to by the Owners of all outstanding Bonds but such consent shall be effective if obtained from the requisite  
31 percentage of the Owners of the affected Bonds.  
32

33 **Section 1003. General Provisions.** The Ordinance shall not be modified or amended in any respect  
34 except as provided in and in accordance with and subject to the provisions of this Article X and Article XI hereof.  
35 Any Supplemental Ordinance referred to and permitted or authorized by Section 1001 may be enacted by the Issuer  
36 without the consent of any of the Owners, but shall become effective only on the conditions, to the extent and at the  
37 time provided in said Section. A copy of every Supplemental Ordinance shall be placed on file with the Trustee and  
38 shall be accompanied by an Opinion of Bond Counsel stating that such Supplemental Ordinance:  
39

40 (i) has been duly and lawfully enacted by the Issuer in accordance with the provisions of this  
41 Ordinance, is authorized or permitted by this Ordinance, and is valid and binding upon the Issuer and  
42 enforceable in accordance with its terms; and  
43

44 (ii) will not adversely affect the maintenance of any existing exclusion of interest payable on the  
45 affected Bonds from gross income for federal income tax purposes.  
46

47 The Trustee is hereby authorized to accept the delivery of a certified copy of any Supplemental Ordinance  
48 referred to and permitted or authorized by Section 1001 or 1002 and to make all further agreements and stipulations  
49 which may be therein contained, and the Trustee, in taking such action, shall be fully protected in relying on an

1 Opinion of Bond Counsel that such Supplemental Ordinance is authorized or permitted by the provisions of this  
2 Ordinance.

3  
4 No Supplemental Ordinance shall change or modify any of the rights or obligations of any issuer of a  
5 Credit Facility or any Fiduciary, including any agent appointed by the Issuer in connection with issuance of Variable  
6 Rate Obligations or Options Bonds, without its written assent thereto.  
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12 **ARTICLE XI**  
13 **NOTICE OF AND CONSENT TO AMENDMENTS**  
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15  
16 **Section 1101. Mailing of Notice.** Any provision in this Article for the mailing of a notice or  
17 other paper to Owners shall be fully complied with if it is mailed by first class mail, postage prepaid, only (i) to  
18 each Owner of affected Bonds then Outstanding at his address appearing upon the registry books of the Issuer and (ii)  
19 to the Trustee, any related Paying Agent, any Bond Registrar and any related Credit Provider.  
20

21 **Section 1102. Powers of Amendment.** Any modification or amendment of this Ordinance and of  
22 the rights and obligations of the Issuer and of the Owners of the Bonds, in any particular other than for the purposes  
23 set forth in Section 1001, may be made by a Supplemental Ordinance with the written consent given as provided in  
24 Section 1103 of the Owners of at least a majority in principal amount of the affected Bonds Outstanding at the time  
25 such consent is given and any affected Credit Provider; *provided, however, that* if such modification or amendment  
26 will, by its terms, not take effect so long as any Bonds of like maturity remain Outstanding, the consent of the  
27 Owners of such Bonds and affected Credit Provider with respect to such Bonds shall not be required and such Bonds  
28 shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under Articles X or  
29 XI hereof.  
30

31 No such modification or amendment shall permit a change in the terms of redemption or maturity of the  
32 principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or  
33 the redemption premium (if any) thereof or in the rate of interest thereon or diminish the security afforded by any  
34 Credit Facility, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Owners of  
35 which is required to effect any such modification or amendment, without the consent of the Owner of each Bond  
36 affected thereby, or shall change or modify any of the rights or obligations of any Fiduciary without its written  
37 assent thereto.  
38

39 For the purposes of this Section 1102, Bonds of a particular maturity shall be deemed to be affected by a  
40 modification or amendment of this Ordinance if the same adversely affects or diminishes the rights of the Owners of  
41 Bonds of such maturity. The Trustee may in its discretion determine whether or not in accordance with the foregoing  
42 powers of amendment Bonds of any particular maturity would be affected by any modification or amendment of this  
43 Ordinance, and may rely upon the advice of Bond Counsel, and any such determination shall be binding and  
44 conclusive on the Issuer and all Owners of Bonds.  
45

46 **Section 1103. Consent of Owners.** The Issuer may at any time enact a Supplemental Ordinance  
47 making a modification or amendment permitted by the provisions of Section 1102 to take effect at the time provided  
48 in such Supplemental Ordinance (if the consent of the Owners of the affected Bonds and the issuers of any affected

Credit Facilities is not required) or when and as provided in this Section 1103 (if the consent of the Owners of the affected Bonds and the issuers of any affected Credit Facilities is required). If consent of any Owners or Credit Providers is required in connection therewith, a brief summary of such Supplemental Ordinance, together with a request to affected Owners and affected Credit Facility Providers for their consent thereto in form satisfactory to the Trustee, shall be mailed by the Issuer to affected Owners and the issuer of any affected Credit Facility. Such Supplemental Ordinance shall not be effective unless and until:

(i) there shall have been filed with the Trustee:

(a) if required, the written consents of Owners of the percentages of Outstanding Bonds specified in Section 1102 which are affected by such Supplemental Ordinance and the issuer of any affected Credit Facility; and

(b) an Opinion of Bond Counsel stating that such Supplemental Ordinance has been duly and lawfully entered into by the Issuer in accordance with the provisions of this Ordinance, is authorized or permitted by this Ordinance, and is valid and binding upon the Issuer and enforceable in accordance with its terms, subject to bankruptcy, insolvency and other laws affecting creditors' rights generally; and

(ii) a notice shall have been given as hereinafter in this Section 1103 provided.

Each required consent shall be effective only accompanied by proof of the ownership, 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 1202. A certificate or certificates executed by the Trustee and filed with the Issuer stating that it has examined such proof and that such proof is sufficient in accordance with Section 1202 shall be conclusive that the consents have been given by the Owners of the affected Bonds and the issuer of any affected Credit Facility described in such certificates of the Trustee.

Any such consent shall be binding upon the Owner of the Bonds and the issuer of any affected Credit Facility giving such consent and, anything in Section 1202 to the contrary notwithstanding, upon any subsequent Owner of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Owner thereof has notice thereof) unless such consent is revoked in writing by the Owner of such Bonds or the issuer of any Credit Facility giving such consent or a subsequent Owner thereof by filing such revocation with the Trustee, prior to the time when the written statement of the Trustee hereinafter in this paragraph provided for is filed. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Issuer to the effect that no revocation thereof is on file with the Trustee. Within 10 days after the Owners of the required percentages of affected Bonds and the issuer of any affected Credit Facility shall have filed their consents to the Supplemental Ordinance or resolution, the Trustee shall make and file with the Issuer a written statement that the Owners of such required percentages of affected Bonds and the issuer of any affected Credit Facility have filed such consents. Such written statements shall be conclusive that such consents have been so filed.

At any time thereafter, notice stating in substance that the Supplemental Ordinance (which may be referred to as a Supplemental Ordinance enacted by the Issuer on a stated date, a copy of which is on file with the Trustee) has been consented to by the Owners of the required percentages of affected Bonds and the issuer of any affected Credit Facility, and will be effective as provided in this Section 1103, shall be given to affected Owners and the issuer of any affected Credit Facility by mailing such notice to affected Owners and the issuer of any affected Credit Facility not more than ninety (90) days after the Owners of the required percentages of affected Bonds and the issuer of any affected Credit Facility shall have filed their consents to the Supplemental Ordinance and the written statement of the Trustee provided for in the preceding paragraph is filed. A record, consisting of the certificates or statements required

1 or permitted by this Section 1103 to be made by the Trustee shall be proof of the matters therein stated. Such  
2 Supplemental Ordinance making such amendment or modification shall be deemed conclusively binding upon the  
3 Issuer, the Fiduciaries, the Owners of all affected Bonds and the issuer of any affected Credit Facility upon the  
4 mailing of such last mentioned notice.  
5

6 **Section 1104. Modifications by Unanimous Consent.** The terms and provisions of this  
7 Ordinance and the rights and obligations of the Issuer and of the Owners of the Bonds may be modified or amended in  
8 any respect upon the enactment by the Issuer of a Supplemental Ordinance and the consent of the issuer of any  
9 affected Credit Facility, and the Owners of all of the affected Bonds then outstanding, such consent to be given as  
10 provided in Section 1103 except that no notice to affected Owners by mailing shall be required; provided, however,  
11 that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary  
12 without the filing with the Issuer of the written assent thereto of such Fiduciary in addition to the consent of the  
13 affected Owners and the issuer of any affected Credit Facility.  
14

15 **Section 1105. Exclusion of Bonds.** Bonds owned or held by or for the account of the Issuer shall  
16 not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds  
17 provided for in Articles X or XI hereof, and the Issuer shall not be entitled with respect to such Bonds to give any  
18 consent or take any other action provided for in Articles X or XI hereof. At the time of any consent or other action  
19 taken under Articles X or XI hereof, the Issuer shall furnish the Trustee a certificate of an Authorized Issuer  
20 Representative upon which the Trustee may rely, describing all Bonds so to be excluded.  
21

22 **Section 1106. Notation on Bonds.** Affected Bonds authenticated and delivered after the effective  
23 date of any action taken as in Article X or this Article XI provided may, and, if the Issuer so determines, shall bear a  
24 notation by endorsement or otherwise in form approved by the Issuer as to such action, and in that case upon demand  
25 of the Owner of any affected Bond Outstanding at such effective date and presentation of such affected Bond at the  
26 corporate trust office of the Trustee or upon any transfer or exchange of any affected Bond Outstanding at such  
27 effective date, suitable notation shall be made on such Bond or upon any Bond issued upon any such transfer or  
28 exchange by the Trustee shall so determine, new Bonds so modified as in the opinion of the Trustee are necessary to  
29 conform to such action shall be prepared, authenticated and delivered, and upon demand of the holder of any affected  
30 Bond then Outstanding shall be exchanged, without cost to such Owner, for Bonds of the same maturity then  
31 Outstanding, upon surrender of such Bonds.  
32

33 **Section 1107. Issuer of a Credit Facility as Owner of the Bonds.** Except as otherwise  
34 expressly provided in a Supplemental Ordinance, as long as a Credit Facility securing all or a portion of any Bonds  
35 Outstanding is in effect, the issuer of such Credit Facility shall be deemed to be the Owner of the Bonds secured by  
36 such Credit Facility:  
37

38 (i) at all times for the purpose of the execution and delivery of a Supplemental Ordinance or of  
39 any amendment, change or modification of this Ordinance or the initiation by Owners of any action to be  
40 undertaken by the Trustee at the Owner's request, which under this Ordinance requires the written approval  
41 or consent of or can be initiated by the Owners of at least a majority in principal amount of the affected  
42 Bonds at the time Outstanding; and  
43

44 (ii) following an Event of Default for all other purposes.  
45

46 Notwithstanding the foregoing, the issuer of such Credit Facility shall not be deemed to be an Owner of the Bonds  
47 secured thereby with respect to any such Supplemental Ordinance or of any amendment, change or modification of  
48 this Ordinance which:  
49

1 (a) would result in a downgrading or withdrawal of the rating then assigned to the affected Bonds  
2 by the Rating Agencies; or  
3

4 (b) changes the Stated Maturity (except as expressly permitted herein), the Interest Payment Dates,  
5 interest rates, redemption and purchase provisions, and provisions regarding notices of redemption and  
6 purchase applicable to the affected Bonds or diminishes the security afforded by such Credit Facility; or  
7

8 (c) reduces the percentage or otherwise affecting the classes of affected Bonds the consent of the  
9 Owners of which is required to effect any such modification or amendment.  
10

11 In addition and notwithstanding the foregoing, no issuer of a Credit Facility given as security for any Bonds shall be  
12 entitled to exercise any rights under this Section 1107 during any period where:  
13

14 (i) the Credit Agreement or Credit Facility to which such Credit Provider is a party shall not be in  
15 full force and effect;  
16

17 (ii) such Credit Provider shall have filed a petition or otherwise sought relief under any federal or  
18 state bankruptcy or similar law;  
19

20 (iii) such Credit Provider shall, for any reason, have failed or refused to honor a proper demand for  
21 payment under such Credit Facility; or  
22

23 (iv) an order or decree shall have been entered, with the consent or acquiescence of such Credit  
24 Provider, appointing a receiver or receivers of the assets of the Credit Provider, or if such order or decree  
25 having been entered without the consent or acquiescence of such Credit Provider, shall not have been vacated  
26 or discharged or stayed within ninety (90) days after the entry thereof.  
27

28 **Section 1108. Treatment of Owners of Capital Appreciation Obligations.** For purposes  
29 of determining the percentage of Owners consenting to, waiving or otherwise acting with respect to any matter that  
30 may arise under this Ordinance, the Owners of Bonds which constitute Capital Appreciation Obligations shall be  
31 treated as Owners of Bonds in an aggregate principal amount equal to the Accreted Value of such Bonds as of the date  
32 the Trustee sends out notice of requesting consent, waiver or other action as provided in Section 1103 hereof.  
33  
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36

## 37 **ARTICLE XII**

### 38 **DEFEASANCE AND MISCELLANEOUS**

### 39 **PROVISIONS**

40

41 **Section 1201. Defeasance.** If the Issuer shall pay or cause to be paid, or there shall otherwise be  
42 paid, to the Owners or holders of any Debt Obligations the principal of, premium (if any) and interest due or to  
43 become due thereon and the obligations under any related Credit Agreement at the times and in the manner stipulated  
44 therein, in this Ordinance and in any related Supplemental Ordinance or Financing Agreement, then the lien (if any)  
45 of this Ordinance and any related Supplemental Ordinance or Financing Agreement securing such Debt Obligations  
46 and all covenants, agreements and other obligations of the Issuer to the Owners of such Debt Obligations and the  
47 issuer of any related Credit Facility shall thereupon cease, terminate and become void and be discharged and satisfied.  
48

1 In such event (but only with respect to any Series of Bonds), the Trustee shall cause an accounting for such period or  
2 periods as shall be requested by the Issuer to be prepared and filed with the Issuer and, upon the request of the Issuer,  
3 shall execute and deliver to the Issuer all such instruments as may be desirable to evidence such discharge and  
4 satisfaction, and the Fiduciaries shall pay over or deliver, as directed by the Issuer, all moneys or securities held by  
5 them pursuant to this Ordinance or any Supplemental Ordinance with respect to such discharged Series of Bonds and  
6 which are not required for the payment of principal of, premium (if any) and interest on Bonds of such Series not  
7 theretofore surrendered for such payment or redemption or for payment of obligations under any related Credit  
8 Agreement.  
9

10 Debt Obligations or interest installments thereon for the payment or redemption of which moneys or  
11 Government Obligations shall have been set aside and shall be held in trust by the Trustee (in the case of Bonds) or  
12 another corporate trustee appointed for such purpose (in the case of a Financial Obligation) shall be deemed to have  
13 been paid within the meaning and with the effect expressed in the first paragraph of this Section 1201; *provided that*  
14 in connection with any such deposit there shall be provided to the Trustee or other corporate trustee, as appropriate, a  
15 verification report of nationally recognized independent certified public accountants confirming the sufficiency of the  
16 moneys or Government Obligations so deposited as contemplated in subpart (b) of this Section. All Outstanding  
17 Debt Obligations of any particular Series or maturity shall prior to the maturity or redemption date thereof be deemed  
18 to have been paid within the meaning and with the effect expressed in the first paragraph of this Section 1201 if:  
19

20 (a) in case any of said Debt Obligations are to be redeemed on any date prior to their maturity, the  
21 Issuer shall have given irrevocable instructions to provide notice of such redemption in the manner required  
22 by this Ordinance or the related Financing Agreement, which instructions shall be given to:  
23

24 (i) the Trustee in the case of a Series of Bonds; or  
25

26 (ii) in the case of a Financial Obligation, to the responsible fiduciary (if any) with  
27 respect thereto; *provided that* if there is no such responsible fiduciary, the Issuer shall have made  
28 appropriate arrangements to cause notice of redemption thereof to be given to the holders of such  
29 Financial Obligation at the time(s) and in the manner required under the related Financing  
30 Agreement;  
31

32 (b) there shall have been deposited with the Trustee (in the case of a Series of Bonds) or another  
33 corporate trustee appointed for such purpose (in the case of a Series of Financial Obligations) either moneys  
34 in an amount which shall be sufficient, or Government Obligations (including any Government Obligations  
35 issued or held in book-entry form on the books of the Department of the Treasury of the United States) the  
36 principal of and the interest on which when due will provide moneys which, together with the moneys, if  
37 any, deposited at the same time, shall be sufficient, to pay when due the principal of, premium (if any) and  
38 interest due and to become due on said Debt Obligations on or prior to the redemption date or maturity date  
39 thereof, as the case may be; and  
40

41 (c) the Issuer shall have given the Trustee (in the case of Bonds) or other responsible fiduciary, if  
42 any (in the case of Financial Obligations), in form satisfactory to it, irrevocable instructions to mail,  
43 postage prepaid, to each owner of the Debt Obligations then outstanding at his address, if any, appearing  
44 upon the registry books of the Issuer, a notice to the registered owners of such Debt Obligations that the  
45 deposit required by (b) above has been made with the Trustee or other corporate trustee, as appropriate, and  
46 that said Debt Obligations are deemed to have been paid in accordance with this Section 1201 and stating  
47 such maturity or redemption date upon which moneys are to be available for the payment of the principal or  
48 Redemption Price, if applicable, on said Debt Obligations; *provided that* if there is no fiduciary for the

1 affected Financial Obligations, the Issuer shall itself undertake to provide such notice to the holders of such  
2 Financial Obligations.  
3

4 Neither Government Obligations nor moneys deposited pursuant to this Section 1201 with the Trustee (in the case  
5 of Bonds) or a corporate trustee appointed for such purpose (in the case of Financial Obligations) or principal or  
6 interest payments on any such Government Obligations shall be withdrawn or used for any purpose other than, and  
7 shall be held in trust for, the payment of the principal of, premium (if any) and interest on the related Debt  
8 Obligation, as the case may be; *provided that* any cash received from such principal or interest payments on such  
9 Government Obligations deposited with the Trustee (in the case of Bonds) or such other corporate trustee (in the case  
10 of Financial Obligations):  
11

12 (A) to the extent such cash will not be required at any time for such purpose as determined by the  
13 Trustee (in the case of Bonds) or such other corporate trustee (in the case of Financial Obligations), and to  
14 the extent all obligations under any related Credit Agreement are satisfied, as determined by the Credit  
15 Provider thereunder, shall be paid over to or upon the direction of the Issuer as received by the Trustee (in  
16 the case of Bonds) or such other corporate trustee (in the case of Financial Obligations), free and clear of any  
17 trust, lien, pledge or assignment securing said Debt Obligations or otherwise existing under this Ordinance  
18 or any Supplemental Ordinance; and  
19

20 (B) to the extent such cash will be required to pay amounts to become owing on such Debt  
21 Obligations at a later date, it shall, to the extent practicable, be reinvested in Government Obligations  
22 maturing at times and in amounts sufficient to pay when due the principal of, premium (if any) and interest  
23 to become due on said Debt Obligations on or prior to such redemption date or maturity date thereof, as the  
24 case may be, and interest earned from such reinvestments, to the extent such interest earnings will not be  
25 required at any time for such purpose as determined by the Trustee (in the case of Bonds) or such other  
26 corporate trustee (in the case of Financial Obligations) shall be paid over as received to the Issuer, free and  
27 clear of any lien, pledge, or security interest securing said Debt Obligations or otherwise existing under this  
28 Ordinance.  
29

30 As to the Variable Rate Obligations discharged and satisfied under the foregoing provisions, the amount  
31 required for the interest thereon shall be calculated at the maximum rate permitted by the terms of the Supplemental  
32 Ordinance or Financing Agreement (as the case may be) which authorized the issuance or incurrence of such Variable  
33 Rate Obligations; *provided, however, that* if on any date, as a result of such Variable Rate Obligations having borne  
34 interest at less than such maximum rate for any period, the total amount of moneys and Government Obligations on  
35 deposit for the payment of interest on such Variable Rate Obligations is in excess of the total amount which would  
36 have been required to be deposited on such date in respect of such Variable Rate Obligations in order to fully  
37 discharge and satisfy such Variable Rate Obligations and obligations under any Credit Agreement pursuant to the  
38 provisions of this Section, the Issuer may use the amount of such excess free and clear of any trust, lien, security  
39 interest, pledge or assignment securing said Variable Rate Obligations or otherwise existing under this Ordinance,  
40 any Supplemental Ordinance or under any related Credit Agreement.  
41

42 Notwithstanding any of the provisions of this Ordinance to the contrary, Option Obligations may only be  
43 fully discharged and satisfied either pursuant to the foregoing provisions by depositing in the Debt Service Account  
44 (in the case of Bonds), or in such other accounts which are irrevocably dedicated to the payment of the Option  
45 Obligations (in the case of Financial Obligations), moneys which together with other moneys lawfully available  
46 therefor shall be sufficient at the time of such deposit to pay when due the maximum amount of principal of and  
47 Redemption Price, if any, and interest on such Option Obligations which could become payable to the Owners or  
48 holders of such Option Obligations upon the exercise of any options provided to such Owners or holders; *provided,*  
49 *however, that* if, at the time a deposit is made pursuant to this paragraph, the options originally exercisable by the

1 Owner or holder of an Option Obligation are no longer exercisable, such Option Obligation shall not be considered  
2 an Option Obligation for purposes of this paragraph. If any portion of the moneys deposited for the payment of the  
3 principal of, premium (if any) and interest on Option Obligations is not required for such purpose and is not needed  
4 to reimburse the obligee under any related Credit Agreement, the Issuer may use the amount of such excess free and  
5 clear of any trust, lien, security interest, pledge or assignment securing said Option Obligations or otherwise  
6 existing under this Ordinance or any related Credited Agreement or other agreement.  
7

8 **Section 1202. Evidence of Signatures of Owners and Ownership of Bonds.** Any request,  
9 consent, revocation of consent or other instrument which this Ordinance may require or permit to be signed and  
10 executed by the Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such  
11 Owners in person or by their attorneys appointed in writing. The ownership of Bonds and the amount, numbers and  
12 other identification, and date of holding the same shall be proved by the registry books therefor. Any request or  
13 consent by the Owner of any Bond or the issuer of any Credit Facility shall bind all future Owners of such Bond and  
14 all future issuers of any Alternate Credit Facility given in replacement or substitution of such Credit Facility in  
15 respect of anything done or suffered to be done by the Issuer or any Fiduciary in accordance therewith.  
16

17 **Section 1203. Moneys Held for Particular Bonds; Unclaimed Moneys.** The amounts held  
18 by any Fiduciary for the payment of the interest, principal or Redemption Price due on any date with respect to  
19 particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust  
20 by it for the Owners of the Bonds entitled thereto.  
21

22 Anything in this Ordinance to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the  
23 payment and discharge of any of the Bonds which remain unclaimed for six years after the date when such Bonds have  
24 become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were  
25 held by the Fiduciary at such date, or for six years after the date of deposit of such moneys if deposited with the  
26 Fiduciary after the date when such Bonds became due and payable, shall, at the written request of the Issuer be repaid  
27 by the Fiduciary to the Issuer, as its absolute property and free from trust, and the Fiduciary shall thereupon be  
28 released and discharged with respect thereto and the Owners shall look only to the Issuer for the payment of such  
29 Bonds; *provided, however, that* before being required to make any such payment to the Issuer the Fiduciary shall, at  
30 the expense of the Issuer, cause to be mailed, postage prepaid, to the obligee under any Credit Agreement and to each  
31 registered owner of any unpaid Bonds at his address, if any, appearing upon the related registry books of the Issuer, a  
32 notice that said moneys remain unclaimed and that after a date named in said notice, which date shall be not less than  
33 30 days after the date of the mailing of such notice, the balance of such moneys then unclaimed will be returned to  
34 the Issuer.  
35

36 **Section 1204. Preservation and Inspection of Documents.** All documents received by any  
37 Fiduciary under the provisions of this Ordinance shall be retained in its possession and shall be subject at all  
38 reasonable times to the inspection of the Issuer, any other Fiduciary, and any related Owner and their agents and their  
39 representatives, any of whom may make copies thereof.  
40

41 **Section 1205. Parties Interested Herein.** Nothing in this Ordinance expressed or implied is  
42 intended or shall be construed to confer upon, or to give to, any person or corporation, other than the Issuer, the  
43 Fiduciaries, the Credit Providers and the Owners of the Bonds, any right, remedy or claim under or by reason of this  
44 Ordinance or any covenant, condition or stipulation thereof; and all the covenants, stipulations, promises and  
45 agreements in this Ordinance contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of  
46 the Issuer, the Fiduciaries, the Credit Providers and the Owners of the Bonds.  
47

48 **Section 1206. No Recourse.** No recourse shall be had for the payment of the principal of or interest  
49 on the Bonds or on any obligation under a Credit Agreement or for any claim based thereon or on this Ordinance



1 against any member or officer of the Issuer or any person executing the Bonds. It is hereby recognized and agreed  
2 that neither the members of the Council of the Issuer nor any officer, employee or agent of the Issuer shall be  
3 individually liable on the Bonds or the interest thereon, on any obligation under a Credit Agreement or in respect of  
4 any undertakings by the Issuer under this Ordinance.  
5

6 **Section 1207. Severability of Invalid Provisions.** If any one or more of the covenants or  
7 agreements provided in this Ordinance on the part of the Issuer or any Fiduciary to be performed should be contrary  
8 to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining  
9 covenants and agreements and shall in no way affect the validity of the other provisions of this Ordinance.  
10

11 **Section 1208. Holidays.** If the date for making any payment or the last date for performance of any  
12 act or the exercising of any right, as provided in this Ordinance, shall be a legal holiday or a day on which banking  
13 institutions in the city in which is located the principal office of the Trustee or the issuer of any Credit Facility are  
14 authorized bylaw to remain closed, such payment may be made or act performed or right exercised on the next  
15 succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Ordinance.  
16

17 **Section 1209. Limitation of Issuer's Liability.** The obligations of the Issuer under this  
18 Ordinance as well as any costs or expenses of the Issuer incurred in respect of its obligations and duties hereunder  
19 shall never constitute a ~~general obligation~~ debt or indebtedness of the Issuer within the meaning of any provision or  
20 limitation of the Constitution or statutes of the State of Oregon but shall be payable solely from the ~~Net Revenues~~  
21 ~~Available Funds~~ and the Trust Estate.  
22

23 **Section 1210. Governing Law.** This Ordinance shall be interpreted, governed by and construed  
24 under the laws of the State, including the Act, as if executed and to be performed wholly within the State.  
25

26 **Section 1211. Headings Not Binding.** The headings in this Ordinance are for convenience only  
27 and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.  
28

29 **Section 1212. Effective Date.** This Ordinance shall, except as otherwise provided by law, become  
30 effective immediately upon enactment.  
31

1  
2  
3  
4 **Certification of Ordinance**  
5  
6  
7

8       *The undersigned do hereby certify that we are the duly elected or appointed, qualified and acting*  
9 *Executive Officer, Presiding Officer of the Council and Clerk of the Council of the Metropolitan Service*  
10 *District, Counties of Multnomah, Clackamas and Washington, State of Oregon; that the foregoing is a*  
11 *true and complete copy of Ordinance No. 91-439 as enacted by the Council of said district at a regular*  
12 *meeting duly called and held in accordance with law on December 12, 1991; and that the following*  
13 *Councilors voted in favor of said Ordinance.*  
14

15 \_\_\_\_\_  
16  
17  
18 *the following Councilors voted against said Ordinance:*  
19  
20 \_\_\_\_\_  
21  
22

23 *and the following Councilors abstained from voting on said Ordinance:*  
24  
25 \_\_\_\_\_  
26  
27

28       *In addition, the Executive Officer hereby certifies that the foregoing ordinance has not been*  
29 *vetoed thereby.*  
30

31       *In witness whereof, the undersigned have hereunto set their hands as of the dates set forth below.*  
32

33                               *Attest:*  
34  
35  
36  
37

38 \_\_\_\_\_  
39 *Presiding Officer*

40 *Date:* \_\_\_\_\_  
41  
42  
43

38 \_\_\_\_\_  
39 *Clerk of the Council*

40 *Date:* \_\_\_\_\_  
41  
42  
43

44 \_\_\_\_\_  
45 *Rena Cusma, Executive Officer*

*Date:* \_\_\_\_\_

## **STAFF REPORT**

**CONSIDERATION OF ORDINANCE NO. 91-439 ESTABLISHING A PLAN FOR THE FINANCING FROM TIME TO TIME OF VARIOUS FACILITIES AND OPERATIONS OF THE METROPOLITAN SERVICE DISTRICT; AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF REVENUE BONDS FOR SUCH PURPOSE UNDER THE PROVISIONS OF SUPPLEMENTAL ORDINANCE ADOPTED PURSUANT HERETO; AND ESTABLISHING AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH**

**CONSIDERATION OF ORDINANCE NO. 91-440, A SUPPLEMENTAL ORDINANCE TO ORDINANCE NO. 91-439, ESTABLISHING A PLAN FOR FINANCING THE METRO HEADQUARTERS BUILDING; AUTHORIZING THE ISSUANCE OF THE METRO HEADQUARTERS BUILDING BONDS FOR SUCH PURPOSE; AND ESTABLISHING AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.**

---

**Date: November 6, 1991**

## **FACTUAL BACKGROUND AND ANALYSIS**

Ordinance No. 91-439 (the Master Ordinance) sets forth the terms and conditions under which Metro may issue general revenue bonds to fund projects for the District. Ordinance No. 91-440 (the Supplemental Ordinance) is supplemental to the Master Ordinance and establishes the plan and authority for issuance of bonds to fund the new Metro Headquarters Building.

As stated in the Master Ordinance, bonds are apyable from Metro Revenues and are secured by Department and General Assessments. Department Assessments are defined as reasonably allocated charges paid by departments for use of and benefit from the funded facility or project. General Assessments are other Metro Revenues (other than department charges) that might be used to pay debt service at Metro's discretion. To the extent possible, the Master Ordinance relies on Metro's current practices of cost allocation to determine each department's share of debt service for facility use. As provided in the Master Ordinance, Department and General Assessments (Total Assessments) shall be deposited into the newly created General Revenue Bond Fund.

The Supplemental Ordinance specifically authorizes the issuance of the bonds for the new Metro Headquarters Building according to the procedures outlined in the Master Ordinance and establishes a Renewal and Replacement Account in the General Revenue Bond Fund that shall be the depository for moneys intended to fund capital expenditures for the new Headquarters Building.

Because the ordinances are subject to review and possible modification by rating agency representatives, underwriter's counsel, and other participants in the financing, amendments are very likely. It is the Finance and Management information Department's intention to submit these amendments for consideration at the December 5, 1991 meeting of the Council Finance Committee.

**EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends adoption of Ordinance No. 91-439 and Ordinance No. 91-440 for the purpose of issuing revenue bonds to finance the new Metro Headquarters Building and other future District requirements.

## **STAFF REPORT**

**CONSIDERATION OF ORDINANCE NO. 91-439 ESTABLISHING A PLAN FOR THE FINANCING FROM TIME TO TIME OF VARIOUS FACILITIES AND OPERATIONS OF THE METROPOLITAN SERVICE DISTRICT; AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF REVENUE BONDS FOR SUCH PURPOSE UNDER THE PROVISIONS OF SUPPLEMENTAL ORDINANCE ADOPTED PURSUANT HERETO; AND ESTABLISHING AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH**

**CONSIDERATION OF ORDINANCE NO. 91-440, A SUPPLEMENTAL ORDINANCE TO ORDINANCE NO. 91-439, ESTABLISHING A PLAN FOR FINANCING THE METRO HEADQUARTERS BUILDING; AUTHORIZING THE ISSUANCE OF THE METRO HEADQUARTERS BUILDING BONDS FOR SUCH PURPOSE; AND ESTABLISHING AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.**

---

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The Executive Officer recommends adoption of Ordinance No. 91-439 and Ordinance No. 91-440 for the purpose of issuing revenue bonds to finance the new Metro Headquarters Building and other future District requirements.

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# Ordinance No. 91-439

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## The Council of the Metropolitan Service District

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An ordinance establishing a plan for the financing from time to time of various facilities and operations of the Metropolitan Service District; authorizing the issuance of one or more series of revenue bonds for such purpose under the provisions of supplemental ordinances adopted pursuant hereto; and establishing and determining other matters in connection therewith.

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Enacted on           , 1991

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*Prepared by:*

*Stoel Rives Boley Jones & Grey,  
Bond Counsel*

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# Table of Contents

**Note: This Table of Contents is provided solely for the convenience of the reader. It does not constitute a part of Ordinance No. 91-\_\_.**



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9

**Metropolitan Service District**  
Counties of Multnomah, Clackamas and Washington  
State of Oregon

10  
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12  
13

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**Ordinance No. 91-<sup>439</sup>**

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14  
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21

**An ordinance establishing a plan for the financing from time to time of various facilities and operations of the Metropolitan Service District; authorizing the issuance of one or more series of revenue bonds for such purpose under the provisions of supplemental ordinances adopted pursuant hereto; and establishing and determining other matters in connection therewith.**

---

22  
23  
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27

**Be it enacted by the Council of the Metropolitan Service District:**

28  
29  
30  
31  
32  
33

**Section A. Findings.** The Council (the "Council") of the Metropolitan Service District, a political subdivision organized and existing under the laws of the State of Oregon (the "Issuer"), hereby finds and determines as follows:

34  
35  
36  
37

(a) Pursuant to and in accordance with the provisions of Article II, Section 14 of the Oregon Constitution, Oregon Revised Statutes Chapter 268 and related provisions of the Oregon Revised Statutes, the Issuer is responsible for various regional governmental functions and operations.

38  
39  
40  
41  
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43

(b) In order to meet the present and continuing needs of the Issuer to carry out the duties, functions and operations which are now or which may hereafter become its responsibility or within its powers, it is and will be necessary to borrow money for the purposes of financing the operations of the Issuer and the acquisition, construction, renovation, furnishing and equipping of the facilities necessary or appropriate in connection with such operations.

44  
45  
46  
47

(c) Pursuant to the provisions of the Act (as hereinafter defined) and other applicable provisions of law, the Issuer is authorized, without voter approval, to issue and sell from time to time revenue bonds for the purpose of carrying into effect all or any of the powers granted to it.

(d) The Issuer has determined to enact this Ordinance to provide for the issuance of its revenue bonds and other obligations (as more particularly described herein, the "Bonds") for the purpose of financing the operations of the Issuer and the acquisition, construction, renovation, furnishing and equipping of the facilities necessary or appropriate in connection with such operations, as well as for any other lawful purpose for which the Issuer is now or may hereafter be authorized to issue Bonds of the character provided for herein.

## ARTICLE I DEFINITIONS

**Section 101. Definitions.** As used in this Ordinance, unless the context shall otherwise require, the following terms shall have the following respective meanings set forth below:

"Account" or "Accounts" shall mean one or more of the special trust accounts created and established pursuant to this Ordinance or any Supplemental Ordinance.

"Accountant's Opinion" shall mean an opinion, certificate or report (as appropriate to the purposes for which the same is required) signed by an independent certified public accountant or a firm of independent certified public accountants selected by the Issuer.

"Accreted Value" shall mean, as of the date of computation with respect to any Capital Appreciation Obligations, an amount equal to:

(i) the principal amount of such Capital Appreciation Obligations (the issue price at the date of issuance), plus

(ii) the interest accrued on such Capital Appreciation Obligations from the date of original issuance of such Capital Appreciation Obligations to the Interest Payment Date next preceding the date of computation or the date of computation if an Interest Payment Date, such interest to accrue at an approximate rate *per annum* of the Capital Appreciation Obligations set forth in the Supplemental Ordinance providing for the issuance of, or the Financing Agreement giving rise to, such Capital Appreciation Obligations, compounded at such intervals as shall be specified in such Supplemental Ordinance or Financing Agreement, plus

(iii) with respect to matters related to the payment upon redemption of such Capital Appreciation Obligations, if such date of computation shall not be an Interest Payment Date, a portion of the difference between the Accreted Value as of the immediately preceding Interest Payment Date (or the date of original issuance if the date of computation is prior to the first Interest Payment Date succeeding the date of original issuance) and the Accreted Value as of the immediately succeeding Interest Payment Date, calculated based on the assumption that Accreted Value accrues during any period in equal daily amounts on the basis of a year of twelve 30-day months.

A table of Accreted Values for each Series of Bonds issued as Capital Appreciation Obligations shall be incorporated in a Supplemental Ordinance or Financing Agreement relating to such Capital Appreciation Obligations.

"Act" shall mean: (i) when used with respect to the governmental powers of the Issuer, Oregon Revised Statutes Chapter 268, as amended, and other applicable provisions of the laws of the State of Oregon or any charter or other law hereafter enacted or in effect dealing with the governmental powers of the Issuer; and (ii) when used with

1 respect to the legal authority pursuant to which a particular Series of Debt Obligations are issued or incurred, the  
2 statute, charter or other provision of law specified in the Supplemental Ordinance or in the related Financing  
3 Agreement pursuant to which such Debt Obligation is issued or incurred, which may include (but is not limited to)  
4 Oregon Revised Statutes, Chapter 268, as amend, Orgeon Revised Statutes, Chapter 288, as amended, and other  
5 applicable provisions of the laws of the State of Oregon or any charter provision or other law hereafter enacted or in  
6 effect dealing with the financing powers of the Issuer..

7  
8 **"Additional Bonds"** shall mean Bonds issued pursuant to Section 205 hereof.

9  
10 **"Alternate Credit Facility"** means with respect to a particular Series of Debt Obligations, any Credit  
11 Facility meeting the applicable requirements of the Supplemental Ordinance or Financing Agreement under which  
12 such Series of Debt Obligations is issued or incurred and which is given in substitution for or replacement of an  
13 existing Credit Facility securing such Series.

14  
15 **"Annual Budget"** shall mean the annual budget of the Issuer, as amended or supplemented, adopted or in  
16 effect for a particular Fiscal Year as provided in Section 702(f) hereof.

17  
18 **"Annual Debt Service"** shall mean the amount required to be paid in the then current or any succeeding  
19 Fiscal Year in respect of the principal of or interest on any Outstanding Debt Obligations; *providing, however, that:*

20  
21 (i) there shall be credited against such sum any interest capitalized or otherwise payable from  
22 proceeds derived from the sale of such Debt Obligations;

23  
24 (ii) the amount of Term Obligations subject to mandatory redemption in any Fiscal Year pursuant  
25 to a Mandatory Redemption Schedule shall be deemed to mature in the Fiscal Year in which such Term  
26 Obligations are subject to such mandatory redemption and only the principal amount of such Term  
27 Obligations scheduled to remain Outstanding on the maturity date thereof shall be included in determining  
28 the Annual Debt Service for Debt Obligations in the Fiscal Year in which such maturity date occurs;

29  
30 (iii) for purposes of determining Annual Debt Service for the Outstanding Debt Obligations which  
31 constitute Option Obligations, any such Option Obligations Outstanding at the time of such determination  
32 shall be assumed to mature on their stated dates of maturity; *provided that* if such Option Obligations are  
33 subject, without contingency, to scheduled mandatory redemption on specific determinable dates and in  
34 specific amounts, then such Option Obligations shall be deemed to mature on the dates and in the amounts  
35 provided in connection with such scheduled mandatory redemption;

36  
37 (iv) for purposes of computing Annual Debt Service for the Outstanding Debt Obligations which  
38 constitute Variable Rate Obligations, such Variable Rate Obligations shall be deemed to bear interest at all  
39 times to maturity thereof at the Estimated Average Interest Rate applicable thereto and if such Variable Rate  
40 Obligations are subject, without contingency, to scheduled mandatory redemption on specific or  
41 determinable dates and in specific amounts, then such Variable Rate Obligations shall be deemed to mature  
42 on the dates and in the amounts provided in connection with such scheduled mandatory redemption;

43  
44 (v) for purposes of computing Annual Debt Service on Outstanding Debt Obligations which  
45 constitute Capital Appreciation Obligations, only the principal and interest portion of the Accreted Value  
46 becoming due at maturity or by virtue of a scheduled mandatory redemption prior to maturity shall be  
47 included in the calculations of accrued and unpaid interest and principal requirements; and

48  
49 (vi) for purposes of computing Annual Debt Service on any Debt Obligations which constitute  
50 Balloon Indebtedness, it shall be assumed that the principal of such Balloon Indebtedness, together with

1 interest thereon at the rate applicable to such Balloon Indebtedness, shall be amortized in equal annual  
2 installments over a term equal to the lesser of:

3  
4 (1) twenty five (25) years; or

5  
6 (2) the average weighted useful life (expressed in years and rounded to the next highest  
7 integer) of the properties and assets constituting the Project (if any) financed out of the proceeds of  
8 such Balloon Indebtedness.  
9

10 **"Authorized Denominations"** means, with respect to a particular Series of Bonds, the denominations  
11 in which the Bonds of such Series are authorized to be issued as provided in the Supplemental Ordinance under which  
12 such Series of Bonds is issued.  
13

14 **"Authorized Issuer Representative"** shall mean the Executive Officer of the Issuer or any person  
15 designated by the Executive Officer in writing to act on behalf of such Executive Officer for purposes of this  
16 Ordinance.  
17

18 **"Balloon Indebtedness"** shall mean any Series Debt Obligations more than twenty five percent (25%)  
19 of the principal of which, in accordance with the terms of such Debt Obligations, is due and payable in any one  
20 Fiscal Year either by reason of the stated maturity date of such Debt Obligations or pursuant to a Mandatory  
21 Redemption Schedule; *provided that* with respect to any Debt Obligations issued as Term Obligations, such Debt  
22 Obligations shall only be treated as Balloon Indebtedness if more than twenty five percent (25%) of the principal  
23 thereof is due in any one Fiscal Year pursuant to the applicable Mandatory Redemption Schedule or upon the stated  
24 maturity date thereof (assuming that the only principal due on the stated maturity date thereof will be the principal  
25 remaining outstanding after all redemptions have been made pursuant to the applicable Mandatory Redemption  
26 Schedule).  
27

28 **"Bond" or "Bonds"** shall mean all bonds, notes or other financing obligations issued under the  
29 provisions of this Ordinance and any Supplemental Ordinance which are: (i) payable from the Revenues on an equal  
30 and ratable (*pari passu*) basis with all other Outstanding Bonds, and (ii) secured by a pledge of the Trust Estate on an  
31 equal and ratable (*pari passu*) basis with all other Outstanding Bonds.  
32

33 **"Bond Counsel"** shall mean Stoel Rives Boley Jones & Grey or an attorney or firm of attorneys of  
34 recognized national standing in the field of law relating to municipal bonds selected by the Issuer.  
35

36 **"Bond Registrar"** shall mean, with respect to a particular Series of Bonds, any bank, trust company or  
37 national banking association, which may include the Trustee or its successor, authorized by the Issuer pursuant to a  
38 Supplemental Ordinance to act as bond registrar for such Series of Bonds and having the duties, responsibilities and  
39 rights provided for in this Ordinance and such Supplemental Ordinance, and its successor or successors and any other  
40 corporation or association which at any time may be substituted in its place pursuant to this Ordinance or the  
41 applicable provisions of any Supplemental Ordinance.  
42

43 **"Bond Year"** means, with respect to a particular issue of Debt Obligations, each one year period  
44 commencing on: (i) the date of issuance and delivery or incurrence of the Debt Obligations of such issue; or  
45 (ii) such other date as the Issuer may elect in accordance with the application provisions of Section 148(f) of the  
46 Code and the regulations thereunder.  
47

48 **"Calculation Period"** means, with respect to a particular issue of Debt Obligations Obligation, the  
49 period elected by the Issuer in accordance with and pursuant to the regulations promulgated pursuant to  
50 Section 148(f) of the Code (or any successor thereto) for calculating the Rebate Amount with respect to such issue.

1  
2       **"Capital Appreciation Obligations"** shall mean those Debt Obligations as to which interest is  
3 compounded periodically on each of the applicable periodic dates designated for compounding and payable in an  
4 amount equal to the then current Accreted Value only at the maturity or earlier redemption thereof, all as so  
5 designated in a Supplemental Ordinance of the Issuer providing for the issuance thereof or in the Financing  
6 Agreement giving rise to such Debt Obligation, including any Debt Obligations which accrue and compound interest  
7 thereon as aforesaid for a period of time, after which period such Debt Obligations commence paying interest on a  
8 periodic basis and convert into Current Interest Obligations.  
9

10       **"Code"** means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated  
11 or applicable thereunder, and any successor statute (but only to the extent that such successor statute is applicable to  
12 particular Debt Obligations).  
13

14       **"Completion Obligations"** shall mean, with respect to a particular Series of Debt Obligations, Debt  
15 Obligations issued or incurred under and pursuant to the provisions of Section 205(b) hereof for the purpose of  
16 providing funds to finance the completion of a Project.  
17

18       **"Construction Account"** shall mean the Account by that name established with the Trustee pursuant to  
19 Section 502 hereof.  
20

21       **"Costs of Issuance"** shall mean, with respect to a particular Series of Debt Obligations, all costs  
22 necessary or attributable to the issuance of such Series including, but are not limited to, legal fees and expenses, fees  
23 and expenses of any consulting engineer and financial advisors, costs of audits, advertising and printing expenses,  
24 fees and expenses of the Fiduciaries, costs of credit ratings, costs of premiums on insurance on the Debt Obligations,  
25 the initial fees, expenses and other amounts payable to any indexing agent, depositary, remarketing agent, tender  
26 agent or any other person whose services are required with respect to the issuance of any Debt Obligations, and also  
27 including discounts to the underwriters or other purchasers of the Debt Obligations incurred in the issuance and sale  
28 of thereof, the proceeds of which have been or will be required to be applied to one or more purposes for which Debt  
29 Obligations could be issued or incurred.  
30

31       **"Counsel"** shall mean an attorney, or firm of attorneys, admitted to practice law before the highest court  
32 of any state in the United States of America or the District of Columbia.  
33

34       **"Credit Agreement"** shall mean an agreement with a Credit Provider pursuant to which a Credit Facility  
35 is issued or given as security for a particular Series of Debt Obligations.  
36

37       **"Credit Facility"** shall mean a letter of credit, a municipal bond insurance policy, a surety bond, standby  
38 bond purchase agreement or other credit enhancement device given, issued or posted as security for one or more  
39 Series of Debt Obligations, including any Alternate Credit Facility.  
40

41       **"Credit Provider"** shall mean the person or entity, if any, providing a Credit Facility as security for a  
42 Series of Debt Obligations.  
43

44       **"Current Interest Obligations"** shall mean those Debt Obligations which bear interest payable  
45 periodically on specified or determinable dates prior to the maturity or redemption dates thereof, including any  
46 Capital Appreciation Obligations from and after the date upon which interest becomes payable on a periodic basis  
47 prior to the maturity thereof, all as so designated in a Supplemental Ordinance or Financing Agreement providing for  
48 the issuance or incurrence of such Debt Obligation, and which may be either Serial Obligations or Term  
49 Obligations, including Variable Rate Obligations and Option Obligations.  
50

1       **"Debt Obligations"** means any Outstanding Bonds or Financial Obligations.

2  
3       **"Debt Service Account"** shall mean the Account by that name established in Section 502 hereof.

4  
5       **"Department"** means each functional unit of the Issuer, whether now existing or hereafter established,  
6 through which the Issuer carries out its governmental functions and purposes; it being the intent of this Ordinance  
7 that the Issuer shall at all times retain the right to organize and reorganize its functional units in whatever manner it  
8 deems most appropriate for purposes of carrying out its governmental functions and purposes.

9  
10       **"Department Assessment"** shall mean, with respect to a particular Department, the amount required to  
11 be assessed against such Department each Fiscal Year as provided in Section 501(b)(i) hereof.

12  
13       **"Department Obligations"** means any bonds, notes or similar financing obligations, including but  
14 not limited to installment purchase agreements and lease purchase agreements (but not including true leases), issued  
15 or incurred by the Issuer or any of its Departments which are: (i) issued or incurred pursuant to an indenture,  
16 ordinance or similar governing documents which establishes a comprehensive method for financing the undertakings  
17 of a Department in a manner similar to the comprehensive financing method provided for the Issuer's Solid Waste  
18 Department pursuant to Ordinance No. 89-319; and (ii) payable solely and only out of the related Department  
19 Revenues; it being the intent of this Ordinance that no Department Assessment shall constitute a "Department  
20 Obligation" within the meaning hereof.

21  
22       **"Department Revenues"** means, with respect to a particular Department, the gross revenues generated  
23 by the operations of, or the exercise of the Issuer's governmental powers and functions carried out by, such  
24 Department.

25  
26       **"Depository"** shall mean any bank or trust company organized under the laws of any state of the United  
27 States or any national banking association selected by the Issuer as a depository of moneys and securities held under  
28 the provisions of this Ordinance, and may include the Trustee.

29  
30       **"Estimated Average Interest Rate"** shall mean:

31  
32       (i) as to any Outstanding Debt Obligations during any period in which such Debt Obligations are  
33 Variable Rate Obligations, the higher of:

34  
35               (a) to the extent such Variable Rate Obligations have been Outstanding for a period of 12  
36 months or more, the higher of:

37  
38                       (1) the weighted average rate of interest applicable to such Bonds or Issuer  
39 Financial Obligation, as the case may be, during the immediately preceding 12 month  
40 period, plus one percent; or

41  
42                       (2) the rate of interest applicable to such Bonds or Issuer Financial Obligation,  
43 as the case may be, as of the date of determination; or

44  
45               (b) to the extent such Variable Rate Obligations have not been Outstanding for a period  
46 of 12 months or more, the most current actual interest rate on such Variable Rate Obligations,  
47 plus one percent; and  
48

(ii) as to any Debt Obligations which have been authorized to be issued or incurred but have not yet been issued or incurred, 100% of the most recently published interest rate for municipal bonds with similar terms and credit ratings published in *The Bond Buyer*.

**"Event of Default"** shall mean, with respect to the Bonds, any of those events defined as Events of Default in Section 801 hereof.

**"Excess Earnings"** means, with respect to a particular issue of Debt Obligations issued as Tax-Exempt Obligations, the amount of investment earnings derived from moneys on deposit from time to time in the Debt Service Account, the Reserve Account, the Construction Account and any other Account or Fund or other fund or account established in connection therewith, to the extent that such investment earnings are required to be taken into account for purposes of determining the Rebate Amount for such Debt Obligations, or the investment earnings derived from moneys on deposit in any other fund or account containing funds the investment earnings on which are required to be taken into account for purposes of determining the Rebate Amount for such Debt Obligation, to the extent that such investment earnings exceed the amount that would have been earned on such moneys had such moneys been invested at a yield equal to the yield on the related Debt Obligation (with the yield on the related Debt Obligation being determined in accordance with the provisions of Section 148(f) of the Code); *provided that* with respect to the investment earnings on amounts on deposit from time to time in the Debt Service Account or any "bona fide debt service fund" (within the meaning of Section 148(f) of the Code) established in connection with such Debt Obligation and which investment earnings are attributable to such Debt Obligation, such investment earnings shall not be taken into account to the extent that the gross investment earnings on such account for the Bond Year are less than \$100,000, all within the meaning of and as contemplated by Code Section 148(f)(4)(A)(ii); it being the intent of this definition that "Excess Earnings" shall be calculated so that the Rebate Amount is determined in accordance with the requirements with Section 148(f) of the Code (or any successor thereto).

**"Executive Officer"** shall mean the duly elected or appointed, qualified and acting Executive Officer of the Issuer, or any officer of the Issuer hereafter succeeding to the powers and duties of such Executive Officer.

**"Fiduciary"** shall mean the Trustee, any Bond Registrar, any Paying Agent, any Depositary and any Remarketing Agent or Tender Agent for Bonds which constitute Variable Rate Obligations or Option Obligations, or any or all of them, as may be appropriate.

**"Financial Obligation"** shall mean the obligation of the Issuer under any Financing Agreement to make lease-purchase or installment purchase payments or other payments in the nature of debt service payments (the foregoing being called "Financing Payments" for purposes of this definition); *Provided that* a Financing Agreement shall not constitute a Financial Obligation hereunder if such Financing Agreement constitutes Subordinated Debt or if:

(i) such Financing Agreement: (a) has a term of five years or less; and (b) the total Financing Payments under such Financing Agreement due in any one Fiscal Year do not exceed the total Financing Payments due thereunder in any other Fiscal year by more than fifty percent (50%); and

(ii) at the time such Financing Agreement is entered into, the maximum aggregate amount of Financing Payments scheduled to become due in any future Fiscal Year under all Financing Agreements which do not constitute Issuer Financial Obligations by virtue of this *proviso* does not exceed one percent (1%) of the Revenues for the Issuer's last completed Fiscal Year.

**"Financing Agreement"** shall mean any lease-purchase agreement (that is, a financing lease as opposed to a "true" lease) or installment sale contract or similar financing agreement entered into by the Issuer for the purpose of financing or refinancing the acquisition and/or construction or renovation of any additions, extensions, or

1 improvements to or of any facilities for use by the Issuer or the furnishing or equipping thereof, or any other  
2 agreement (howsoever styled) pursuant to which the Issuer is expressly required to pay the financing costs of  
3 facilities used by a third party in order to perform or provide services to or on behalf of the Issuer in furtherance of  
4 its governmental duties or operations; *provided that* the term "Financing Agreement" shall not include any such lease-  
5 purchase agreement, installment sale contract or similar financing agreement to the extent the same constitutes a  
6 Department Obligation.  
7

8 **"Final Computation Date"** shall mean "final computation date" as such phrase is used in the  
9 regulations promulgated pursuant to Section 148(f) of the Code (or any successor thereto).  
10

11 **"Fiscal Year"** shall mean the fiscal year of the Issuer as prescribed by law, currently that period  
12 commencing on July 1 and continuing to an including the next succeeding June 30.  
13

14 **"Fitch"** means Fitch Investors Service, Inc., its successors and assigns.  
15

16 **"Fund" or "Funds"** means one or more of the special trust funds created and established pursuant to this  
17 Ordinance or any Supplemental Ordinance.  
18

19 **"General Assessment"** means an assessment made by the Issuer from any lawfully available funds for  
20 the purpose of fulfilling all or part of its obligations under Section 501(b) hereof and which is not assessed against a  
21 particular Department.  
22

23 **"General Revenue Bond Fund"** shall mean the Fund by that name established pursuant to Section 502  
24 hereof.  
25

26 **"Government Obligations"** shall mean, to the extent permitted by law for investment as herein  
27 contemplated, any general obligations of the United States of America of any agency or instrumentality thereof.  
28

29 **"Installment Computation Date"** shall mean "installment computation date" as such phrase is used  
30 in the regulations promulgated pursuant to Section 148(f) of the Code (or any successor thereto).  
31

32 **"Interest Payment Date"** shall mean, with respect to a particular Series of Debt Obligations, any date  
33 upon which interest and/or principal on such Series is due and payable in accordance with the terms thereof, whether  
34 at maturity or upon redemption or prepayment prior to maturity.  
35

36 **"Investment Securities"** shall mean and include any securities or investments in which the moneys on  
37 deposit in the Funds and Accounts established under this Ordinance are permitted to be invested  
38

39 **"Issuer"** shall mean the Metropolitan Service District, located within the Counties of Multnomah,  
40 Clackamas and Washington, a political subdivision duly organized and existing under the laws of the State of  
41 Oregon.  
42

43 **"Issuer Contribution"** shall mean any moneys, other than Bond proceeds and the interest earned  
44 thereon, which are to be applied to the payment of any costs relating to any Project or Series of Bonds, or to the  
45 defeasance or redemption of any Bonds.  
46

47 **"Local Budget Law"** means ORS 294.305 to 294.565, as amended, and the administrative rules  
48 promulgated thereunder.  
49



1       **"Mandatory Redemption Schedule"** shall mean with respect to particular Debt Obligations, the  
2 schedule pursuant to which the principal portions thereof (howsoever designated) are subject, without contingency, to  
3 mandatory redemption or prepayment prior to maturity, all as set forth in the Supplemental Ordinance or the  
4 Financing Agreement pursuant to which such Debt Obligation is issued or incurred.

5  
6       **"Minimum Authorized Denomination"** shall mean with respect to a particular Bond, the minimum  
7 denomination in which such Bond is permitted to be issued as set forth in the Supplemental Ordinance authorizing  
8 the issuance of such Bond.

9  
10       **"Moody's"** shall mean Moody's Investors Service, a corporation organized and existing under the laws of  
11 the State of Delaware, its successors and their assigns.

12  
13       **"Opinion of Bond Counsel"** shall mean an opinion of Stoel Rives Boley Jones & Grey, attorneys of  
14 Portland, Oregon, or other Bond Counsel acceptable to the Issuer, addressed to the Issuer and the Trustee, to the effect  
15 that the action proposed to be taken is authorized or permitted by this Ordinance or the applicable provisions of any  
16 Supplemental Ordinance and will not adversely affect the excludability for federal income tax purposes of the interest  
17 on any Bonds issued as, and which at the time of rendition of such opinion still are, Tax-Exempt Obligations from  
18 the gross incomes of the Owners thereof.

19  
20       **"Option Obligations"** shall mean, with respect to a particular Series of Bonds and with respect to a  
21 particular Issuer Financial Obligation, Bonds of such Series or portions of such Issuer Financial Obligation which  
22 by their terms may be tendered by and at the option of the Owner or holder thereof for purchase prior to the stated  
23 maturity thereof.

24  
25       **"Ordinance"** shall mean this Ordinance No. 91-\_\_ enacted \_\_\_\_, 1991, as from time to time  
26 amended, modified or supplemented by Supplemental Ordinances.

27  
28       **"Outstanding"**, when used with reference to a particular Series of Debt Obligations, shall mean, as of a  
29 particular date, all Bonds of such Series theretofore authenticated and delivered under this Ordinance and the  
30 Supplemental Ordinance pursuant to which such Bonds are issued or the unpaid amount of a Financial Obligation, as  
31 the case may be, except:

32  
33       (i) Bonds theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

34  
35       (ii) Bonds (or portions of Bonds) for the payment or redemption of which moneys, equal to the  
36 principal amount or Redemption Price thereof, as the case may be, with interest to the date of maturity or  
37 redemption date, shall be held in trust under this Ordinance or any Supplemental Ordinance and set aside for  
38 such payment or redemption (whether at or prior to the maturity or redemption date), *provided that* if such  
39 Bonds (or portions of Bonds) are to be redeemed, notice of such redemption shall have been given or  
40 provision satisfactory to the Trustee shall have been made for the giving of such notice as provided in this  
41 Ordinance or the applicable provisions of any Supplemental Ordinance;

42  
43       (iii) that portion of a Financial Obligation for the payment or prepayment of which moneys, equal  
44 to the principal amount or Redemption Price thereof, as the case may be, with interest to the date of  
45 maturity or prepayment date, shall be held in trust by a person other than the Issuer and set aside for such  
46 payment or redemption (whether at or prior to the maturity or prepayment date);

47  
48       (iv) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and  
49 delivered pursuant to Article III or Section 1106 hereof or the applicable provisions of any Supplemental

1 Ordinance unless proof satisfactory to the Trustee is presented that any such Bonds are held by a *bona fide*  
2 purchaser in due course; and

3  
4 (v) Bonds or the amount of a Financial Obligation paid or deemed to have been paid as provided in  
5 Section 1201.

6  
7 In addition, Bonds of a Series held by or for the Issuer shall not be deemed to be Outstanding for the  
8 purposes and within the purview Article X and Article XI of this Ordinance.

9  
10 "Owner" shall mean any person who shall be the registered owner of any Bond or Bonds as shown by the  
11 registration books maintained by the related Bond Registrar.

12  
13 "Paying Agent" shall mean, with respect to a particular Series of Bonds, any bank, trust company or  
14 national banking association, which may include the Trustee or its successor or successors, authorized by the Issuer  
15 pursuant to a Supplemental Ordinance to pay the principal or Redemption Price of or interest due on such Series of  
16 Bonds and having the duties, responsibilities and rights provided for in this Ordinance and such Supplemental  
17 Ordinance and its successor or successors and any other corporation or association which at any time may be  
18 substituted in its place pursuant to this Ordinance or the applicable provisions of any Supplemental Ordinance.

19  
20 "Permitted Investments" shall mean those investments in which, under the applicable laws of the  
21 State of Oregon or the applicable provisions of any charter hereinafter adopted for the Issuer, the Issuer is permitted  
22 to invest its funds. The laws of the State of Oregon which, as of the date of enactment of this Ordinance, set forth  
23 such investments are contained in ORS 294.035.

24  
25 "Presiding Officer" shall mean the duly elected, appointed and acting presiding officer of the Council of  
26 the Issuer.

27  
28 "Project" means any buildings, structures, land, interests in land, improvements, furnishings, machinery  
29 or equipment and any tangible personal or real property of every kind and description deemed necessary or appropriate  
30 by the Issuer for use in its operations or in furtherance of its governmental purposes and functions.

31  
32 "Qualified Consultant" means a independent engineer, an independent financial advisor, or similar  
33 independent professional consultant of nationally recognized standing and having experience and expertise in the area  
34 for which such person or firm is retained by the Issuer.

35  
36 "Rating Agency" shall mean: (i) with respect to any Bonds which, at the request of the Issuer, are then  
37 rated by S&P, S&P; (ii) with respect to any Bonds which, at the request of the Issuer, are then rated by Moody's,  
38 Moody's; (iii) with respect to any Bonds which, at the request of the Issuer, are then rated by Fitch, Fitch; and  
39 (iv) with respect to any Bonds rated which, at the request of the Issuer, are then by any other financial rating service,  
40 such financial rating service.

41  
42 "Rebate Account" shall mean the Account by that name established in Section 502.

43  
44 "Rebate Amount" shall mean, with respect to a particular Series of Debt Obligations, the sum of the  
45 Excess Earnings plus all investment earnings on such Excess Earnings; it being the intent of this definition that the  
46 Rebate Amount shall be calculated in accordance with the requirements of Section 148 of the Code (or any successor  
47 thereto).

48  
49 "Rebate Analyst" shall mean any entity selected by the Issuer which is competent to perform the  
50 calculations required by Section 507 hereof, which entity may be the Trustee.

1  
2       **"Rebate Payment"** shall mean the amounts required to be deposited each Fiscal Year in the Rebate  
3 Account pursuant to Section 507 hereof.  
4

5       **"Rebate Report"** shall mean a report for each Calculation Period prepared by the Issuer or a Rebate  
6 Analyst pursuant to Section 502 hereof calculating the Rebate Amount, all for the purpose of enabling the Issuer to  
7 comply with the requirements of Section 513 and Section 148 of the Code (or any successor thereto).  
8

9       **"Record Date"** means, with respect to a particular Series of Bonds, a date which is the fifteenth day of the  
10 month immediately preceding the month in which each Interest Payment Date occurs, whether or not a business day,  
11 or such other date or dates established by Supplemental Ordinance with respect to a Series of Bond authorized by  
12 such Supplemental Ordinance.  
13

14       **"Redemption"** shall mean any mandatory or optional redemption or prepayment of any Debt Obligation.  
15

16       **"Redemption Price"** shall mean, with respect to any Debt Obligation, the amount payable upon the  
17 redemption or prepayment thereof prior to maturity, including the principal of, premium (if any) and accrued or  
18 accreted interest thereon.  
19

20       **"Refunding Obligations"** shall mean any Debt Obligation issued or incurred to the extent such Debt  
21 Obligation is issued or incurred for the purpose of paying, whether at or prior to the stated maturity thereof, the  
22 principal of, premium (if any) and interest on any Outstanding Debt Obligation or any other bonds or obligations of  
23 the Issuer previously issued or incurred.  
24

25       **"Remarketing Agent"** shall mean with respect to a particular Series of Bonds, the person or entity  
26 designated to act in such capacity with respect to such Series of Bonds pursuant to the Supplemental Ordinance under  
27 which such Bonds are issued.  
28

29       **"Reserve Account"** shall mean the Account by that name established pursuant to Section 502 hereof.  
30

31       **"Reserve Requirement"** shall mean, as of any date of calculation, the lower of:  
32

33           (i) an amount equal to the maximum Annual Debt Service on all Outstanding Bonds for any  
34 future Fiscal Year; or  
35

36           (ii) the maximum amount that can be funded out of the proceeds derived from the issuance and sale  
37 of any Bonds without: (a) resulting in a violation of the Tax Covenants, or (b) causing the Issuer to restrict  
38 the yield on investments made from moneys on deposit in the Reserve Account in order to comply with the  
39 Tax Covenants;  
40

41 *provided that* the Issuer may provide by Supplemental Ordinance authorizing a Series of Bonds that the amount  
42 described in clause (a) of this definition shall be greater than required by this definition.  
43

44       **"Revenues"** shall mean, to the extent the same are legally available to pay debt service on Debt  
45 Obligations, all taxes (including but not limited to any excise taxes, *ad valorem* taxes and other taxes), fees, charges  
46 or other income (including investment income) levied, imposed, received or generated by the Issuer (including all of  
47 its Departments).  
48

49       **"S&P"** shall mean Standard & Poor's Corporation, a corporation organized and existing under the laws of  
50 the State of New York, its successors and their assigns.

1  
2       **"Serial Obligations"** shall mean, with respect to a particular Series of Debt Obligations, the portions  
3 of such Series which shall be stated to mature or become due and payable serially in annual installments but not  
4 including Term Obligations.  
5

6       **"Series"** shall mean: (i) all of the Bonds issued, authenticated and delivered pursuant to a Supplemental  
7 Ordinance on original issuance of a stipulated aggregate principal amount in a simultaneous transaction and any  
8 Bonds thereafter authenticated and delivered in lieu of or in substitution therefor pursuant to such Supplemental  
9 Ordinance regardless of variations in maturity, interest rate or other provisions, including: (a) any Additional Bonds  
10 issued under such Supplemental Ordinance, and (b) any Refunding Obligations issued under such Supplemental  
11 Ordinance; and (ii) the Financial Obligation incurred under a particular Financing Agreement.  
12

13       **"Subordinated Debt"** shall mean any bonds, notes or other obligations of the Issuer which: (i) are  
14 payable out of the Revenues on a basis which is second and subordinate to the payment from Revenues of the  
15 amounts owing on the Outstanding Debt Obligations, and (ii) are not secured by a pledge of and lien on the Trust  
16 Estate on an equal and ratable (*pari passu*) basis with the pledge of and lien on the Trust Estate securing the  
17 Outstanding Bonds.  
18

19       **"Supplemental Ordinance"** shall mean any ordinance supplemental to or amendatory of this Ordinance,  
20 entered into by the Issuer in accordance with this Ordinance.  
21

22       **"State"** shall mean the State of Oregon.  
23

24       **"Taxable Obligation"** shall mean any Debt Obligation, the interest on which is included in gross  
25 income for federal income tax purposes.  
26

27       **"Tax Covenants"** shall mean, with respect to those Debt Obligations issued as Tax-Exempt Obligations,  
28 the covenants of the Issuer to effect the Issuer's compliance with the Code to ensure the initial and continued  
29 exclusion from gross income for federal income tax purposes of the interest on such Debt Obligations.  
30

31       **"Tax-Exempt Obligation"** shall mean any Debt Obligation, the interest on which is excluded from  
32 gross income for federal income tax purposes.  
33

34       **"Tender Agent"** shall mean with respect to a particular Series of Bonds, the person or entity designated  
35 to act in such capacity with respect to such Series of Bonds pursuant to the Supplemental Ordinance under which  
36 such Bonds are issued.  
37

38       **"Total Assessments"** means, for any given period, the sum of all Department Assessments and  
39 General Assessments required to be assessed and applied by the Issuer as provided in Article V hereof.  
40

41       **"Term Obligations"** shall mean the portion of a Series of Debt Obligations which shall be stated to  
42 mature on one date and which are subject to scheduled mandatory redemption prior to maturity pursuant to a  
43 Mandatory Redemption Schedule.  
44

45       **"Trustee"** shall mean First Interstate Bank of Oregon, N.A., and its successors and any other corporation  
46 which may at any time be substituted in its place as Trustee under this Ordinance.  
47

48       **"Trust Estate"** shall mean the properties and assets hereafter pledged as security for the payment of the  
49 Bonds pursuant to Section 201 hereof.  
50



1 (b) **Designation.** Each Series of Bonds shall be designated "Metropolitan Service District General  
2 Revenue Bonds, *[insert calendar year in which such Series is issued]* Series *[insert series designation]*", but with such  
3 variations in said designation as may be necessary or appropriate in connection therewith.  
4

5 (c) **Pledge of Trust Estate.** As security for the payment of the principal of, premium (if any) and  
6 interest on all Outstanding Bonds issued from time to time hereunder, the Issuer does hereby pledge unto the Trustee,  
7 in trust for the benefit of the Owners of the Bonds from time to time issued and Outstanding hereunder, all of the  
8 Issuer's right, title and interest to, in and under the following:  
9

10 (i) the moneys and investments (including investment earnings thereon) on deposit from time to  
11 time in the Construction Account, the Debt Service Account and the Reserve Account, including without  
12 limitation the Issuer's right, title and interest to, in and under any Credit Facility given for the purpose of  
13 meeting all or part of the Reserve Requirement and any moneys drawn or paid under such Credit Facility;  
14

15 (ii) any Credit Facility given as security for the payment of any amounts owing under or with  
16 respect to any Bonds (other than any Credit Facility given for the purpose of meeting all or part of the  
17 Reserve Requirement) together with all moneys drawn or paid thereunder; *provided that* with respect to any  
18 such Credit Facility which is given as security for some, but not all, of the Outstanding Bonds, such Credit  
19 Facility together with the moneys drawn or paid thereunder shall be held by the Trustee solely as security  
20 for the Bonds for which such Credit Facility was given as security and neither such Credit Facility nor any  
21 moneys drawn or paid thereunder shall secure the payment of any amounts owing under or with respect to  
22 any other Bonds; and  
23

24 (iii) such other properties and assets and interests in properties and assets as may hereafter be  
25 pledged to the payment of the Bonds pursuant to any Supplemental Ordinance or which may be delivered,  
26 pledged, mortgaged or assigned by any person to the Trustee as security for the Bonds.  
27

28 The foregoing are herein collectively referred to as the "Trust Estate".  
29

30 **Section 202. Contents of Supplemental Ordinance Authorizing Series of Bonds.** Each  
31 Series of Bonds issued hereunder shall be authorized pursuant to a Supplemental Ordinance, which Supplemental  
32 Ordinance shall:  
33

34 (a) Specify which, if any, of the Bonds of such Series are intended to be Tax-Exempt Obligations;  
35

36 (b) Specify the maximum aggregate principal amount of such Series, the maturity dates, the  
37 redemption provisions, the interest rates or method for determining the interest rates and other terms and  
38 conditions applicable to the Bonds of such Series; *provided that* a Supplemental Ordinance may authorize  
39 the Executive Officer to determine the maturity dates, the redemption provisions, the interest rates and other  
40 terms and conditions applicable to the Bonds of such Series;  
41

42 (c) Specify the manner in which the Bonds of such Series shall be sold;  
43

44 (d) Direct the disposition of the proceeds of such Series and the required deposits into the various  
45 Accounts established in connection with such Series;  
46

47 (e) Specify whether the Bonds of such Series shall be supported or secured by a Credit Facility;  
48

1 (f) Specify provisions for Variable Rate Obligations, Option Obligations, Current Interest  
2 Obligations, Capital Appreciation Obligations and any Credit Facilities and the appointment of Tender  
3 Agents and Remarketing Agents, if any;  
4

5 (g) Specify the Authorized Denominations of, and the manner of dating, numbering and lettering,  
6 the Bonds of such Series;  
7

8 (h) Specify the purposes to which the proceeds of such Bonds are to be applied;  
9

10 (i) Set forth the forms of Bonds of such Series and of the Trustee's certificate of authentication;  
11 and  
12

13 (j) Set forth such other terms and provisions of such Series and other matters related thereto as  
14 shall be necessary or appropriate, which other terms and provisions shall not be inconsistent with the  
15 applicable provisions of this Ordinance.  
16

17 **Section 203. Conditions Precedent to Delivery of a Series of Bonds.** After their  
18 authorization by a Supplemental Ordinance, Bonds of a Series may be executed by or on behalf of the Issuer and  
19 delivered to the Trustee for authentication and, upon compliance with the requirements, if any, set forth in the  
20 Supplemental Ordinance authorizing such Series, the Trustee shall thereupon authenticate and deliver such Bonds to  
21 or upon the order of the Issuer, but only upon the receipt by the Trustee of:  
22

23 (a) an opinion of Bond Counsel to the effect that:  
24

25 (i) the Issuer has the legal authority and power to issue the Bonds of such Series;  
26

27 (ii) the Bonds of such Series have been validly authorized and executed and have been  
28 issued for a purpose provided in and authorized by the Act;  
29

30 (iii) the Bonds of such Series constitute legal, valid and binding limited obligations of  
31 the Issuer enforceable in accordance with their terms and entitled to the benefit of the related Trust  
32 Estate; it being intended that such opinion as to the enforceability of the Bonds of such Series and  
33 this Ordinance may be subject to the exercise of judicial discretion in accordance with general  
34 equitable principles and to bankruptcy, insolvency, reorganization, moratorium and other similar  
35 laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally  
36 applicable, and subject to such other exceptions as are customary in connection with the rendition  
37 of opinions for like purposes;  
38

39 (b) a written order as to the delivery of the Bonds of such Series, signed by an Authorized Issuer  
40 Representative;  
41

42 (c) copies of this Ordinance and the related Supplemental Ordinance, certified by an Authorized  
43 Issuer Representative;  
44

45 (d) a certificate of an Authorized Issuer Representative stating that the Issuer is not in default in  
46 the performance of any of the covenants, conditions, agreements or provisions contained in this Ordinance,  
47 the Supplemental Ordinance authorizing such Series or any other Supplemental Ordinance relating to,  
48 affecting or otherwise limiting the issuance of Bonds of such Series; and  
49

1 (e) such other documents, instruments, agreements, opinions of counsel, certificates, money and  
2 securities as are necessary or appropriate or required by the provisions of this Ordinance and any  
3 Supplemental Ordinance.  
4

5 **Section 204. *Pari Passu* Series of Bonds and Financial Obligations; Credit Agreement**  
6 **Obligations.** Except as otherwise expressly provided herein or in a Supplemental Ordinance or Financing  
7 Agreement, all Bonds issued pursuant to this Ordinance or any Supplemental Ordinance and all Financial Obligations  
8 incurred shall be payable from the Revenues *pari passu* with all other Bonds issued hereunder or under any other  
9 Supplemental Ordinance and all Financial Obligations incurred and, except as otherwise expressly set forth in the  
10 Supplemental Ordinance authorizing a particular Series of Bonds, all of the covenants and other provisions relating  
11 to the Bonds set forth herein or in any Supplemental Ordinance shall be for the equal benefit, protection and security  
12 of the Owners of any Bonds, including, but not limited to any Additional Bonds and any Refunding Obligations.  
13

14 Except as otherwise expressly provided in a Supplemental Ordinance, all Bonds issued pursuant to this  
15 Ordinance or any Supplemental Ordinance, regardless of time or times of their issuance, shall rank equally with  
16 respect to their lien on the Trust Estate (other than any Credit Facility constituting a part of the Trust Estate) pledged  
17 as security for the payment of the Bonds, and their sources and security for payment therefrom, without preference of  
18 any Bonds over any other Bonds. Notwithstanding anything expressed or implied herein to the contrary, except as  
19 otherwise expressly provided in a duly enacted Supplemental Ordinance each Credit Facility given as security for  
20 some, but less than all, Outstanding Bonds and any moneys drawn under such Credit Facility shall secure only those  
21 Bonds for which such Credit Facility was given as security; *provided that* the foregoing provision shall not apply to  
22 any Credit Facility to the extent such Credit Facility is provided for the purpose of meeting all or part of the Reserve  
23 Requirement.  
24

25 In connection with any Credit Agreement pursuant to which a Credit Facility is provided as security for all  
26 or some of the Outstanding Bonds (other than a Credit Facility which is provided for the purpose of meeting, in  
27 whole or in part, the Reserve Requirement), the Issuer may provide in a Supplemental Ordinance that the pecuniary  
28 obligations arising under such Credit Agreement shall be equally and ratably secured by the Trust Estate with all  
29 Outstanding Bonds and shall be payable from the Revenues *pari passu* with all Outstanding Debt Obligations, to the  
30 same extent and with the same force and effect as if the financial obligations under such Credit Agreement were a  
31 Bond. In connection with any Credit Agreement pursuant to which a Credit Facility is provided for the purpose of  
32 meeting, in whole or in part, the Reserve Requirement, the Issuer may provide in a Supplemental Ordinance that the  
33 financial obligations arising under such Credit Agreement shall be secured by a lien on the Trust Estate which is  
34 second and subordinate only to the lien on the Trust Estate securing the Outstanding Bonds and the financial  
35 obligations under any Credit Agreement described in the immediately preceding sentence and shall be payable from  
36 the Trust Estate on a basis which is second and subordinate only to the payment from the Trust Estate of the  
37 Outstanding Bonds and the financial obligations under any Credit Agreement described in the immediately preceding  
38 sentence.  
39

40 **Section 205. Additional Bonds and Financial Obligations; Competition Obligations and**  
41 **Refunding Obligations.**  
42

43 (a) **Additional Bonds and Financial Obligations.** Subject to the conditions set forth in this  
44 Section 205(a), the Issuer may from time to time issue one or more series of Additional Bonds as Bonds and may  
45 incur from time to time Financial Obligations for one or more of the following purposes:  
46

47 (i) to finance all or a portion of the costs of any Project;  
48

49 (ii) the making of deposits into the Reserve Account in the amounts, if any, required by this  
50 Ordinance or such Supplemental Ordinance to satisfy the Reserve Requirement with respect to such Series



1 or the making of deposits into any debt service reserve fund or account established in connection with an  
2 Financial Obligation for the purpose of meeting the Reserve Requirement;

3  
4 (iii) the making of deposits into the Debt Service Account as and for accrued interest on Bonds of  
5 the Series then to be issued or the making of deposits into any debt service fund or account established in  
6 connection with an Financial Obligation as and for accrued interest on such Financial Obligation;

7  
8 (iv) to provide such working capital or other moneys for the Issuer's operations and undertakings  
9 as is deemed necessary or appropriate by the Issuer;

10  
11 (v) funding any special trust fund established by such Supplemental Ordinance and to be held by  
12 the Trustee or any special trust fund or account established in connection with an Financial Obligation, to  
13 provide for the payment to maturity or redemption prior to maturity of the principal or Redemption Price, if  
14 applicable, and interest due on specified Bonds of any Series and maturity or any Financial Obligation or  
15 Subordinated Debt, with or without the effect of achieving the defeasance of such Bonds or Financial  
16 Obligation from the lien and/or provisions of this Ordinance as provided in Section 1201 hereof;

17  
18 (vi) for any lawful purpose of the Issuer or the operations thereof for which Bonds may be issued  
19 or Financial Obligations incurred under the Act or other applicable law; and

20  
21 (vii) any combination thereof.

22  
23 (b) **Conditions Precedent to Additional Bonds and Financial Obligations.** The following  
24 shall be conditions precedent to the issuance of any Additional Bonds hereunder as Bond and also to the incurrence of  
25 any Financial Obligation:

26  
27 (i) **Reports and Certificates of Issuer and Qualified Consultant.** The Issuer shall  
28 cause to be delivered to the Trustee either:

29  
30 (A) **Report of Qualified Consultant as to Future Revenues and Debt**  
31 **Service.** A report of a Qualified Consultant setting forth:

32  
33 (1) **Maximum Annual Debt Service.** The maximum Annual Debt  
34 Service for the Debt Obligations then Outstanding, including in the calculation of such  
35 maximum Annual Debt Service the estimated debt service on the Debt Obligations  
36 proposed to be issued or incurred, during the three Fiscal Years following the Fiscal Year  
37 through which interest on such proposed Debt Obligations will be capitalized; and

38  
39 (2) **Estimated Revenues and Expenditures.** The estimated Revenues  
40 and annual expenditures of the Issuer during the three Fiscal Years following the Fiscal  
41 Year through which interest on such proposed Debt Obligations will be capitalized; and

42  
43 (3) **Sufficiency of Revenues.** Stating that in the opinion of such  
44 Qualified Consultant the Issuer, in each of the three Fiscal Years described in (2) above,  
45 can reasonably expect to generate and collect Revenues sufficient to pay all estimated  
46 expenditures of the Issuer and make all Total Assessments required to be made hereunder  
47 (including the Total Assessments required to be made with respect to the Debt  
48 Obligations proposed to be issued or incurred) in each such Fiscal Year; or  
49

1                   **(B) Certificate of Issuer as to Historical Revenues and Debt Service.** A  
2 certificate of the Executive Officer certifying that, based upon the actual results of operations for  
3 the last three completed Fiscal Years prior to the issuance or incurrence of the proposed Debt  
4 Obligations, the Revenues remaining in each such Fiscal Year after payment of all expenditures  
5 and the Total Assessments required to be made in such Fiscal Year were equal to or in excess of  
6 average Total Assessments that will be required to be made with respect to the proposed Debt  
7 Obligations. For purposes of the certificate described in this subsection, the average Total  
8 Assessments for the proposed Debt Obligations shall be calculated by excluding from Annual Debt  
9 Service those years in which interest on such Debt Obligations will be capitalized.

10  
11                   **(ii) Opinion of Bond Counsel.** The Issuer shall cause to be delivered to the Trustee an  
12 Opinion of Bond Counsel that the issuance or incurrence of such Debt Obligations will not impair the  
13 exclusion from gross income for federal income tax purposes of interest paid on any Debt Obligations then  
14 Outstanding which were issued or incurred as, and which at the time of issuance or incurrence of such Debt  
15 Obligations still are, Tax-Exempt Obligations.

16  
17                   **(iii) No Event of Default.** At the time of issuance or incurrence of such proposed Debt  
18 Obligations, there shall not exist and be continuing any Event of Default hereunder other than an Event of  
19 Default which will be duly cured or waived upon the issuance or incurrence of such Debt Obligations.

20  
21                   **(iv) Basis for Determining Revenues.** For purposes of Sections 205(b)(i) hereof,  
22 "Revenues" shall be calculated as follows:

23  
24                   (A) the Revenues estimated to be derived during the Fiscal Years in question from any  
25 Project to be financed from the proceeds of such proposed Debt Obligation less the expenditures  
26 estimated to be incurred by the Issuer during such Fiscal Years in connection with such Project  
27 shall be included in calculating Revenues; and

28  
29                   (B) Revenues during each of the Fiscal Years in question shall be adjusted to take account  
30 of any increase estimated to result from any increase in fees, charges or other revenues (including  
31 without limitation the implementation of any new revenue source) that the Issuer has or will put  
32 into effect for such Fiscal Years; and

33  
34                   (C) To the extent that any expenditures taken into account for any such Fiscal Years are  
35 payable from funds that do not constitute Revenues within the meaning of this Ordinance, such  
36 funds shall be included as a part of Revenues.

37  
38                   **(c) Competition Obligations.** The Issuer may, from time to time and without regard to limitations  
39 otherwise imposed by Section 205(a) hereof, issue one or more series of Competition Obligations, *provided that* the  
40 Issuer shall first file with the Trustee:

41  
42                   (i) an Opinion of Bond Counsel that the issuance of such Completion Obligations will not impair  
43 the exclusion from gross income for federal income tax purposes of interest paid on any Bonds or Financial  
44 Obligations then Outstanding which were issued or incurred as, and which at the time of issuance of such  
45 Competition Obligations still are, Tax-Exempt Obligations; and

46  
47                   (ii) a certificate of Qualified Consultant to the effect that, in the judgment of the Qualified  
48 Consultant the proceeds of such Competition Obligations, together with any Issuer Contribution available  
49 for such purpose, will be sufficient to pay the remaining costs of the Project or Projects with respect to  
50 which such Competition Obligations are being issued or incurred and to fund any additions to the Reserve

1 Account or any debt service fund or account established in connection with the related Financial Obligation  
2 required in connection with the issuance of such Competition Obligations.

3  
4 **(d) Refunding Obligations.** The Issuer may, from time to time and without regard to the limitations  
5 otherwise imposed by Section 205(a) hereof, issue one or more series of Refunding Obligations; *provided that*:

6  
7 (i) the maximum Annual Debt Service for:

8  
9 (A) all Debt Obligations which were Outstanding immediately prior to the issuance of  
10 such Refunding Obligations (but not including any Debt Obligations proposed to be refunded by  
11 means of such Refunding Obligations); and

12  
13 (B) the Refunding Obligations proposed to be issued;

14  
15 during any future Fiscal Year in which any Debt Obligations will be Outstanding;

16  
17 is less than:

18  
19 (ii) the maximum Annual Debt Service for any future Fiscal Year would be on all Outstanding  
20 Debt Obligations (including the Debt Obligations proposed to be refunded) during each such Fiscal Year if  
21 such Refunding Obligations were not issued;

22  
23 *provided further that* the Issuer shall first file with the Trustee an Opinion of Bond Counsel that the issuance of such  
24 Refunding Obligations will not impair the exclusion from gross income for federal income tax purposes of interest  
25 paid on any Debt Obligations then Outstanding which were issued as, and which at the time of issuance of such  
26 Refunding Obligations still are, Tax-Exempt Obligations.

27  
28 **(e) Multipurpose Additional Bonds and Financial Obligations.** Debt Obligations may be  
29 incurred at one time hereunder, for any one or more of the purposes described in Section 205(a), Section 205(c) or  
30 Section 205(d) hereof. In the event such Debt Obligations are issued or incurred for in part for one of the purposes  
31 described in Section 205(a), Section 205(c) or Section 205(d) hereof and in part for one of the purposes described in  
32 another of such Sections, the provisions of Section 205(a) shall govern the issuance of that portion of such Debt  
33 Obligations that are issued or incurred for one of the purposes described in Section 205(a), the provisions of  
34 Section 205(c) shall govern the issuance of that portion of such Debt Obligations that are issued or incurred for  
35 Competition Obligation purposes, and the provisions of Section 205(d) shall govern the issuance of that portion of  
36 such Debt Obligations that are issued or incurred for Refunding Obligation purposes, as the case may be.

37  
38 **(f) Provisions Not Applicable to First Series of Bonds, Existing Financial**  
39 **Obligations and Certain Other Bonds and Financial Obligations.** The provisions of Sections 205(a)  
40 and (b) hereof shall not apply to the issuance of the first Series of Bonds to be issued hereunder or to any Financial  
41 Obligation incurred prior to the date of issuance of the first Series of Bonds to be issued hereunder, nor shall Sections  
42 205(a), (b), (c) or (d) apply to or in any way limit or restrict the ability of the Issuer to issue or incur any Debt  
43 Obligations at any point in time at which there are no other Bonds Outstanding. In addition, the provisions of  
44 Sections 205(a), (b), (c) or (d) shall not apply to or in any way limit or restrict the ability of the Issuer to issue  
45 Refunding Obligations for the purpose of refunding all Bonds which are Outstanding at the time of issuance of such  
46 Refunding Obligations.

47  
48 In addition, in connection with any Debt Obligations which are Variable Rate Obligations the terms of  
49 which permit the Issuer or another party appointed for such purpose to elect to convert the rate(s) of interest

1 applicable thereto to a rate or rates which are fixed and nonvariable through the maturity date thereof, then the  
2 provisions of Sections 205(a), (b), (c) or (d) hereof shall not apply in the following situations:

3  
4 (i) any such conversion of the rate(s) of interest applicable to such Debt Obligations to a rate or  
5 rates which are fixed and nonvariable through the maturity date thereof; or

6  
7 (ii) in lieu of so converting the interest rate(s) as described in Section 205(f)(i) above, the Issuer  
8 elects to issue Refunding Obligations bearing rate(s) of interest fixed to the stated maturity dates thereof,  
9 *provided that:*

10  
11 (A) the stated maturity dates of such Refunding Obligations and the principal amounts to  
12 mature on such dates are the same as the stated maturity dates of the Variable Rate Obligations  
13 being refunded thereby and the principal amounts thereof to mature on such dates, subject only to  
14 such increases in principal amounts of the Refunding Obligations to mature on such dates as are  
15 necessary to amortize any increase in the aggregate principal amount of such Refunding  
16 Obligations over the aggregate principal amount of the Variable Rate Obligations being refunded  
17 as a result of the funding of the items described in Section 205(f)(ii)(B) below; and

18  
19 (B) the aggregate principal amount of such Refunding Obligations does not exceed the  
20 aggregate principal amount of the Variable Rate Obligations being refunded plus such amount as  
21 may be necessary:

22  
23 (1) to pay interest accruing on the Variable Rate Obligations being refunded  
24 through the date upon which the same shall be redeemed or otherwise paid;

25  
26 (2) to pay the Costs of Issuance incurred in connection with such Refunding  
27 Obligations; and

28  
29 (3) to fund any additions to the Reserve Account or any debt service reserve fund  
30 or account established with respect to such Financial Obligation necessary in connection  
31 with the issuance of such Refunding Obligations in order to cause the balance on deposit  
32 in the Reserve Account or such debt service reserve fund or account to equal the System  
33 Reserve Requirement or the related Reserve Requirement, as the case may be.

34  
35 For purposes of Section 205(f)(ii)(A) above, "stated maturity dates" shall include the dates upon which the Debt  
36 Obligations in question are subject to redemption or prepayment pursuant to a Mandatory Redemption Schedule and  
37 "principal amounts to mature" on a particular date shall include the principal of the Debt Obligations in question  
38 which are subject to redemption pursuant to a Mandatory Redemption Schedule.

39  
40 (g) **Subordinated Debt, Department Obligations and Contracts.** Nothing in this Ordinance  
41 is intended to in any way restrict or limit the ability of the Issuer:

42  
43 (i) to issue or incur Subordinated Debt;

44  
45 (ii) to issue bonds or other obligations other than pursuant to the provisions of this Ordinance,  
46 including bonds or other obligations payable out of the Revenues on a basis which is second and  
47 subordinate to the payment of the Outstanding Bonds issued hereunder out of the Revenues;

48  
49 (iii) except to the extent the same give rise to an Financial Obligation (but not including any  
50 Financial Obligation which constitutes Subordinated Debt), to enter into contracts with any person or

entity, public or private, regarding the acquisition, lease or lease purchase of assets or facilities for use in connection with the Issuer's functions and operations or for provision of services in connection with the operation of the Issuer's functions and operations;

(iv) to issue or incur Department Obligations and to pledge as security therefor the related Department Revenues;

*Provided that* no such action on the part of the Issuer shall relieve it of any of its obligations, covenants and agreements hereunder or under any Supplemental Ordinance.

## ARTICLE III GENERAL TERMS AND PROVISIONS OF BONDS

**Section 301. Limited Obligations; Medium of Payment; Form and Date; Letters and Numbers; Place of Payment.**

(a) **Payment of Bonds.** The Bonds of each Series and any obligations under any Credit Agreement relating to a particular Series of Bonds shall be limited obligations of the Issuer payable solely and only from:

(i) the Revenues; and

(ii) the Trust Estate specifically pledged thereto.

(b) **Medium of Payment.** Except as may be otherwise set forth in a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the Bonds of each Series shall be payable, with respect to interest, principal and premium (if any), 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, *provided, however, that* interest shall be paid on such Bonds by checks or drafts to the persons entitled thereto or by such other method of payment as may be specified in the Supplemental Ordinance authorizing the issuance of such Bonds.

(c) **Registered Form.** Except as may be otherwise set forth in a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the Bonds of each Series shall be issued in the form of fully registered Bonds.

(d) **Numbers and Dated Dates.** Each Bond of a Series shall be lettered and numbered as provided in the Supplemental Ordinance authorizing their issuance so as to be distinguished from every other Bond. The Bonds of each Series shall be dated as provided in the Supplemental Ordinance authorizing their issuance.

(e) **Place of Payment.** Except as may be otherwise set forth in a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the principal and premium (if any) of all fully registered Bonds of a Series shall be payable upon presentation and surrender of such Bond at the principal corporate trust office of the Trustee or other Paying Agent, as the case may be, and payment of the interest on each fully registered Bond shall be made by the Trustee or other Paying Agent, as the case may be, to the person appearing on each Record Date on the registration books of the Issuer for such Series as the Owner thereof, by check or draft mailed on the applicable Interest Payment Date, first-class postage prepaid, to such registered Owner at his or her address as it appears on such registration

books or by such other method of payment as may be specified in the Supplemental Ordinance authorizing the issuance of such Bonds.

**Section 302. 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 Ordinance as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage board, or otherwise, as may be determined by the Issuer prior to the authentication and delivery thereof.

**Section 303. Execution and Certificate of Authentication.**

(a) **Execution.** The Bonds of each Series shall be executed in the name of the Issuer by the manual or facsimile signatures of the Presiding Officer of the Issuer and the Executive Officer of the Issuer and the Issuer's seal (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise reproduced thereon. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond may be signed and sealed on behalf of the Issuer by such persons as at the time of the execution of such Bonds shall be duly authorized or hold the proper office in the Issuer, although at the date borne by such Bonds or at the time of authentication of such Bonds such persons may not have been so authorized or have held such office.

(b) **Certificate of Authentication.** The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in the related Supplemental Ordinance, executed manually by the Trustee or its authorized agent. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under this Ordinance or the related Supplemental Ordinance and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. The execution of any such certificate of authentication upon any Bond executed on behalf of the Issuer shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under this Ordinance and that the Owner thereof is entitled to the benefits of this Ordinance and the related Supplemental Ordinance.

**Section 304. Interchangeability of Bonds.** Except as may otherwise be provided in a Supplemental Ordinance authorizing the issuance of a particular Series of Bonds, the Bonds of each Series, upon surrender thereof at the principal corporate trust office of the related Bond Registrar with a written instrument of transfer satisfactory to such Bond Registrar, duly executed by the Owner or his duly authorized attorney, may, at the option of the Owner thereof, and upon payment by such Owner of any charges which the related Bond Registrar may make as provided in Section 306 hereof, be exchanged for Bonds of the same Series, date, aggregate principal amount and maturity in any other Authorized Denominations.

**Section 305. Transfer and Registry; Persons Treated as Owners.** The Bond Registrar for each Series shall keep books for the registration of, and for the registration of transfers of, Bonds of such Series as provided in this Ordinance and the related Supplemental Ordinance. Except as otherwise provided in the Supplemental Ordinance authorizing a particular Series of Bonds, the Bonds of a particular Series shall be transferable only upon the books of the Issuer kept by the Bond Registrar by the Owner thereof in person or by her attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the Owner or her duly authorized attorney. Upon the transfer of any such Bond, the Issuer shall issue in the name of the transferee a new Bond or Bonds of the same Series, maturity date and aggregate principal amount.

The Issuer and each Trustee, Paying Agent and Bond Registrar may deem and treat the person in whose name any Bond shall be registered upon the books kept by the Bond Registrar as the absolute owner of such Bond,

1 whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal  
2 and premium, if any, of and interest on such Bond and for all other purposes, and all such payments so made to any  
3 such Owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the  
4 extent of the sum or sums so paid, and neither the Issuer nor any Trustee, Paying Agent or Bond Registrar shall be  
5 affected by any notice to the contrary.  
6

7 **Section 306. Regulations With Respect to Exchanges and Transfers.** In all cases in which  
8 the privilege of exchanging Bonds or transferring Bonds is exercised, the Issuer shall execute and the Trustee or its  
9 authorized agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. All Bonds  
10 of a Series surrendered in any such exchanges or transfers shall forthwith be delivered to the Bond Registrar and  
11 cancelled by such Bond Registrar in the manner provided in Section 309. For every such exchange or transfer of  
12 Bonds of any Series, the Issuer or the Bond Registrar may make a charge against the Owner sufficient to reimburse it  
13 for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Unless  
14 otherwise provided by Supplemental Ordinance, neither the Issuer nor any Bond Registrar shall be required (a) to  
15 transfer or exchange Bonds for a period of 15 days next preceding any selection of Bonds of such Series to be  
16 redeemed or thereafter until after the mailing of any notice of redemption; or (b) to transfer or exchange any Bonds  
17 called for redemption.  
18

19 **Section 307. Bonds Mutilated, Destroyed, Stolen or Lost.** If any Bond becomes mutilated or  
20 is lost, stolen or destroyed, the Issuer may execute and the Trustee or its authorized agent shall authenticate and  
21 deliver a new Bond of like Series, maturity date, principal amount and interest rate *per annum* as the Bond so  
22 mutilated, lost, stolen or destroyed, *provided that*:  
23

24 (a) in the case of such mutilated Bond, such Bond is first surrendered to the Trustee;

25  
26 (b) in the case of any such lost, stolen or destroyed Bond, there is first furnished evidence of such  
27 loss, theft or destruction satisfactory to the Issuer together with indemnity satisfactory to the Issuer and the  
28 Trustee;  
29

30 (c) all other reasonable requirements of the Issuer and the Trustee are complied with; and  
31

32 (d) expenses in connection with such transaction are paid by the Owner.  
33

34 Any mutilated Bond surrendered for exchange shall be cancelled. Any new Bonds issued pursuant to this Section 307  
35 in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual  
36 obligations on the part of the Issuer, whether or not the Bonds so alleged to be destroyed, stolen or lost shall be at  
37 any time enforceable by anyone, and shall be equally secured by and entitled to equal and proportionate benefits with  
38 all other Bonds of the same Series to the lien of the Trust Estate pledged to such Series.  
39

40 **Section 308. Temporary Bonds.** Until definitive Bonds of a Series are prepared, the Issuer may  
41 execute, in the same manner as is provided in Section 303, and upon the request of the Issuer, the Trustee or its  
42 authorized agent shall authenticate and deliver, in lieu of definitive Bonds of such Series, but subject to the same  
43 provisions, limitations and conditions as the definitive Bonds of such Series, one or more temporary Bonds  
44 substantially of the tenor of the definitive Bonds of such Series in lieu of which such temporary Bond or Bonds are  
45 issued, in authorized denominations, and with such omissions, insertions and variations as may appropriate for  
46 temporary Bonds. Payment of debt service on such temporary Bonds of a Series shall be in the same manner as for  
47 definitive Bonds of the same Series. At its own expense the Issuer shall prepare and execute and, upon the surrender  
48 of such temporary Bonds for exchange and, upon the surrender of such temporary Bonds for exchange and the  
49 cancellation of such surrendered temporary Bonds, the Trustee or its authorized agent shall authenticate and, without  
50 charge to the registered owner thereof, deliver in exchange therefor, definitive Bonds of the same Series and aggregate

1 principal amount and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall  
2 in all respects be entitled to the same benefits and security as definitive Bonds of the same Series.

3  
4 All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive  
5 Bond or Bonds shall be forthwith cancelled by the Bond Registrar in the manner provided in Section 309.

6  
7 **Section 309. Cancellation and Destruction of Bonds.** All Bonds paid or redeemed, either at or  
8 before maturity shall be delivered to the Bond Registrar when such payment or redemption is made, and such Bonds,  
9 together with all Bonds purchased by the Issuer, or on its behalf, shall thereupon be promptly cancelled. Bonds so  
10 cancelled shall be destroyed by the Bond Registrar, who shall execute from time to time certificates of destruction in  
11 duplicate by the signature of one of its authorized officers describing any Bonds so destroyed, and one executed copy  
12 of each such certificate shall be filed with the Issuer and the other executed copy of each such certificate shall be  
13 retained by the Bond Registrar.

14  
15 **Section 310. Book-Entry System.** The provisions of this Article III may be modified as set forth  
16 in a Supplemental Ordinance authorizing the issuance of a Series of Bonds in order to implement and maintain a  
17 book-entry system of registration of the Bonds of such Series.

## 18 19 20 21 22 **ARTICLE IV** 23 **REDEMPTION OF BONDS**

24  
25  
26 **Section 401. Redemption Provisions to be Specified in Supplemental Ordinance.** The  
27 Bonds Of a particular Series shall be subject to mandatory, optional, extraordinary or other redemption prior to  
28 maturity on such terms and conditions, on such dates and at such redemption prices as shall be specified in the  
29 Supplemental Ordinance authorizing the issuance of such Series of Bonds. Except as may be otherwise expressly  
30 provided in a Supplemental Ordinance with respect to Bonds of a particular Series, the particular Bonds of a Series to  
31 be redeemed shall be selected and notice of any such redemption shall be given in the manner set forth in this Article  
32 IV.

33  
34 **Section 402. Selection of Bonds to be Redeemed.** If less than all of the Bonds of a like Series  
35 and maturity shall be called for redemption, the particular Bonds or portions of Bonds of such Series to be redeemed  
36 shall be selected by the Trustee in such manner as such Trustee in its discretion may deem fair and appropriate;  
37 *provided, however, that* unless otherwise provided by the Supplemental Ordinance authorizing such Series of Bonds,  
38 for purposes of any redemption in part, each portion of any Bond equal to the Minimum Authorized Denomination  
39 for such Bond shall be treated as a separate Bond for purposes of such redemption and may be called for redemption  
40 separately from any other portion of such Bond so long as following such redemption all unredeemed Bonds  
41 remaining Outstanding shall be in an Authorized Denomination for such Bond. The Trustee shall promptly notify  
42 the Issuer in writing of the Bonds so selected for redemption.

43  
44 **Section 403. Notice of Redemption.** Unless otherwise provided by a Supplemental Ordinance  
45 authorizing a Series of Bonds, the Trustee shall give notice, in the name of the Issuer, of the redemption of Bonds of  
46 such Series, which notice shall specify the Series and maturities of the Bonds to be redeemed, the redemption date  
47 and the place or places where amounts due upon such redemption will be payable and, if less than all of the Bonds of  
48 such Series of the same maturity are to be redeemed, the letters and numbers or other distinguishing marks of such  
49 Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, such notice shall also specify the



1 respective portions of the principal amount thereof to be redeemed. Such notice shall further state that on such date  
2 there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption  
3 Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, together with  
4 interest accrued to the redemption date, and that from and after such date interest thereon shall cease to accrue and be  
5 payable.  
6

7 Unless otherwise provided by the Supplemental Ordinance authorizing such Series of Bonds, the Trustee  
8 shall file a copy of such notice with the Issuer and shall mail or cause to be mailed a copy of such notice, by first  
9 class mail, postage prepaid, not less than forty (40) days nor more than sixty (60) days before the redemption date to  
10 the Owners of any Bonds or portions of Bonds which are to be redeemed, at their last addresses appearing upon the  
11 registration books held by the Bond Registrar immediately prior to the date on which such notice is mailed. Such  
12 mailing shall be a condition precedent to such redemption, but failure of any Owner of any Bond to receive such  
13 notice shall not affect the validity of the proceedings for the redemption of such Bonds. Notwithstanding the  
14 foregoing and unless otherwise expressly provided in a Supplemental Ordinance with respect to a particular Series of  
15 Bonds, in the event that any Bond to be redeemed was not issued in registered form (including book-entry), then and  
16 in such event notice of such redemption shall be published at least once not less than thirty (30) days prior to the  
17 redemption date in a newspaper of general circulation in any of the cities of New York, New York, San Francisco,  
18 California or Chicago, Illinois.  
19

20 Unless otherwise provided by the Supplemental Ordinance authorizing such Series of Bonds, in addition to  
21 the foregoing notice, further notice in the form described in the first paragraph of this Section 403 shall be given by  
22 the Trustee as set out below, but no defect in said further notice nor any failure to give all or any portion of such  
23 further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above  
24 prescribed:  
25

26 (a) Notice of redemption shall be sent at least 40 days before the redemption date by registered or  
27 certified mail or overnight delivery service to all registered securities depositories then in the business of  
28 holding substantial amounts of obligations of types comprising the Bonds (such depositories now being  
29 Depository Trust Company of New York, New York, Midwest Securities Trust Company of Chicago,  
30 Illinois, Pacific Securities Depository Trust Company of San Francisco, California and Philadelphia  
31 Depository Trust Company of Philadelphia, Pennsylvania) and to one or more national information services  
32 that disseminate notices of redemption of obligations such as the Bonds (such as Financial Information,  
33 Inc.'s Financial Daily Called Bond Service, Kenny Information Service's Called Bond Service, Moody's  
34 Municipal and Government Called Bond Service and Standard & Poor's Called Bond Record).  
35

36 (b) Notice of redemption shall be published one time in the Bond Buyer of New York, New York  
37 or, if such publication is impractical or unlikely to reach a substantial number of the owners of the Bonds,  
38 in some other financial newspaper or journal which regularly carries notices of redemption of other  
39 obligations similar to the Bonds, such publication to be made at least 30 days prior to the date fixed for  
40 redemption.  
41

42 (c) Upon the payment of the Redemption Price of Bonds being redeemed, each check or other  
43 transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity,  
44 the Bonds being redeemed with the proceeds of such check or other transfer.  
45

46 **Section 404. Payment of Redeemed Bonds.** Notice having been given in the manner provided in  
47 Section 403, the Bonds or portions thereof so called for redemption shall become due and payable on the redemption  
48 date so designated at the Redemption Price and, upon presentation and surrender thereof at the office specified in such  
49 notice, such Bonds, or portions thereof, shall be paid at the Redemption Price. If there shall be selected for  
50 redemption less than all of a Bond, the Issuer shall execute and the Trustee or its authorized agent shall authenticate

1 and the Bond Registrar shall deliver, upon the surrender of such Bond, without charge to the Owner thereof, for the  
2 unredeemed balance of the principal amount of the Bonds so surrendered Bonds of the same Series and maturity in  
3 any of the Authorized Denominations at the option of the Owner thereof. If, on the redemption date, moneys  
4 sufficient to pay the Redemption Price of all the Bonds or portions thereof to be redeemed shall be held by the  
5 Trustee so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then  
6 from and after the redemption date interest on the Bonds or portions thereof so called for redemption shall cease to  
7 accrue and become payable. If said moneys shall not be so available on the redemption date, such Bonds or portions  
8 thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called  
9 for redemption.

10  
11 **Section 405. Credits Against Mandatory Redemption Obligation.** The Issuer shall receive  
12 a credit against its obligation to redeem Bonds of a particular Series pursuant to a Mandatory Redemption Schedule,  
13 such credit to be: (i) in an amount equal to the principal amount of any Bonds of such Series subject to such  
14 mandatory redemption which have theretofore been redeemed (other than pursuant to such Mandatory Redemption  
15 Schedule) or purchased on the open market and surrendered to the Trustee for cancellation and for which such a credit  
16 has not theretofore been given; and (ii) applied against the mandatory redemption obligation for such Bonds in such  
17 years as the Issuer shall direct the Trustee in writing.  
18  
19  
20  
21

22 **ARTICLE V**  
23 **APPLICATION OF TOTAL ASSESSMENTS**  
24 **AND BOND PROCEEDS; ESTABLISHMENT OF FUNDS**  
25 **AND ACCOUNTS AND APPLICATION THEREOF**  
26

27  
28 **Section 501. Application of Total Assessments.**  
29

30 (a) **Application of Total Assessments.** The Issuer hereby covenants and agrees, with and for the  
31 benefit of the Trustee and the Owners from time to time of the Bonds issued hereunder, that from and after the  
32 issuance of the first Series of Bonds hereunder and so long as any Bonds are Outstanding hereunder, the Issuer shall  
33 deposit the Total Assessments in the General Revenue Bond Fund as and when the same are collected from each  
34 Department and shall apply the moneys on deposit from time to time in the General Revenue Bond Fund in the order  
35 of priority set forth below and in such amounts as shall be necessary from time to time to meet the Issuer's  
36 obligations under this Section 501(a):  
37

38 (i) **First,** to any Rebate Payments required by this Ordinance and any Supplemental Ordinance to  
39 be made into the Rebate Account and to any Rebate Payments required in connection with any Financial  
40 Obligation;  
41

42 (ii) **Second,** to: (A) make any deposits into the Debt Service Account required by this Ordinance  
43 or any Supplemental Ordinance, including (without limitation) the payment of any amounts owing under a  
44 Credit Agreement as a result of amounts having been drawn under a Credit Facility given as security for the  
45 payment of any amounts owing under or with respect to any Bonds (other than any Credit Facility which is  
46 provided for the purpose of meeting in whole or in part the Reserve Requirement); and (B) pay when due all  
47 Outstanding Financial Obligations, including (without limitation) the payment of any amounts owing  
48 under a Credit Agreement as a result of amounts having been drawn under a Credit Facility given as security

1 for the payment of any amounts owing under or with respect to any Financial Obligation (other than any  
2 Credit Facility which is provided for the purpose of meeting in whole or in part the related Reserve  
3 Requirement);  
4

5 (iii) **Third**, to: (A) make any deposits into the Reserve Account which are necessary in order to  
6 maintain on deposit therein an amount equal to the Reserve Requirement, including (without limitation) the  
7 payment of any amounts owing under a Credit Agreement as a result of amounts having been drawn under a  
8 Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement, which  
9 deposits shall be made at the times and in the amounts provided in Section 509; and (B) make any deposits  
10 into any debt service reserve fund or account established in connection with any Financial Obligation which  
11 are necessary in order to maintain on deposit therein an amount equal to the applicable Reserve  
12 Requirement, including (without limitation) the payment of any amounts owing under a Credit Agreement  
13 as a result of amounts having been drawn under a Credit Facility given for the purpose of meeting in whole  
14 or in part the related Reserve Requirement;  
15

16 (iv) **Fourth**, to make any deposits into any special Account as required under the provisions of  
17 any Supplemental Ordinance or to otherwise be applied for any purpose or in any manner specifically  
18 required under any Supplemental Ordinance; and  
19

20 (iv) **Fifth**, for any other lawful purpose.  
21

22 (b) **Covenant to Pay Bonds from Revenues and Assess Departments.** The Issuer hereby  
23 covenants and agrees to: pay when due all amounts owing under and with respect to all Bonds issued hereunder and to  
24 take all lawful actions as may be necessary or appropriate in order to pay when due all amounts owing under and  
25 with respect to all Bonds issued hereunder from Revenues; and make and collect Total Assessments in the amounts  
26 and at the times necessary in order to meet its obligations under Section 501(a)(i), (ii) and (iii) hereof.  
27

28 The Issuer hereby covenants and agrees that so long as any Bonds remain Outstanding, it shall take all  
29 actions as may be necessary or appropriate in order to:  
30

31 (i) In each Fiscal Year, assess each Department for:  
32

33 (A) its allocable share of the amounts required to be deposited and applied from time to  
34 time during such Fiscal Year pursuant to and for the purposes specified in Section 501(a)(i), (ii)  
35 and (iii) hereof; plus  
36

37 (B) an additional amount equal in each Fiscal Year to 10% of such Department's allocable  
38 share of the amounts of principal and interest scheduled to become due and payable (whether by  
39 maturity, scheduled due date, or scheduled mandatory redemption or prepayment) on the  
40 Outstanding Debt Obligations during such Fiscal Year; plus  
41

42 (C) if required under a Supplemental Ordinance, such Department's allocable share of any  
43 amounts needed for purposes of Section 501(a)(iv) hereof;  
44

45 *provided that*, in each Fiscal Year in which the Issuer makes a General Assessment for purposes of meeting  
46 all or a part of its obligations under Section 501(a)(i), (ii) and (iii) hereof, the aggregate amounts required to  
47 be assessed to the Departments in such Fiscal Year pursuant to Section 501(b)(i)(A) and (B) above shall be  
48 reduced by an amount equal to the amount of such General Assessment, with such reduction to be applied  
49 against each Department's Assessment in such manner as the Issuer shall determine; it being the intent of  
50 this Section 501(b)(i) that the Issuer shall have the option of making or not making a General Assessment

1 in each Fiscal Year so long as the Total Assessments in each Fiscal Year equal the sum of: (I) the amounts  
2 required to be deposited and applied from time to time during such Fiscal Year pursuant to and for the  
3 purposes specified in Section 501(a)(i), (ii) and (iii) hereof, plus (II) an additional amount equal in each  
4 Fiscal Year to 10% of such Department's allocable share of the amounts of principal and interest scheduled  
5 to become due and payable (whether by maturity, scheduled due date, or scheduled mandatory redemption or  
6 prepayment) on the Outstanding Debt Obligations during such Fiscal Year.

7  
8 (ii) cause the appropriate Department Assessment to be included in the annual budget for each  
9 assessed Department and duly appropriated for the purposes described herein and the General Assessment (if  
10 any) to be included in the Issuer's annual budget and duly appropriated for the purposes described herein, all  
11 in accordance with and as required by law; and

12  
13 (iii) cause each Department to pay over its Department Assessment, and cause each General  
14 Assessment (if any) to be paid, at the times and in the amounts necessary to duly meet the Issuer's  
15 obligations under Section 501(a)(i), (iii) and (iv) hereof and Section 505 hereof.

16  
17 (c) **Determination of Department Assessments and General Assessments.** The Issuer shall  
18 determine each Department Assessment in such manner as it deems reasonable and appropriate taking into account  
19 such factors as it deems relevant under the circumstances, including but not limited to the use or benefit derived by a  
20 particular Department from any Bonds issued hereunder or any Project financed out of the proceeds of any Bonds or  
21 Financial Obligation, and the ability of a particular Department to generate Department Revenues in an amount  
22 sufficient to enable the Issuer to meet its obligations hereunder. The Issuer shall be entitled to change or revise from  
23 time to time the method of determining each Department Assessment.

24  
25 On or before January 1 of every third year, commencing with the first January 1 which is not less than 30  
26 months following the date upon which the first Series of Bonds is issued hereunder, the Issuer shall retain a Qualified  
27 Consultant to review its method of determining the Department Assessments and provide the Issuer, not later than  
28 March 1 of such year, a written report with respect thereto. The Issuer shall give due consideration to any  
29 recommendations made by the Qualified Consultant in determining the Department Assessments.

30  
31 Nothing herein shall require the Issuer to impose a Department Assessment on each and every Department  
32 if, in its judgment, it is inappropriate under the circumstances to impose a Department Assessment on one or more  
33 Departments, *provided that* the Issuer shall nevertheless be required to make Total Assessments and to collect  
34 Revenues in such amounts as shall enable the Issuer to meet in a timely fashion all of its pecuniary obligations  
35 hereunder.

36  
37 The Issuer, in its sole discretion, shall determine whether or not to make a General Assessment in each  
38 Fiscal Year. If the Issuer determines to make a General Assessment in a particular Fiscal Year, it shall determine the  
39 amount and source of payment of such General Assessment in such manner as it deems reasonable and appropriate  
40 taking into account such factors as it deems relevant under the circumstances, including but not limited to the use or  
41 benefit derived by the Issuer from the Debt Obligations with respect to which such General Assessment is made or  
42 any Project financed out of the proceeds of such Debt Obligations, the availability of revenue sources which are not  
43 Department Revenues to fund such General Assessment and the ability of a particular Department to generate  
44 Department Revenues in an amount sufficient to enable the Issuer to meet its obligations hereunder. The Issuer  
45 shall be entitled to change or revise from time to time the method of determining any General Assessment and to  
46 discontinue making a General Assessment made in prior Fiscal Years so long as the Total Assessments are sufficient  
47 in each Fiscal Year to enable the Issuer to meet its pecuniary obligations hereunder.

48  
49 The Issuer's pecuniary obligations hereunder shall not be restricted to payment from the particular  
50 Department Assessments imposed by the Issuer against each Department or any General Assessment made by the

1 Issuer hereunder, it being the intent hereof that notwithstanding the failure of any one or more Departments to  
2 generate Department Revenues sufficient to pay when due its Department Assessment or the failure of the Issuer to  
3 make a General Assessment or collect revenues sufficient to enable it to pay any General Assessment made in a  
4 particular Fiscal Year, the Issuer shall nevertheless collect and apply, from any one or more of its Departments, from  
5 a General Assessment or from any other lawfully available source, sufficient Total Assessments and Revenues to  
6 enable it to meet its obligations to pay when due the items described in Section 501(a)(i), (ii) and (iii) hereof. If, for  
7 any reason, any one or more Departments fail to generate sufficient Department Revenues to pay when due its  
8 Department Assessment or the Issuer fails to collect revenues sufficient to enable it to pay any General Assessment  
9 made, the Issuer shall promptly take such lawful action as may be necessary to make up the resulting deficiency,  
10 including but not limited to the reassessment of any one or more other Departments, the making of a General  
11 Assessment or the application of any other Net Revenues available under law for such purpose.

12  
13 **Section 502. Establishment of Funds and Accounts.**

14  
15 (a) **Accounts Established with Trustee.** Upon the issuance of the first Series of Bonds hereunder,  
16 the following Accounts shall be established with and shall be held by the Trustee, which Accounts shall be  
17 subaccounts of the General Revenue Bond Fund:

- 18  
19 (i) The Rebate Account;  
20  
21 (ii) The Debt Service Account;  
22  
23 (iii) The Reserve Account; and  
24  
25 (iv) The Construction Account.  
26

27 The Issuer may determine from time to time by Supplemental Ordinance to create and establish within the  
28 Construction Account, the Debt Service Account, the Reserve Account or the Rebate Account such additional  
29 Accounts as the Issuer may deem necessary or appropriate, which Accounts shall constitute a part of the Account in  
30 which they are created. Except as otherwise provided in a Supplemental Ordinance, the Issuer may abolish any such  
31 additional Accounts, or any one or more of them, whenever, in the judgment of the Issuer, such additional Accounts  
32 have served their purpose or it is otherwise no longer necessary or appropriate to maintain the same.

33  
34 (b) **Funds and Accounts Established with Issuer.** Upon the issuance of the first Series of Bonds  
35 hereunder, the General Revenue Bond Fund shall be established with and shall be held by the Issuer.  
36

37 The Issuer may also determine from time to time by Supplemental Ordinance to create and establish within  
38 the General Revenue Bond Fund such other Accounts as it may deem necessary or appropriate from time to time,  
39 which Accounts shall constitute a part of the Fund or Account in which they are created. Except as otherwise  
40 provided in a Supplemental Ordinance, the Issuer may abolish any such additional Accounts, or any one or more of  
41 them, whenever, in the judgment of the Issuer, such additional Accounts have served their purpose or it is otherwise  
42 no longer necessary or appropriate to maintain the same.

43  
44 **Section 503. Deposits of Bond Proceeds to Certain Funds and Accounts.**

45  
46 (a) **Proceeds of Bonds.** The proceeds of sale of any Series of Bonds shall, as soon as practicable upon  
47 the delivery thereof to the Trustee, be applied as follows:

- 48  
49 (i) the amount, if any, stipulated by the Supplemental Ordinance authorizing the issuance of such  
50 Series of Bonds (or by the Executive Officer if so authorized by such Supplemental Ordinance) to be

1 deposited into any Reserve Account or any subaccount thereof shall be deposited in the Reserve Account or  
2 the designated subaccount thereof (or in lieu of all or part of any such money deposit, the amount which  
3 may be drawn upon under any Credit Facility then provided for the purpose of meeting in whole or in part  
4 the Reserve Requirement shall be credited to the Reserve Account);  
5

6 (ii) the amount, if any, stipulated by the Supplemental Ordinance (or by the Executive Officer if  
7 so authorized by the Supplemental Ordinance) to be deposited into the Construction Account or any  
8 subaccount thereof shall be deposited in the Construction Account or the designated subaccount thereof;  
9

10 (iii) the amount, if any, of accrued interest paid by the initial purchasers of such Series of Bonds  
11 shall be deposited into the Debt Service Account or the designated subaccount thereof; and  
12

13 (iv) the amount, if any, stipulated by Supplemental Ordinance (or by the Executive Officer if so  
14 authorized by the Supplemental Ordinance) to be deposited into any other Funds or Accounts shall be  
15 deposited in the designated Funds or Accounts.  
16

#### 17 **Section 504. The Construction Account.**

18  
19 (a) **Deposits.** Upon the issuance and sale of each Series of Bonds there shall be paid into the  
20 Construction Account or a designated subaccount thereof:  
21

22 (i) the amounts, if any, required to be paid into the Construction Account or a designated  
23 subaccount thereof by the provisions of the Supplemental Ordinance authorizing the issuance of a Series of  
24 Bonds; and  
25

26 (ii) at the option of the Issuer, any Issuer Contribution to be used for the purpose of financing a  
27 portion of the items sought to be financed out of the proceeds of such Series of Bonds.  
28

29 (b) **Disbursements from Construction Account.** Except as otherwise expressly provided in a  
30 Supplemental Ordinance authorizing the issuance of a Series of Bonds, amounts on deposit in the Construction  
31 Account shall be applied to pay the costs of the related Project upon written requisition of the Issuer, signed by an  
32 Authorized Issuer Representative and given to the Trustee. Such payments for costs shall be made by the Trustee  
33 only upon compliance with any applicable conditions or requirements that may be set forth in any Supplemental  
34 Ordinance and upon receipt of such written requisition, which requisition shall state with respect to each payment to  
35 be made:  
36

37 (i) the requisition number;  
38

39 (ii) the name and address of the person, firm or corporation to whom payment is due or to whom a  
40 reimbursable advance, if any, has been made;  
41

42 (iii) the amount to be paid;  
43

44 (iv) that each obligation mentioned therein has been properly incurred, is currently due and  
45 payable, is a proper charge against the Construction Account, is unpaid or unreimbursed, and has not been  
46 the basis of any previous withdrawal;  
47

48 (v) that such requisition contains no item representing payment of any retained percentage which  
49 the Issuer is as of the date of such requisition entitled, and has determined, to retain;  
50

1 (vi) that there has not been filed with or served upon the Issuer notice of any lien, right to lien or  
2 attachment upon, or claim affecting the right to receive payment of, any of the moneys payable to any of  
3 the persons named in such requisition which has not been released or will not be released simultaneously  
4 with the payment of such obligation, other than materialmen's or mechanics' liens accruing by mere  
5 operation of law; and  
6

7 (vii) that in the best judgment of the Issuer, the amount remaining in the Construction Account  
8 together with other moneys of the Issuer available or to be available therefor during the construction period,  
9 after such disbursement will be sufficient to pay all unpaid or unreimbursed costs of the completion of the  
10 related Project.  
11

12 (c) **Additional Requirements Imposed By Supplemental Ordinance.** The Issuer may impose  
13 by Supplemental Ordinance additional procedures and covenants to be followed in connection with the withdrawal of  
14 amounts from the Construction Account or any Accounts thereof. Any such additional procedures and covenants  
15 may be made applicable to all moneys on deposit from time to time in the Construction Account or only to moneys  
16 on deposit from time to time in various Accounts established within the Construction Account.  
17

18 (d) **Trustee May Rely on Written Instructions.** All requisitions and written instructions received  
19 by the Trustee, as required by this Section 504 in connection with the payment of moneys from the Construction  
20 Account and any Account thereof, may be relied upon by the Trustee in making such payments, without need to  
21 verify or investigate matters set forth in such instruments. The Trustee shall retain copies of all such requisitions  
22 and written instructions for a period of seven (7) years from the dates of receipt.  
23

24 (e) **Completion Certificate.** The completion of the acquisition and construction and, if applicable,  
25 acceptance testing, of any Project financed out of the proceeds of a Series of Bonds shall be evidenced by a certificate  
26 of the Authorized Issuer Representative, which shall be filed promptly with the Trustee, stating the date of such  
27 completion and the amount, if any, required in the opinion of the Authorized Issuer Representative for the payment  
28 of any remaining part of the costs of such Project, and that such Project has been completed in accordance with the  
29 plans and specifications therefor and the terms of any construction contract applicable thereto. Upon the filing of  
30 such certificate, the balance in the Construction Account (or in any separate Accounts thereof) in excess of the  
31 amount, if any, stated in such certificate and to the extent not then held for the purpose of paying the costs of any  
32 other Project:  
33

34 (i) as directed by the Issuer, shall be deposited in the Debt Service Account and applied to the  
35 retirement of the related Series of Bonds by purchase or redemption at the earliest date permissible under the  
36 terms of this Ordinance without the payment of a call premium or penalty on a date as determined by the  
37 certificate of an Authorized Issuer Representative delivered to the Trustee, *provided that*, if such Bonds are  
38 Tax-Exempt Obligations, then prior to any such application, the Issuer shall cause to be delivered to the  
39 Trustee an Opinion of Bond Counsel that such application will not adversely affect any the excludability of  
40 the interest on such Bonds from gross income for federal income tax purposes; and  
41

42 (ii) if such Bonds are Tax-Exempt Obligations, shall be invested at a yield not in excess of the  
43 yield on the related Bonds unless the Issuer causes to be delivered to the Trustee an Opinion of Bond  
44 Counsel to the effect that the failure to invest such moneys at a yield not in excess of the yield on the  
45 related Bonds will not adversely affect the excludability of the interest on such Bonds from gross income for  
46 federal income tax purposes;  
47

48 *provided, however, that* such amounts may, at the request of an Authorized Issuer Representative and, if such Bonds  
49 are Tax-Exempt Obligations, upon receipt by the Trustee of an Opinion from Bond Counsel to the effect that such

1 use of such amounts will not adversely affect the excludability of the interest on such Bonds from gross income for  
2 federal income tax purposes, be:

3  
4 (1) retained in the Construction Account and applied to the payment of any costs of any other  
5 Project; or

6  
7 (2) withdrawn from the Construction Account and transferred to such other fund or account of the  
8 Issuer to be applied for any lawful purpose.  
9

10 **Section 505. The Debt Service Account.** On or before each Interest Payment Date for any Bonds  
11 issues hereunder there shall be deposited in the Debt Service Account from amounts on deposit in the General  
12 Revenue Bond Fund, as provided and in accordance with the priorities set forth in Section 501 hereof, an amount  
13 which, when added to any amounts on deposit in the Debt Service Account which are available for such purpose,  
14 shall equal the principal, interest and redemption premium (if any) due on the Bonds on such Interest Payment Date  
15 (whether by virtue of the maturity, stated due date, call for redemption or otherwise).  
16

17 In addition, there shall be deposited into the Debt Service Account any moneys delivered by or on behalf of  
18 the Issuer to the Trustee for the purpose of effecting the redemption of any Bonds.  
19

20 The moneys on deposit from time to time in the Debt Service Account shall be used to pay when due the  
21 principal of, interest on, Accreted Value and Redemption Price of the Outstanding Bonds, and the Trustee shall  
22 transfer such moneys to the appropriate Paying Agent(s) for application to the payment when due of the principal of,  
23 interest on and Redemption Price of the Outstanding Bonds. Notwithstanding the foregoing or any other provision  
24 herein to the contrary, if any amount applied to the payment of principal of, interest on, Accreted Value or  
25 Redemption Price of any Bonds that would have been paid from the Debt Service Account is paid instead by amounts  
26 drawn or paid under a Credit Facility, amounts on deposit in the Debt Service Account, and allocable to such  
27 payment for said Bonds, shall be paid to the extent required under the related Credit Agreement to the related Credit  
28 Provider.  
29

30 **Section 506. The Reserve Account.**  
31

32 (a) **Deposits into Reserve Account.** In connection with each issuance of Bonds hereunder, the  
33 Issuer shall cause to be deposited in the Reserve Account an amount such that, when added to the amounts already on  
34 deposit in the Reserve Account, will cause the balance on deposit in the Reserve Account to at least equal the  
35 Reserve Requirement. For purposes of the foregoing provision, there shall be deemed to be deposited in the Reserve  
36 Account an amount equal to the amount available to be drawn by the Trustee under any Credit Facility given for the  
37 purpose of meeting in whole or in part the Reserve Requirement. The Trustee shall hold to the credit of the Reserve  
38 Account any Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement and shall  
39 draw upon or demand payment under such Credit Facility and apply the moneys so drawn or paid in accordance with  
40 the provisions of this Section 506.  
41

42 (b) **Withdrawals to Make Up Deficiencies.** If, on any date upon which any amounts of principal  
43 of or interest on the Outstanding Bonds are due and payable (including any amounts of principal due and payable  
44 pursuant to a Mandatory Redemption Schedule), the amounts on deposit in the Debt Service Account, when added to  
45 moneys drawn or available to be drawn under any Credit Facility for such purpose, are insufficient to pay all  
46 amounts of principal of, premium (if any) and interest on the Outstanding Bonds due on such date, then the Trustee  
47 shall withdraw from the Reserve Account, in the order of priority set forth below, an amount equal to such deficiency  
48 and apply the amount so withdrawn to the payment of the amounts of principal of, premium (if any) and interest due  
49 on the Outstanding Bonds on such date.  
50



1 Withdrawals from the Reserve Account shall be made in the following order of priority:

2  
3 First, from any cash on deposit in the Reserve Account;

4  
5 Second, from the liquidation proceeds of any investments made from moneys on deposit in the  
6 Reserve Account, with the Trustee first liquidating those investments with the shortest term to maturity  
7 unless otherwise instructed by the Issuer; and

8  
9 Third, from moneys drawn or paid under any Credit Facility given for the purpose of meeting in  
10 whole or in part the Reserve Requirement.

11  
12 (c) **Valuation of Reserve Account.** The amounts on deposit in the Reserve Account shall be  
13 determined by the Trustee:

14  
15 (i) on July 1 of each year;

16  
17 (ii) as of the date of issuance of any Bonds hereunder; and

18  
19 (iii) as of the date of any withdrawal from the Reserve Account for the purpose of making up any  
20 deficiencies in the Debt Service Account.

21  
22 For purposes of determining the amounts on deposit from time to time in the Reserve Account:

23  
24 (1) all investments shall be valued at the lower of:

25  
26 (A) the mean between the bid and asked price therefor as shown in the Wall Street  
27 Journal last published immediately prior to the date of such determination; or

28  
29 (B) the amortized cost of such investment; and

30  
31 (2) there shall be deemed to be on deposit in the Reserve Account an amount equal to the amount  
32 available to be drawn by the Trustee under any Credit Facility given for the purpose of meeting in whole or  
33 in part the Reserve Requirement.

34  
35 (d) **Withdrawals of Excess.** If, on any July 1 of any year, the amounts on deposit in the Reserve  
36 Account are in excess of the Reserve Requirement (with investments on deposit therein being valued as provided  
37 herein), then the Trustee shall promptly inform the Issuer of such fact and, if so instructed by the Issuer, shall  
38 withdraw from the Reserve Account an amount equal to such excess and transfer the amount so withdrawn to the  
39 Debt Service Account.

40  
41 (e) **Restoration of Amounts Withdrawn.** In the event that any amounts are withdrawn from the  
42 Reserve Account for the purpose of making up any deficiency in the Debt Service Account as described above, the  
43 Issuer shall cause to be deposited in the Reserve Account, from amounts on deposit in the General Revenue Bond  
44 Fund and in accordance with the priorities set forth in Section 501 hereof, an amount such that the amount on  
45 deposit in the Reserve Account shall at least equal the Reserve Requirement, which deposits shall be made in not  
46 more than eighteen equal monthly installments commencing on the first day of the month next succeeding the date  
47 of the withdrawal from the Reserve Account giving rise to such deficiency. In addition, in the event any amounts are  
48 drawn under a Credit Facility given for the purpose of meeting in whole or in part the Reserve Requirement in order  
49 to make up any deficiency in the Debt Service Account as described above, the Issuer shall, over a period of not to  
50 exceed eighteen months, cause the amount available to be drawn under such Credit Facility to be reinstated to an

1 amount such that the total amount on deposit in the Reserve Account shall at least equal the Reserve Requirement.  
2 For purposes of this paragraph, the Trustee shall determine the amount on deposit in the Reserve Account as of the  
3 date upon which the Issuer makes the last deposit in the Reserve Account pursuant to the first sentence of this  
4 paragraph or as of the date upon which the Issuer has caused the Credit Facility to be reinstated in the amount  
5 required by the second sentence of this paragraph, as the case may be.  
6

7 In the event the amounts on deposit in the Reserve Account are less than the Reserve Requirement solely as  
8 a result of changes in the market prices of the investments made from moneys deposited therein, the Issuer shall have  
9 no obligation to restore any such deficiency except under the circumstance described in the immediately preceding  
10 paragraph and in connection with the issuance of any Bonds hereunder.  
11

12 **(f) Application to Final Payment.** All amounts on deposit in the Reserve Account may be applied  
13 to the final payment (whether at maturity, by prior redemption or by means of a defeasance as provided in  
14 Section 1201 hereof) of all Outstanding Bonds. In addition, in connection with the final payment or defeasance of  
15 some but not all of the Outstanding Bonds, an amount equal to the difference between:  
16

17 (i) the amounts on deposit in the Reserve Account immediately prior to such payment or  
18 defeasance; and  
19

20 (ii) the Reserve Requirement immediately following such payment or defeasance;  
21

22 may be withdrawn from the Reserve Account and applied to such payment or defeasance.  
23

#### 24 **Section 507. The Rebate Account.** 25

26 **(a) Calculation of Rebate Amount; Deposits to and Withdrawals from Rebate**  
27 **Account.** The Issuer hereby covenants and agrees that, in accordance with the applicable provisions of the Code, it  
28 shall calculate, or cause to be calculated, the Rebate Amount accruing with respect to each issue of Bonds and each  
29 Financial Obligation as provided herein. Within 25 days after the close of each Calculation Period for each issue of  
30 Bonds and within 25 days after the final payment in full of all Bonds of a particular issue, the Trustee shall provide  
31 the Issuer and the Rebate Analyst (if any) with detailed information concerning the investments made during the  
32 Calculation Period just ended with any moneys related to such issue of Bonds held by the Issuer or the Trustee  
33 hereunder and the Issuer or the Rebate Analyst (if any) shall compute the Rebate Amount for such issue of Bonds in  
34 accordance with the requirements of Section 148(f) of the Code and shall provide to the Trustee a Rebate Report  
35 setting forth such calculations. Within 25 days after the close of each Calculation Period for each Financial  
36 Obligation and within 25 days after the final payment in full of each Financial Obligation, the Issuer or the Rebate  
37 Analyst (if any) shall compute the Rebate Amount for such Financial Obligation in accordance with the requirements  
38 of Section 148(f) of the Code and shall prepare a Rebate Report setting forth such calculations.  
39

40 In the event a Rebate Report shows a positive Rebate Amount, the Issuer shall, pursuant to and in  
41 Accordance with the priorities set forth in Section 501 hereof, make a Rebate Payment by, in the case of a Series of  
42 Bonds, immediately depositing into the Rebate Account an amount equal to such Rebate Amount and, in the case of  
43 an Financial Obligation, by setting aside in an appropriate manner an amount equal to such Rebate Amount.  
44

45 In the event that a Rebate Report shows that the amounts on deposit in the Rebate Account exceed the  
46 cumulative Rebate Amount with respect to all issues of Bonds for all prior Calculation Periods, the Trustee is  
47 directed to transfer an amount equal to the amount of such excess from the Rebate Account to the Debt Service  
48 Account (but only to the extent of any amounts on deposit in the Rebate Account).  
49

1 Amounts on deposit from time to time in the Rebate Account shall, to the extent practicable, be invested  
2 by the Trustee in such Government Obligations as the Issuer shall direct in writing.  
3

4 **(b) Payment of Rebate Amount to United States.** Not later than 30 days after each Installment  
5 Computation Date for each Series of Bonds, the Trustee shall pay to the United States of America, from moneys on  
6 deposit in the Rebate Account or, if moneys on deposit in the Rebate Account are insufficient or unavailable to  
7 make such payments, from moneys on deposit in the General Revenue Bond Fund in accordance with the priorities  
8 set forth in Section 501 hereof, at least 90% of the Excess Earnings during the preceding five Bond Years and 100%  
9 of the investment earnings on such Excess Earnings. In addition, not later than 60 days after each Final  
10 Computation Date for each Series of Bonds, the Trustee shall pay to the United States of America all amounts  
11 required to be paid thereto pursuant to Section 148(f) of the Code as set forth in the final Rebate Report, said  
12 payment to be made out of moneys on deposit in the Rebate Account or, to the extent the moneys on deposit in the  
13 Rebate Account are insufficient for such purpose, out of moneys on deposit in the General Revenue Bond Fund in  
14 accordance with the priorities set forth in Section 501 hereof.  
15

16 Not later than 30 days after each Installment Computation Date for each Financial Obligation, the Issuer  
17 shall pay or cause to be paid to the United States of America, from moneys on deposit in the General Revenue Bond  
18 Fund in accordance with the priorities set forth in Section 501 hereof or from such other moneys as the Issuer may  
19 have set aside for such purpose, at least 90% of the Excess Earnings during the preceding five Bond Years and 100%  
20 of the investment earnings on such Excess Earnings. In addition, not later than 60 days after each Final  
21 Computation Date for each Financial Obligation, the Issuer shall pay or cause to be paid to the United States of  
22 America all amounts required to be paid thereto pursuant to Section 148(f) of the Code as set forth in the final  
23 Rebate Report for such Financial Obligation, said payment to be made out of moneys on deposit in the General  
24 Revenue Bond Fund in accordance with the priorities set forth in Section 501 hereof or out of other moneys set aside  
25 by the Issuer for such purpose.  
26

27 Notwithstanding anything expressed or implied herein to the contrary, it is the intent that there shall be paid  
28 to the United States of America, out of moneys on deposit in the Rebate Account or payments made by the Issuer  
29 pursuant to and in accordance with the priorities set forth in Section 501 hereof, all amounts required to be paid  
30 pursuant to Section 148(f) of the Code at the times required thereby.  
31

32 **(c) Conformance to the Code Requirements; "Issue of Bonds" Defined; Covenant to**  
33 **Survive Payment.** Notwithstanding anything expressed or implied herein to the contrary:  
34

35 (i) the provisions of this Section 507 may be amended from time to time by the Issuer and the  
36 Trustee without the consent of or notice to any Owners in order to conform to the requirements of the Code  
37 regarding the payment of the Rebate Amount to the United States of America or the manner or time of  
38 calculating such Rebate Amount; and  
39

40 (ii) in no event shall the Issuer be deemed to be in default in respect of its obligations under this  
41 Section 507 so long as all actions taken by the Issuer with respect to the calculation of the Rebate Amount  
42 and the payment thereof to the United States of America conform to the requirements of the Code as such  
43 requirements may be changed, modified or amended from time to time.  
44

45 As used in this Section 507 and as used in the definitions of the terms "Bond Year", "Calculation Period",  
46 "Excess Earnings" and "Rebate Amount" that appear in Article I hereof, the phrases "issue of Bonds" and "each  
47 Financial Obligation" or any words of similar import shall mean all Bonds of whatever Series and all Financial  
48 Obligations howsoever incurred which, for purposes of the arbitrage rebate provisions of the Code, are considered to  
49 be a single "issue" of obligations.  
50

1 Notwithstanding anything expressed or implied herein or in any Supplemental Ordinance to the contrary,  
2 the covenants of the Issuer set forth in this Section 507 shall survive the payment in full and/or defeasance of all  
3 Outstanding Bonds or any particular issue of Bonds.  
4  
5  
6  
7  
8

9  
10 **ARTICLE VI**  
11 **DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS**  
12 **AND INVESTMENT OF FUNDS**  
13  
14

15 **Section 601. Depositaries.** All moneys held by the Trustee or any Paying Agent under the  
16 provisions of this Ordinance or any Supplemental Ordinance may be deposited with one or more Depositaries in trust  
17 for the Trustee or any related Paying Agent and shall be applied only in accordance with the provisions of this  
18 Ordinance or the governing Supplemental Ordinance (as the case may be), and each of the Funds and Accounts shall  
19 be a trust fund for the purposes specified in the ordinance establishing such Fund or Account.  
20

21 **Section 602. Deposits and Investments.** Except as otherwise expressly provided in a  
22 Supplemental Ordinance or in this Ordinance, all moneys held by any Fiduciary under this Ordinance or any  
23 Supplemental Ordinance, to the extent not invested pursuant to the applicable provisions of a Supplemental  
24 Ordinance, may be placed in Permitted Investments, *provided that* such investments shall permit the moneys so held  
25 to be available for use at the time when needed. The Depositary shall not be liable for any loss or depreciation in  
26 value resulting from any investment made pursuant to this Ordinance or the applicable provisions of any  
27 Supplemental Ordinance. Any such investment consisting of a demand or time deposit may be made through the  
28 commercial or trust banking department of any Fiduciary, acting as a Depositary, which may honor checks and drafts  
29 on such deposit with the same force and effect as if it were not such Fiduciary. Such moneys held by any Fiduciary,  
30 as such, may be deposited by such Fiduciary in its banking department on demand or, if and to the extent directed by  
31 the Issuer and acceptable to such Fiduciary, on time deposit, provided that such moneys on deposit be available for  
32 use at the time when needed. Such Fiduciary shall allow and credit on such moneys such interest, if any, as it  
33 customarily allows upon similar funds of similar size and under similar conditions or as required by law. The  
34 moneys on deposit from time to time in any Fund or Account may be commingled for purposes of investment with  
35 the moneys on deposit in any other Fund or Account.  
36

37 **Section 603. Valuation and Sale of Investments.** Obligations purchased as an investment of  
38 moneys in any Fund or Account created under the provisions of this Ordinance or any Supplemental Ordinance shall  
39 be deemed at all times to be a part of such Fund or Account and any profit realized from the liquidation of such  
40 investment shall be credited to such Fund or Account and any loss resulting from the liquidation of such investment  
41 shall be charged to the respective Fund or Account.  
42

43 The amount on deposit in each Fund and Account created under the provisions of this Ordinance or any  
44 Supplemental Ordinance shall be computed at such periodic intervals as shall be specified pursuant to a  
45 Supplemental Ordinance. Except as otherwise expressly provided in this Ordinance or a Supplemental Ordinance, in  
46 computing the amount in any Fund or Account created under the provisions of this Ordinance or any Supplemental  
47 Ordinance for any purpose provided in this Ordinance or any Supplemental Ordinance, obligations purchased as an  
48 investment of moneys therein shall be valued at the lesser of market value or amortized cost of such obligations,  
49 exclusive of accrued interest.

1  
2 Except as otherwise provided in a Supplemental Ordinance, the Trustee shall sell at the best price  
3 reasonably obtainable, or present for redemption, any obligation so purchased as an investment whenever it shall be  
4 directed by the Issuer or another party authorized to give such direction so to do or whenever it shall be necessary in  
5 order to provide moneys to meet any payment or transfer from any Fund or Account held by it. The Trustee shall  
6 not be liable or responsible for making any such investment in the manner provided above or for any loss resulting  
7 from any such investment.  
8  
9

## 10 11 12 13 **ARTICLE VII** 14 **PARTICULAR COVENANTS OF THE ISSUER**

15  
16 **Section 701. General Covenants.** The Issuer covenants and agrees with the Trustee and the Owners  
17 of the Outstanding Bonds issued hereunder from time to time that, so long as any Bonds remain Outstanding:  
18

19 (a) **Payment of Bonds.** The Issuer shall duly and punctually pay or cause to be paid, but solely from  
20 Revenues and the Trust Estate, the principal of, premium, if any, and interest on every Bond and any obligations  
21 under any Credit Agreement at the dates and places and in the manner mentioned in the Bonds or any Credit  
22 Agreement, according to the true intent and meaning thereof, subject to the provisions of this Ordinance and the  
23 applicable provisions of any Supplemental Ordinance.  
24

25 (b) **Extension of Payment of Bonds.** The Issuer shall not directly or indirectly extend or assent to  
26 the extension of the maturity of any of the Bonds or the time of payment of any interest on the Bonds. Nothing  
27 herein shall be deemed to limit the right of the Issuer to issue Refunding Obligations and such issuance shall not be  
28 deemed to constitute an extension of maturity of Bonds.  
29

30 (c) **Further Assurance.** At any and all times the Issuer shall, as far as it may be authorized by law,  
31 comply with any reasonable request of the Trustee to pass, make, do, execute, acknowledge and deliver, all and every  
32 such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or  
33 desirable for the better assuring, pledging, assigning and confirming in all and singular the rights, the Trust Estate  
34 and other moneys, securities and funds pledged or assigned as security for any Series of Bonds, or intended so to be,  
35 or which the Issuer may become bound to pledge or assign.  
36

37 (d) **Power to Issue Bonds and to Pledge the Trust Estate and Other Funds.** The Issuer, at  
38 the time of enactment of this Ordinance and the issuance of the first Series of Bonds hereunder, is, and at the time of  
39 enactment of any Supplemental Ordinance and the issuance of any Series of Bonds thereunder, will be, duly  
40 authorized under all applicable laws to issue the Bonds and to enact this Ordinance and to pledge the Trust Estate and  
41 other moneys, securities and funds purported to be pledged as security for particular Series of Bonds in the manner  
42 and to the extent provided in this Ordinance and any Supplemental Ordinance. Except to the extent otherwise  
43 provided in this Ordinance or any Supplemental Ordinance, the Trust Estate and other moneys, securities and funds  
44 so pledged are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto  
45 prior to, or of equal rank with, the pledge created by this Ordinance or any Supplemental Ordinance, and all action on  
46 the part of the Issuer to that end has been and will be duly and validly taken. The Bonds and the provisions of this  
47 Ordinance and each Supplemental Ordinance are and will be the valid and legally enforceable obligations of the Issuer  
48 in accordance with their terms and the terms of this Ordinance and such Supplemental Ordinance. The Issuer shall at  
49 all times, to the extent permitted by law, defend, preserve and protect the pledges of the Trust Estate and other

1 moneys, securities and funds pledged under this Ordinance and any Supplemental Ordinance and all the rights of the  
2 Owners of the Bonds and the Credit Providers, if any, under this Ordinance, any Supplemental Ordinance and any  
3 Credit Agreement, respectively, against all claims and demands of all persons whomsoever.  
4

5 (e) **General Tax Covenants.** Except with respect to Bonds issued by the Issuer which are not  
6 Tax-Exempt Obligations, the Issuer will take all actions within its control required by the Code as necessary to  
7 preserve the exclusion of interest received on Bonds issued or, then to be issued, from gross income for federal  
8 income tax purposes.  
9

10 The Issuer will not direct or permit any action within its control which would cause any Bond issued as a  
11 Tax-Exempt Obligation to be or become an "arbitrage bond" within the meaning of section 148 of the Code or direct  
12 or permit any action inconsistent with the applicable regulations thereunder as amended from time to time and as  
13 applicable to such Bond.  
14

15 Except with respect to Bonds issued by the Issuer which are not Tax-Exempt Obligations, the Issuer shall at  
16 all times comply with the Tax Covenants.  
17

18 (f) **Performance of Covenants in General.** The Issuer shall do and perform or cause to be done  
19 and performed all acts and things required to be done or performed by or on behalf of the Issuer under the provisions  
20 of the Act, this Ordinance and each Supplemental Ordinance. Upon the date of authentication and delivery of any of  
21 the Bonds, all conditions, acts and things required by law and this Ordinance and any applicable Supplemental  
22 Ordinance to exist, to have happened and to have been performed precedent to and in the issuance of such Bonds shall  
23 exist, have happened and have been performed and the issue of such Bonds, together with all other indebtedness of the  
24 Issuer, shall comply in all respects with the applicable laws of the State.  
25

26 **Section 702. Financial and Related Covenants.** The Issuer covenants and agrees with the  
27 Trustee and the Owners of the Outstanding Bonds issued hereunder from time to time that, so long as any Bonds  
28 remain Outstanding:  
29

30 (a) **Accounts and Reports.** The Issuer shall keep or cause to be kept proper books of records and  
31 accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its  
32 transactions relating to the Funds and Accounts established under this Ordinance and the operations and activities of  
33 each Department, and which books of records and accounts, together with all other books and papers of the Issuer  
34 relating to this Ordinance and any Bonds issued hereunder, shall at all times be subject to the inspection of the  
35 Trustee, the issuers of any Credit Facility for the Bonds and the Owners of an aggregate of not less than 5% in  
36 principal amount of the Bonds then Outstanding or their representatives duly authorized in writing.  
37

38 Except as otherwise expressly provided in a Supplemental Ordinance authorizing the issuance of a Series of  
39 Bonds, the Trustee shall advise the Issuer and the issuer of any Credit Facility for a Series of Bonds within ten (10)  
40 days after the end of each month of the respective transactions during such month relating to each Fund and Account  
41 held by it under this Ordinance. The Issuer and the issuer of any Credit Facility for a Series of Bonds shall have the  
42 right upon reasonable notice and during reasonable business hours to audit the books and records of the Trustee with  
43 respect to the Funds and Accounts held by the Trustee under this Ordinance.  
44

45 Within one hundred eighty (180) days after the close of each Fiscal Year, the Issuer shall cause to be filed  
46 with the Trustee and the issuer of any Credit Facility for a Series of Bonds, and otherwise as provided by law, a copy  
47 of the Issuer's annual audit report for such Fiscal Year, accompanied by an Accountant's Opinion, and including the  
48 following statements in reasonable detail: a statement of assets and liabilities as of the end of such Fiscal Year; and  
49 a summary with respect to each Fund and Account established under this Ordinance for the Bonds of the receipts  
50 therein and disbursements therefrom during such Fiscal Year and the amount held therein at the end of such Fiscal

1 Year. Such Accountant's Opinion shall state whether or not, to the knowledge of the signer, the Issuer is in default  
2 with respect to any of the covenants, agreements or conditions on its part contained in this Ordinance, and if so, the  
3 nature of such default.

4  
5 The Issuer shall file with the Trustee and the issuer of any Credit Facility for a Series of Bonds:

6  
7 (i) forthwith upon becoming aware of any Event of Default or default in the performance by the  
8 Issuer of any covenant, agreement or condition contained in this Ordinance with respect to the Bonds, a  
9 certificate of an Authorized Issuer Representative specifying such Event of Default or default; and

10  
11 (ii) simultaneous with the filing of the annual audit report described above, a certificate of an  
12 Authorized Issuer Representative stating that, to the best of the signer's knowledge and belief, the Issuer has  
13 kept, observed, performed and fulfilled its covenants and obligations contained in this Ordinance with  
14 respect to the Bonds and there does not exist at the date of such certificate any default by the Issuer under  
15 this Ordinance with respect to the Bonds or any Event of Default or other event which, with the giving of  
16 notice or the lapse of time or both, would become a Event of Default, or, if any such default or Event of  
17 Default or other event shall so exist, specifying the same and the nature and status thereof.

18  
19 The reports, statements and other documents required to be furnished to the Trustee pursuant to any  
20 provisions of this Ordinance shall be available for the inspection of Owners of the Bonds at the office of the Trustee  
21 and shall be mailed to each such Owner who shall file a written request therefor with the Trustee. The Trustee shall  
22 charge each Owner requesting such reports, statements and other documents a reasonable fee to cover reproduction,  
23 handling and postage.

24  
25 The covenants set forth in this Section 702(a) shall be applicable only from and after the issuance of the  
26 first Series of Bonds hereunder.

27  
28 **(b) Acquisition and Construction of any Project and its Operation and Maintenance.**  
29 The Issuer shall use its best efforts to cause any Project financed in whole or in part out of the proceeds of any Bonds  
30 to be acquired and constructed in accordance with due diligence and in a sound and economical manner. The Issuer  
31 shall use its best efforts at all times to cause each such Project to be operated properly and in an efficient and  
32 economical manner, and shall cause the same to be maintained, preserved, reconstructed and kept, with the  
33 appurtenances and every part and parcel thereof, in good repair, working order and condition.

34  
35 **(c) Payment of Taxes and Charges.** The Issuer from time to time duly will pay and discharge, or  
36 cause to be paid and discharged, all taxes, assessments and other governmental charges, or required payments in lieu  
37 thereof, lawfully imposed upon the Issuer, its assets or properties or its operations, or upon any Project financed in  
38 whole or in part from the proceeds of any Bonds, or upon the rights, revenues, income, receipts, and other moneys,  
39 securities and funds of the Issuer, when the same shall become due (including all rights, moneys and other property  
40 transferred, assigned or pledged under this Ordinance or any Supplemental Ordinance in connection with any Bonds),  
41 and all lawful claims for labor and material and supplies, except those taxes, assessments, charges or claims which  
42 the Issuer shall in good faith contest by proper legal proceedings if the Issuer shall in all such cases have set aside on  
43 its books reserves deemed adequate with respect thereto.

44  
45 **(d) Collection of Revenues.** The Issuer shall take all necessary legal action to assure the collection  
46 of all Revenues.

47  
48 **(e) Creation of Liens.** Except as otherwise provided in Section 205 hereof, the Issuer hereafter shall  
49 not issue any bonds, notes, debentures, or other evidences of indebtedness of similar nature payable out of or secured  
50 by the pledge or assignment of the Trust Estate on a parity with or prior to the payment of the amounts owing under

1 and with respect to the Bonds and shall not create or cause to be created any lien or charge on the Trust Estate equal  
2 or superior to the lien on the Trust Estate securing the Bonds; *provided, however, that* nothing contained in this  
3 Ordinance shall prevent the Issuer from issuing or incurring, if and to the extent permitted by law, indebtedness:  
4

5 (i) payable out of moneys in the Construction Account as part of the Capital Costs of any Project  
6 to be financed in whole or part out of the proceeds of any Bonds;  
7

8 (ii) payable out of, or secured by, a pledge and assignment of any part of the Trust Estate to be  
9 derived on and after such date as the pledge of the Trust Estate provided in this Ordinance shall be discharged  
10 and satisfied as provided in Section 1201 hereof;  
11

12 (iii) payable out of, or secured by, a pledge or assignment of any part of the Trust Estate which  
13 shall be, and shall be expressed to be, subordinate in all respects to the pledge of the Trust Estate as security  
14 for the Bonds; or  
15

16 (iv) arising under any Credit Agreement pursuant to which a Credit Facility is given as security  
17 for some or all of the Outstanding Bonds or for the purpose of meeting the Reserve Requirement, it being  
18 expressly understood that the Issuer reserves the right to pledge the Trust Estate as security for the  
19 obligations arising under such Credit Agreement as permitted under Section 204 hereof.  
20

21 In addition, except as otherwise provided in Section 205 hereof, the Issuer hereafter shall not hereafter pledge  
22 or create any liens against the Revenues as security for the payment of any Debt Obligation or bond, note,  
23 indebtedness or other financing instrument, regardless of whether such pledge or lien is on a parity with or prior to  
24 the payment of the amounts owing under and with respect to the Bonds out of the Revenues; *provided, however, that*  
25 nothing contained in this Ordinance shall prevent the Issuer from:  
26

27 (i) pledging and creating a lien on the Department Revenues of a particular Department as security  
28 for Department Obligations issued or incurred for the benefit of such Department;  
29

30 (ii) payable out of, or secured by, a pledge and assignment of any part of the Revenues to be  
31 derived on and after such date as Bonds are no longer Outstanding hereunder; or  
32

33 (iii) issuing or incurring Subordinated Debt.  
34

35 (f) **Annual Budget.** On or before the fifteenth day of each Fiscal Year, the Issuer shall adopt and file  
36 with the Trustee and any issuer of any Credit Facility given as security for any Bonds an Annual Budget for such  
37 Fiscal Year, which shall comply with all applicable laws.  
38

39 Each such Annual Budget shall set forth in reasonable detail the estimated Revenues and expenditures of the  
40 Issuer, and shall include as separate line items the estimated Department Assessment for each Department for much  
41 Fiscal Year, any General Assessment for such Fiscal Year, the estimated amounts to be deposited in such Fiscal Year  
42 in the the Reserve Account and the Debt Service Account, and the amounts to be applied to pay the debt service on  
43 Financial Obligations and otherwise meet the requirements of Section 501(a)(i), (ii), (iii) and (iv) with respect to  
44 Financial Obligations.  
45

46 Such Annual Budget shall be structured so as to permit compliance by the Issuer with the Issuer's covenant  
47 with respect to Total Assessments set forth in Section 501(b). Such Annual Budget also shall set forth such detail  
48 with respect to such Revenues and other expenditures and such deposits, as shall be required by law and may set forth  
49 such additional material as the Issuer may determine.  
50



1 Following the end of each quarter of each Fiscal Year the Issuer shall review its estimates set forth in the  
2 Annual Budget for such Fiscal Year, and in the event such estimates do not substantially correspond with actual  
3 Revenues, expenditures, debt service or other requirements as set forth above, the Issuer shall, in accordance with the  
4 applicable requirements of law, revise such Annual Budget for the remainder of such Fiscal Year, a copy of which  
5 revised Annual Budget shall be filed with the Trustee and any Credit Provider. If there are at any time during any  
6 such Fiscal Year extraordinary receipts or payments of unusual costs, the Issuer shall, in accordance with the  
7 applicable requirements of law, revise such Annual Budget for the remainder of such Fiscal Year, a copy of which  
8 revised Annual Budget shall be filed with the Trustee.

9  
10 (g) **Limitations on Expenditures and Other Costs.** The Issuer shall not incur expenditures or  
11 other costs payable from the Revenues in any Fiscal Year in excess of the reasonable and necessary amount of such  
12 expenses or costs, respectively.

13  
14 (h) **Revenue Covenant.** At all times, the Issuer shall establish, levy, impose, maintain and collect  
15 fees, rates and charges with respect to its undertaking and operations and, subject to the limitations imposed by law,  
16 taxes, as shall be necessary to provide the Revenues needed to pay all expenditures and to make the required Total  
17 Assessments in each Fiscal Year.

18  
19 (i) **Maintenance of Insurance.** The Issuer shall at all times keep or cause to be kept its properties  
20 which are of an insurable nature and of the character usually insured by those constructing or operating similar  
21 properties insured against loss or damage by fire and from other causes customarily insured against and in such  
22 relative amounts as are usually obtained. The Issuer shall maintain or cause to be maintained insurance or reserves  
23 against loss or damage from such hazards and risks to the person and property of others as are usually insured or  
24 reserved against by those constructing or operating properties similar to the properties of the Issuer. The Issuer shall  
25 maintain or cause to be maintained any and all such insurance as may be required by law.

26  
27 Any such insurance shall be:

28  
29 (i) in the form of policies or contracts for insurance with insurers of good standing and shall be  
30 payable to the Issuer; or

31  
32 (ii) in the form of self-insurance.

33  
34 The Issuer agrees that it will, pursuant to a Supplemental Ordinance, establish such fund or funds or reserves as are  
35 necessary to provide for its share of any such self-insurance.

36  
37 The Issuer shall file or cause to be filed with the Trustee annually, within 100 days after the close of each  
38 Fiscal Year, a certificate setting forth:

39  
40 (A) a description in reasonable detail of the insurance then in effect, including any self-insurance  
41 fund maintained, pursuant to the requirements of this Section 702(i); and

42  
43 (B) whether during such year any portion of the System has been damaged or destroyed and, if so,  
44 the amount of insurance proceeds, including the proceeds of any self-insurance fund, covering such loss or  
45 damage and specifying the reasonable and necessary costs of reconstruction or replacement thereof.

46  
47 (j) **Prudent Use of Projects.** The Issuer shall use, occupy, operate and otherwise deal with all  
48 Projects financed out of the proceeds of any Bonds issued hereunder in a prudent manner consistent with, and in a  
49 manner which, in the Issuer's judgment, is designed to promote the efficient and effective prosecution of, the  
50 governmental functions and duties of the Issuer and to enable the Issuer to make, in accordance with all applicable

1 legal requirements, Department Assessments which, together with any General Assessments, will be sufficient to  
2 provide the Total Assessments required hereunder in each Fiscal Year.  
3  
4  
5  
6  
7

8 **ARTICLE VIII**  
9 **EVENTS OF DEFAULT;**  
10 **REMEDIES OF BONDHOLDERS**

11  
12 **Section 801. Events of Default.** The occurrence of any one or more of the following events shall  
13 constitute a "Event of Default":  
14

15 (i) if default shall be made by the Issuer in the due and punctual payment of the principal of,  
16 premium (if any) or interest on any Bond when and as the same shall become due and payable, whether at  
17 maturity or by call for redemption, or otherwise;  
18

19 (ii) if default with respect to the Bonds shall be made by the Issuer in the performance or  
20 observance of any other of the covenants, agreements or conditions on its part in this Ordinance, any  
21 Supplemental Ordinance or in the Bonds contained, and such default shall continue for a period of sixty (60)  
22 days after written notice thereof to the Issuer by the Trustee or to the Issuer and to the Trustee by the  
23 Owners of not less than fifty percent (50%) in principal amount of the Bonds outstanding;  
24

25 (iii) if the Issuer shall file a petition or otherwise seek relief under any federal or state bankruptcy  
26 law or similar law;  
27

28 (iv) if an order or decree shall be entered, with the consent or acquiescence of the Issuer,  
29 appointing a receiver or receivers of for the Issuer, or any substantial part of its properties or operations, or  
30 of any substantial part of the Revenues, or if such order or decree having been entered without the consent  
31 or acquiescence of the Issuer, shall not be vacated or discharged or stayed within ninety (90) days after the  
32 entry thereof;  
33

34 (v) written notice shall have been received by the Trustee from the issuer of a Credit Facility for  
35 any Series of Bonds that an event of default has occurred under the related Credit Agreement or there shall  
36 have been a failure by said issuer to make said Credit Facility available or to reinstate the interest  
37 component of said Credit Facility in accordance with the terms of said Credit Facility, to the extent said  
38 notice or failure is established as an event of default under the terms of any Supplemental Ordinance  
39 executed and delivered in connection with the issuance of any Series of Bonds; or  
40

41 (vi) the occurrence of any other event that shall be expressly stated to constitute an Event of  
42 Default under any Supplemental Ordinance relating to the Bonds.  
43

44 So long as an Event of Default shall have occurred and be continuing, unless the principal of all the Bonds shall  
45 have already become due and payable, the Trustee (by notice in writing to the Issuer) may, and upon the written  
46 request of the Owners of not less than fifty percent (50%) in principal amount of the Bonds Outstanding (by notice  
47 in writing to the Issuer and the Trustee), shall declare the principal of all the Bonds then Outstanding, and the interest  
48 accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and be

1 immediately due and payable, anything in this Ordinance or in any Supplemental Ordinance contained to the contrary  
2 notwithstanding.

3  
4 The right of the Trustee or of the Owners of not less than fifty percent (50%) in principal amount of Bonds  
5 then Outstanding to make any such declaration as aforesaid, however, is subject to the condition that if, at any time  
6 after such declaration, but before the Bonds shall have matured by their terms, all overdue installments of interest  
7 upon the Bonds, together with interest on such overdue installments of interest to the extent permitted by law and  
8 the reasonable and proper charges, expenses and liabilities of the Trustee, and all other sums then payable by the  
9 Issuer or the Trustee under this Ordinance (except the principal of, and interest accrued since the next preceding  
10 Interest Payment Date on the Bonds due and payable solely by virtue of such declaration) shall be paid for the  
11 account of the Issuer or provision satisfactory to the Trustee shall be made for such payment, and all defaults under  
12 the Bonds or under this Ordinance (other than the payment of principal and interest due and payable solely by reason  
13 of such declaration) shall be cured or be secured to the satisfaction of the Trustee or provision deemed by the Trustee  
14 to be adequate shall be made therefor, then and in every such case the Trustee, by written notice to the Issuer and the  
15 Owners of the Outstanding Bonds, or the Owners of fifty percent (50%) in principal amount of the Bonds  
16 Outstanding, by written notice to the Issuer and to the Trustee, may rescind such declaration and annul such default  
17 in its entirety, but no such recession or annulment shall extend to or affect any subsequent default or impair or  
18 exhaust any right or power consequent thereon.

19  
20 **Section 802. Accounting and Examination of Records After Default.** The Issuer covenants  
21 that if an Event of Default shall have happened and shall not have been remedied, the books of record and accounts of  
22 the Issuer and all other records relating to the Revenues shall at all times be subject to the inspection and use of the  
23 Trustee and of its agents and attorneys.

24  
25 The Issuer covenants that if an Event of Default shall have happened and shall not have been remedied, the  
26 Issuer, upon demand of the Trustee, will account, as if it were the trustee of an express trust, for all Revenues and  
27 other moneys, securities and funds pledged or held under this Ordinance for such period as shall be stated in such  
28 demand.

29  
30 **Section 803. Application of Revenues and Other Moneys After Default.** The Issuer  
31 covenants that if an Event of Default shall happen and shall not have been remedied, the Issuer, upon the demand of  
32 the Trustee, shall cause to be paid over to the Trustee:

33  
34 (a) forthwith, all moneys, securities and funds held by the Issuer or a Depositary in any Fund or  
35 Account established under this Ordinance or any Supplemental Ordinance with respect to the Bonds; and

36  
37 (b) as promptly as practicable after receipt thereof, all Total Assessments.

38  
39 During the continuance of an Event of Default, the Trustee shall apply all moneys, securities, funds and  
40 Total Assessments received by the Trustee pursuant to any right given or action taken under the provisions of this  
41 Article or held by the Trustee in any Fund or Account established with respect to the Bonds (other than the Rebate  
42 Fund) as follows and in the following order:

43  
44 (i) **Rebate Payments:** to the payment of any amounts required to be rebated to the United  
45 States of America in accordance with the Rebate Covenants described in Section 513 hereof;

46  
47 (ii) **Expenses of Fiduciaries:** to the payment of the reasonable and proper charges,  
48 expenses and liabilities of the Fiduciaries for the Bonds;

1 (iii) **Payment of Bonds and Financial Obligations:** to the payment of the interest  
2 and principal then due on the Outstanding Debt Obligations (other than any Debt Obligations which  
3 constitute Subordinated Debt) and for payment of obligations under any Credit Agreement relating to a  
4 Credit Facility given as security for any Series of Debt Obligation (other than any Debt Obligations which  
5 constitute Subordinated Debt), but not including a Credit Facility given for the purpose of meeting in  
6 whole or in part the related Reserve Requirement, as follows:  
7

8 (A) unless the principal of all of the Bonds shall have become or have been declared due  
9 and payable,  
10

11 **First:** To the payment to the persons entitled thereto of all installments of  
12 interest then due on the Outstanding Debt Obligations (other than any Debt  
13 Obligation which constitutes Subordinated Debt) in the order of the maturity of  
14 such installments together with accrued and unpaid interest on the Debt  
15 Obligations (other than any Debt Obligation which constitutes Subordinated  
16 Debt) theretofore called for redemption or prepayment, and, if the amount  
17 available shall not be sufficient to pay in full any installment or installments  
18 maturing on the same date, then to the payment thereof ratably, according to the  
19 amounts due thereon, to the persons entitled thereto, without any discrimination  
20 or preference;  
21

22 **Second:** To the payment to the persons entitled thereto of the unpaid principal  
23 of any Outstanding Debt Obligations (other than any Debt Obligation which  
24 constitutes Subordinated Debt) which shall have become due, whether at  
25 maturity or by call for redemption or prepayment, in the order of their due dates,  
26 and, if the amount available shall not be sufficient to pay in full all the Debt  
27 Obligations (other than any Debt Obligation which constitutes Subordinated  
28 Debt) due on any date, then to the payment thereof ratably, according to the  
29 amounts of principal due on such date, to the persons entitled thereto, without  
30 any discrimination or preference;  
31

32 **Third:** To the payment of any amounts owing to the issuer or issuers of any  
33 Credit Facility given as security for any Series of Debt Obligations (other than  
34 any Debt Obligation which constitutes Subordinated Debt) (other than a Credit  
35 Facility given for the purpose of meeting in whole or in part the related Reserve  
36 Requirement) entitled thereto, of the obligations due and payable, ratably  
37 according to the amounts due thereon, without any discrimination or preference;  
38 and  
39

40 **Fourth:** To the payment of any amounts owing to the issuer or issuers of any  
41 Credit Facility given for the purpose of meeting in whole or in part the Reserve  
42 Requirement or the Reserve Requirement for any Debt Obligation (other than  
43 any Debt Obligation which constitutes Subordinated Debt); and  
44

45 (B) if the principal of all of the Bonds shall have become or have been declared due and  
46 payable:  
47

48 **First:** to the payment of the principal and interest then due and unpaid upon  
49 the Outstanding Debt Obligations (other than any Debt Obligation which  
50 constitutes Subordinated Debt) and for payment of obligations under any Credit

1 Agreement relating to a Credit Facility given as security for any Series of Debt  
2 Obligations (other than any Debt Obligation which constitutes Subordinated  
3 Debt) (other than a Credit Facility given for the purpose of meeting in whole or  
4 in part the related Reserve Requirement), without preference or priority of  
5 principal over interest or of interest over principal, or of any installment of  
6 interest over any other installment of interest, or of any Bond or any such  
7 Financial Obligation or Credit Agreement over any other Bond, Financial  
8 Obligation or Credit Agreement, ratably, according to the amounts due  
9 respectively of principal and interest, to the persons entitled thereto without any  
10 discrimination or preference except as to any difference in the respective rates of  
11 interest specified in the Bonds, Financial Obligation or Credit Agreement, of the  
12 obligations due and payable, ratably according to the amounts due thereon,  
13 without any discrimination or preference; and  
14

15 **Second:** to the payment of any amounts owing under a Credit Agreement  
16 relating to a Credit Facility given for the purpose of meeting in whole or in part  
17 the related Reserve Requirement for any Outstanding Debt Obligation (other than  
18 any Financial Obligation which constitutes Subordinated Debt).  
19

20 With respect to the payment of any Financial Obligation out of Total Assessments collected by the Trustee  
21 pursuant to this Article following the occurrence of an Event of Default hereunder, the Trustee shall cause such Total  
22 Assessments to be paid, in accordance with the priorities set forth above, to the person or persons entitled to the  
23 same as set forth in the related Financing Agreement.  
24

25 If and whenever all overdue installments of interest on all Debt Obligations, or under any Credit Agreement  
26 relating to a Credit Facility given as security for a Series of Debt Obligations, together with the reasonable and  
27 proper charges, expenses and liabilities of the Trustee, and all other sums payable for the account of the Issuer under  
28 this Ordinance shall be paid for by the account of the Issuer, or provision satisfactory to the Trustee shall be made  
29 for such payment, and all defaults under this Ordinance or the Bonds or under any Credit Agreement relating to a  
30 Credit Facility given as security for a Series of Debt Obligations, shall be made good or secured to the satisfaction of  
31 the Trustee or provision deemed by the Trustee to be adequate shall be made therefor, the Trustee shall pay over all  
32 moneys, securities, and funds then remaining unexpended in the hands of the Trustee (except moneys, securities and  
33 funds deposited or pledged, or required by the terms of this Ordinance or any Supplemental Ordinance to be deposited  
34 or pledged, with the Trustee), and thereupon the Issuer and the Trustee shall be restored, respectively, to their former  
35 positions and rights under this Ordinance and all Supplemental Ordinances. No such payment by the Trustee nor  
36 such restoration of the Issuer and the Trustee to their former positions and rights shall extend to or affect any  
37 subsequent default under this Ordinance or any Supplemental ordinance relating to the Bonds or impair any right  
38 consequent thereon.  
39

40 **Section 804. Appointment of Receiver.** Upon the occurrence of an Event of Default, and upon  
41 the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the  
42 Owners of the Bonds under this Ordinance, the Trustee shall be entitled to make application for the appointment of a  
43 receiver or custodian of the Revenues for the purpose of collecting the Total Assessments required to be made  
44 hereunder, with such power as the court making such appointment shall confer.  
45

46 **Section 805. Proceedings Brought by Trustee.** If an Event of Default shall happen and shall not  
47 have been remedied, then and in every such case, the Trustee, by its agents and attorneys, may proceed, and upon  
48 written request of the Owners of not less than twenty-five percent (25%) in principal amount of the Bonds  
49 Outstanding shall proceed, to protect and enforce its rights and the rights of the Owners of the Bonds or the issuer of  
50 any Credit Facility given as security for any Series of Bonds, under this Ordinance forthwith by a suit or suits in

1 equity or at law, whether for the specific performance of any covenant herein contained, or in aid of the execution of  
2 any power herein granted or any remedy granted under the Act, or for an accounting against the Issuer as if the Issuer  
3 were the trustee of an express trust, or in the enforcement of and other legal or equitable right as the Trustee, being  
4 advised by counsel, shall deem most effectual to enforce any of its rights or to perform any of its duties under this  
5 Ordinance.  
6

7 All rights of action under this Ordinance may be enforced by the Trustee without the possession of any of  
8 the Bonds or the production thereof on the trial or other proceedings, and any such suit or proceedings instituted by  
9 the Trustee shall be brought in its name.  
10

11 The Owners of not less than a majority in principal amount of the Bonds at the time Outstanding may  
12 direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or of  
13 exercising any trust or power conferred upon the Trustee, *provided that* the Trustee shall have the right to decline to  
14 follow any such direction if the Trustee shall not be provided adequate security and indemnity or shall be advised by  
15 counsel that the action or proceeding so directed may not lawfully be taken or shall be inconsistent with the  
16 provisions of this Ordinance, or if the Trustee in good faith shall determine that the action or proceeding so directed  
17 would involve the Trustee in personal liability or be unjustly prejudicial to the Owners of Bonds not parties to such  
18 direction.  
19

20 Upon commencing a suit in equity or upon other commencement of judicial proceedings by the Trustee to  
21 enforce any right under this Ordinance, the Trustee shall be entitled to exercise any and all rights and powers  
22 conferred in this Ordinance and provided to be exercised by the Trustee upon the occurrence of any Event of Default.  
23

24 Regardless of the happening of an Event of Default, the Trustee shall have power to, but unless requested in  
25 writing by the Owners of a majority in principal amount of the Bonds then Outstanding, and furnished with  
26 reasonable security and indemnity, shall be under no obligation to, institute and maintain such suits and proceedings  
27 as it may be advised shall be necessary or expedient to prevent any impairment of the security under this Ordinance  
28 by any acts which may be unlawful or in violation of this Ordinance, and such suits and proceedings as the Trustee  
29 may be advised shall be necessary or expedient to preserve or protect its interests and the interests of the Owners of  
30 the Outstanding Bonds.  
31

32 **Section 806. Restriction on Bondholder's Action.** No Owner of any Bond shall have any right  
33 to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of this Ordinance  
34 or the execution of any trust under this Ordinance or for any remedy under this Ordinance, unless such Owner shall  
35 have previously given to the Trustee written notice of the happening of an Event of Default, as provided in this  
36 Article, and the Owners of at least 25% in principal amount of the Bonds then outstanding shall have filed a written  
37 request with the Trustee, and shall have offered it reasonable opportunity, either to exercise the powers granted in this  
38 Ordinance or by the Act or by the laws of the State or to institute such action, suit or proceeding in its own name,  
39 and unless such Owners shall have offered to the Trustee adequate security and indemnity against the costs, expenses  
40 and liabilities to be incurred therein or thereby, and the Trustee shall have refused to comply with such request for a  
41 period of sixty (60) days after receipt by it of such notice, request and offer of indemnity, it being understood and  
42 intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to  
43 affect, disturb or prejudice the pledge created by this Ordinance, or to enforce any right under this Ordinance, except  
44 in the manner therein provided; and that all proceedings at law or in equity to enforce any provision of this Ordinance  
45 shall be instituted, had and maintained in the manner provided in this Ordinance and for the equal benefit of all  
46 Owners of the Outstanding Bonds and, except as otherwise provided in a Supplemental Ordinance, the issuers of all  
47 Credit Facilities given as security for any Bonds (other than a Credit Facility given for the purpose of meeting in  
48 whole or in part the Reserve Requirement).  
49

1 Nothing in this Ordinance or in the Bonds shall affect or impair the obligation of the Issuer, which is  
2 absolute and unconditional, to pay, but solely and only from the Trust Estate pledged therefor, at the respective dates  
3 of maturity and places therein expressed the principal of (and premium, if any) and interest on the Bonds to the  
4 respective Owners thereof or the issuer of any Credit Facility given as security for any Series of Bonds or affect or  
5 impair the right of action, which is also absolute and unconditional, of any Owner or the issuer of such Credit  
6 Facility to enforce such payment of his Bond.  
7

8 **Section 807. Not Exclusive.** No remedy by the terms of this Ordinance conferred upon or reserved  
9 to the Trustee or the Owners of the Bonds is intended to be exclusive of any other remedy, but each and every such  
10 remedy shall be cumulative and shall be in addition to every other remedy given under this Ordinance or existing at  
11 law, including under the Act, or in equity or by statute on or after the effective date of this Ordinance.  
12

13 **Section 808. Effect of Waiver and Other Circumstances.** No delay or omission of the Trustee  
14 or any Owner of any Bonds to exercise any right or power arising upon the happening of an Event of Default shall  
15 impair any right or power or shall be construed to be a waiver of any such Event of Default or be an acquiescence  
16 therein; and every power and remedy given by this Article to the Trustee or to the Owners of the Bonds may be  
17 exercised from time to time and as often as may be deemed expedient by the Trustee or by the Owners of the Bonds.  
18

19 Prior to the declaration of maturity of the Bonds as provided in Section 801, the Owners of not less than a  
20 majority in principal amount of the Bonds at the time Outstanding, or their attorneys-in-fact duly authorized, may on  
21 behalf of the Owners of all of the Bonds waive any past default under this Ordinance and its consequences, except a  
22 default in the payment of interest on or principal of or premium (if any) on any of the Bonds. No such waiver shall  
23 extend to any subsequent or other default or impair any right consequent thereon.  
24

25 **Section 809. Termination of Proceedings.** In case any proceeding taken by the Trustee on  
26 account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been  
27 determined adversely to the Trustee, the Owners of the Bonds or the issuer of any Credit Facility given as security for  
28 any Bonds, the Issuer, the Trustee, the issuers of any Credit Facilities given as security for any Bonds and the  
29 Owners of the Bonds shall be restored to their former positions and rights hereunder, and all rights, remedies and  
30 powers of the Trustee, the issuers of any Credit Facilities given as security for any Bonds and the Owners of the  
31 Bonds shall continue as if no such proceeding had been taken.  
32

33 **Section 810. Notice of Default.** The Trustee shall notify the issuer of any Credit Facility given as  
34 security for any Series of Bonds and the Bond Registrars of the happening of an Event of Default and the Bond  
35 Registrars shall promptly mail written notice of the occurrence of any Event of Default to each Owner of Bonds then  
36 Outstanding at his address, if any, appearing upon the registry books of the Issuer.  
37

38 **Section 811. Credit Facility Issuer's Rights Upon Events of Default.** Anything in this  
39 Ordinance to the contrary notwithstanding, if any Event of Default hereof has occurred and is continuing while a  
40 Credit Facility securing all or a portion of the Bonds Outstanding is in effect (other than a Credit Facility given for  
41 the purpose of meeting all or part of the Reserve Requirement), the issuer of such Credit Facility, to the extent so  
42 authorized in the applicable Supplemental Ordinance, shall have the right, in lieu of the Owners of the Bonds secured  
43 by said Credit Facility, by an instrument in writing, executed and delivered to the Trustee, to direct the time, method  
44 and place of conducting all remedial proceedings available to the Trustee under this Ordinance, or exercising any trust  
45 or power conferred on the Trustee by this Ordinance to the same extent and subject to the same conditions and  
46 limitations as if it were the Owner of the Bonds secured by such Credit Facility.  
47

48 Notwithstanding the foregoing, no issuer of a Credit Facility given as security for any Bonds shall be  
49 entitled to exercise any rights under this Section 811 during any period where:  
50

(i) the Credit Agreement or Credit Facility to which such Credit Provider is a party shall not be in full force and effect;

(ii) such Credit Provider shall have filed a petition or otherwise sought relief under any federal or state bankruptcy or similar law;

(iii) such Credit Provider shall, for any reason, have failed or refused to honor a proper demand for payment under such Credit Facility; or

(iv) an order or decree shall have been entered, with the consent or acquiescence of such Credit Provider, appointing a receiver or receivers of the assets of the Credit Provider, or if such order or decree having been entered without the consent or acquiescence of such Credit Provider, shall not have been vacated or discharged or stayed within ninety (90) days after the entry thereof.

## ARTICLE IX CONCERNING THE FIDUCIARIES

**Section 901. Acceptance of Duties by Trustee; Appointment of Trustees, Paying Agents and Bond Registrars.** \_\_\_\_\_ Portland, Oregon, is hereby appointed Trustee. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Ordinance, including but not limited to its duties as Paying Agent and Bond Registrar, by executing and delivering to the Issuer a written acceptance thereof. Only one entity shall be appointed to act at any one time as Trustee.

Unless otherwise provided in a Supplemental Ordinance with respect to a particular Series of Bonds, the Trustee shall be the Paying Agent and Bond Registrar for all Bonds issued hereunder. In a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the Issuer may appoint one or more Paying Agents in lieu of the Trustee for such Series of Bonds, and the Issuer may at any time or from time to time appoint one or more Paying Agents in addition to the Trustee for one or more Series of Bonds having the qualifications set forth in Section 911 for a successor Paying Agent. Each Paying Agent other than the Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Ordinance or under any Supplemental Ordinance by executing and delivering to the Issuer and to the Trustee a written acceptance thereof.

In a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the Issuer may appoint one or more Bond Registrars in lieu of the Trustee for such Series of Bonds, and the Issuer may at any time or from time to time appoint one or more other Bond Registrars to act as co-registrar with the Trustee having the qualifications set forth in Section 912 for a successor Bond Registrar. Each Bond Registrar other than the Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Ordinance by executing and delivering to the Issuer and to the Trustee a written acceptance thereof.

**Section 902. Responsibilities of Fiduciaries.** Any recitals of fact herein, in any Supplemental Ordinance and in the Bonds contained shall be taken as the statements of the Issuer and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representations as to the validity or sufficiency of this Ordinance, any Supplemental Ordinance or of any Bonds issued thereunder or as to the security afforded by this Ordinance or any Supplemental Ordinance, and no Fiduciary shall incur any liability in respect



1 thereof. The Trustee and each Fiduciary authorized to authenticate Bonds shall, however, be responsible for its  
2 representation contained in its certificate of authentication on the related Bonds. No Fiduciary shall be under any  
3 responsibility or duty with respect to the application of any moneys paid by such Fiduciary in accordance with the  
4 provisions of this Ordinance or any Supplemental Ordinance to any other Fiduciary. No Fiduciary shall be under any  
5 obligation or duty to perform any act which would involve it in any expense or liability or to institute or defend any  
6 suit in respect thereof, or to advance any of its own moneys, unless properly indemnified. Subject to the provisions  
7 of the second paragraph of this Section 902, no Fiduciary shall be liable in connection with the performance of its  
8 duties hereunder except for its own negligence, misconduct or default.  
9

10 The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default  
11 which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this  
12 Ordinance. In case an Event of Default has occurred (which has not been cured) the Trustee shall exercise such of  
13 the rights and powers vested in it by this Ordinance and any applicable Supplemental Ordinance, and use the same  
14 degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the  
15 conduct of her own affairs.  
16

17 **Section 903. Evidence on Which Fiduciaries May Act.** Each Fiduciary, upon receipt of any  
18 notice resolution, request, consent, order, certificate, report, opinion, bond, or other paper or document furnished to it  
19 pursuant to any provision of this Ordinance or any Supplemental Ordinance, shall examine such instrument to  
20 determine whether it conforms to the requirements of this Ordinance or the applicable provisions of a Supplemental  
21 Ordinance and shall be protected in acting upon any such instrument believed by it to be genuine and to have been  
22 signed or presented by the proper party or parties. Each Fiduciary may consult with counsel, who may or may not  
23 be Bond Counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect  
24 of any action taken or suffered by it under this Ordinance in good faith and in accordance therewith.  
25

26 Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to  
27 taking or suffering any action under this Ordinance or any Supplemental Ordinance, such matter (unless other  
28 evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and  
29 established by a certificate of the Issuer, and such certificate shall be full warrant for any action taken or suffered in  
30 good faith under the provisions of this Ordinance or such Supplemental Ordinance upon the faith thereof; but in its  
31 discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or  
32 additional evidence as to it may seem reasonable.  
33

34 Except as otherwise expressly provided in this Ordinance or a Supplemental Ordinance, any request, order,  
35 notice or other direction required or permitted to be furnished pursuant to any provision thereof by the Issuer to any  
36 Fiduciary shall be sufficiently executed in the name of the Issuer by an Authorized Issuer Representative thereof.  
37

38 **Section 904. Compensation.** The Issuer shall cause to be paid to each Fiduciary from time to time  
39 reasonable compensation for all services rendered under this Ordinance, and also all reasonable expenses, charges,  
40 counsel fees and other disbursements, including those of its attorneys, agents, and employees, incurred in and about  
41 the performance of their powers and duties under this Ordinance and any Supplemental Ordinance and each Fiduciary  
42 shall have a lien therefor on any and all funds at any time held by it under this Ordinance or any Supplemental  
43 Ordinance except with respect to any monies drawn under a Credit Facility.  
44

45 **Section 905. Certain Permitted Acts.** Any Fiduciary may become the owner of any Bonds, with  
46 the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as  
47 depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect  
48 to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of  
49 the enforcement of the Bonds or this Ordinance, whether or not any such committee shall represent the Owners of a  
50 majority in principal amount of the Bonds then Outstanding.

1  
2       **Section 906. Resignation of Trustee.** Except as otherwise expressly provided in a Supplemental  
3 Ordinance, the Trustee may at any time resign and be discharged of the duties and obligations created by this  
4 Ordinance or any Supplemental Ordinance by giving not less than sixty (60) days' written notice to the Issuer and the  
5 issuer of any related Credit Facility, and mailing notice thereof, postage prepaid, specifying the date when such  
6 resignation shall take effect, to each registered Owner of related Bonds then Outstanding at his address appearing upon  
7 the registry books of the Issuer, and such resignation shall take effect upon the latest to occur of the day specified in  
8 such notice or the date upon which the Issuer has appointed a successor and such successor has agreed to act in such  
9 capacity. Unless otherwise agreed to in writing by the Issuer, any such resignation by the Trustee shall, when  
10 effective, also serve to remove the Trustee as Bond Registrar and Paying Agent hereunder.  
11

12       **Section 907. Removal of Trustee.** Except as otherwise expressly provided in a Supplemental  
13 Ordinance, the Trustee may be removed at any time by an instrument in writing, filed with the Trustee, and signed  
14 by the Issuer.  
15

16       The Issuer may appoint a successor Trustee upon such removal, but no such removal shall be effective until  
17 the Issuer has appointed a successor and such successor has agreed to act in such capacity. Unless otherwise agreed  
18 to in writing by the Issuer, any such removal of the Trustee shall, when effective, also serve to remove the Trustee  
19 as Bond Registrar and Paying Agent hereunder.  
20

21       **Section 908. Failure of Issuer to Appoint Successor; Financial Qualifications of**  
22 **Trustee and Successor Trustee.** If no appointment of a successor Trustee shall be made pursuant to the  
23 foregoing provisions of this Article IX within forty-five (45) days after the Trustee shall have given to the Issuer  
24 written notice as provided in Section 906 or after a vacancy in the office of the Trustee shall have occurred by reason  
25 of its inability to act, removal, or for any other reason whatsoever, the Trustee (in the case of its resignation under  
26 Section 906) or the Owner of any Bond may apply to any court of competent jurisdiction to appoint a successor  
27 Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor  
28 Trustee.  
29

30       The Trustee appointed under the provisions of this Article or any successor to the Trustee shall be a bank or  
31 trust company or national banking association, doing business and having its principal office in the State of Oregon,  
32 and shall have (or its parent company or holding company shall have) capital stock and surplus aggregating at least  
33 \$50,000,000, if there be such a bank or trust company or national banking association willing and able to accept the  
34 office on reasonable and customary terms and authorized by the law to perform all the duties imposed upon it by the  
35 Ordinance.  
36

37       **Section 909. Transfer of Rights and Property to Successor Trustee.** Any successor  
38 Trustee appointed under this Ordinance shall execute, acknowledge and deliver to its predecessor Trustee, and also to  
39 the Issuer, an instrument accepting such appointment (including but not limited to its appointment as Paying Agent  
40 and Bond Registrar hereunder), and thereupon such successor Trustee, without any further act, deed or conveyance,  
41 shall become fully vested with all moneys, estates, properties, rights, power, duties and obligations of such  
42 predecessor Trustee, with like effect as if originally named as such Trustee; but the Trustee ceasing to act shall  
43 nevertheless, on the written request of the Issuer, or of the successor Trustee, execute, acknowledge, deliver, file and  
44 record such instrument of conveyance and further assurance and do such other things as may reasonably be required  
45 for more fully and certainly vesting and confirming in such successor Trustee any such lien, states, rights, power and  
46 duties, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be  
47 authorized by law, be executed, acknowledged and delivered by the Issuer.  
48

49       **Section 910. Merger or Consolidation.** Any company into which any Fiduciary may be merged  
50 or converted or with which it may be consolidated or any company resulting from any merger, conversion or

1 consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or  
2 substantially all of its corporate trust business shall be the successor to such Fiduciary without the execution or  
3 filing of any paper or the performance of any further act, *provided that* such company shall be a bank or trust  
4 company organized under the laws of any state of the United States or a national banking association and shall be  
5 authorized by law to perform all the duties imposed upon it by this Ordinance.  
6

7 **Section 911. Resignation or Removal of Payment Agent and Appointment of**  
8 **Successor.** Any Paying Agent may at any time resign and be discharged of the duties and obligations created by  
9 the Ordinance and any Supplemental Ordinance by giving at least sixty (60) days' written notice to the Issuer and the  
10 Trustee. Any Paying Agent may be removed at any time by an instrument filed with the Paying Agent and the  
11 Trustee and signed by an Authorized Issuer Representative. Any successor Paying Agent shall be appointed by the  
12 Issuer with the approval of the Trustee, and shall be a bank or trust company organized under the laws of any state of  
13 the United States or a national banking association having capital stock and surplus aggregating at least  
14 \$25,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to  
15 perform all the duties imposed upon it by this Ordinance or any applicable Supplemental Ordinance.  
16

17 In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign  
18 and deliver any moneys held by it as Paying Agent to its successor, or if there be no successor, to the Trustee. In  
19 the event that for any reason there shall be a vacancy in the office of such Paying Agent, the Trustee shall act as  
20 such Paying Agent.  
21

22 **Section 912. Resignation or Removal of Bond Registrar and Appointment of**  
23 **Successor.** Any Bond Registrar may at any time resign and be discharged of the duties and obligations created by  
24 this Ordinance and any Supplemental Ordinance by giving at least sixty (60) days' written notice to the Issuer and the  
25 Trustee. Any Bond Registrar may be removed at any time by an instrument filed with such Bond Registrar and the  
26 Trustee (in the case of a Paying Agent for the Bonds) or the Trustee (in the case of a Paying Agent for the Bonds)  
27 and signed by an Authorized Issuer Representative. Any successor Bond Registrar shall be appointed by the Issuer  
28 with the approval of the Trustee (in the case of a Paying Agent for the Bonds) or the Trustee (in the case of a Paying  
29 Agent for a Series of Project Bonds), and shall be a bank or trust company organized under the laws of any state of  
30 the United States or a national banking association, having capital stock and surplus aggregating at least  
31 \$25,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to  
32 perform all the duties imposed upon it by this Ordinance.  
33

34 In the event that for any reason there shall be a vacancy in the office of such Bond Registrar, the Trustee  
35 shall act as such Bond Registrar.  
36

37 **Section 913. Adoption of Authentication.** In case any of the Bonds contemplated to be issued  
38 under this Ordinance shall have been authenticated but not delivered, any successor to the Trustee may adopt the  
39 certificate of authentication of any predecessor trustee so authenticating such Bonds and deliver such Bonds so  
40 authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Trustee may  
41 authenticate related Bonds in the name of the predecessor Trustee, or in the name of the successor Trustee, and in all  
42 such cases such certificate shall have the full force which it is anywhere in said Bonds or in this Ordinance provided  
43 that the certificate of the Trustee shall have.  
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## ARTICLE X SUPPLEMENTAL ORDINANCES

**Section 1001. Supplemental Ordinances Effective Without Consent of Owners.** For any one or more of the following purposes and at any time, a Supplemental Ordinance of the Issuer may be enacted without the consent of Owners and shall be fully effective in accordance with its terms:

(1) To close this Ordinance against, or provide limitations and restrictions contained in this Ordinance on, the authentication and delivery of Bonds or the issuance of other evidences of indebtedness;

(2) To add to the covenants and agreements of the Issuer in this Ordinance, other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with this Ordinance as theretofore in effect;

(3) To add to the limitations and restrictions in this Ordinance, other limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with this Ordinance as theretofore in effect;

(4) To authorize the issuance of any Series of Bonds and, in connection therewith, to specify and determine the matters and things referred to in Article II, and also any other matters and things relative to such Bonds which are not contrary to or inconsistent with the provisions of this Ordinance as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such Series of Bonds;

(5) With the prior Opinion of Bond Counsel that to do so will not adversely affect the prior status of any Bonds intended to be, and which still are, Tax-Exempt Obligations, to authorize, in compliance with all applicable law, Bonds of any Series to be issued in the form of coupon Bonds registrable as to principal only and, in connection therewith, specify and determine the matters and things relative to the issuance of such coupon Bonds, including provisions relating to the timing manner of provision of any notice required to be given hereunder to the holders of such coupon Bonds, including provisions relating to the timing and manner of provision of any notice required to be given hereunder to the holders of such coupon Bonds, which are not contrary to or inconsistent with the applicable provisions of this Ordinance or any Supplemental Ordinance as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such coupon Bonds;

(6) To authorize, in compliance with all applicable law, Bonds of any Series to be issued in the form of Bonds issued and held in book-entry form on the books of any Fiduciary appointed for that purpose by the Issuer and in connection therewith, make such additional changes herein, not adverse to the rights of the Owners of the related Bonds, as are necessary or appropriate to accomplish or recognize such book-entry form Bonds and specify and determine the matters and things relative to the issuance of such book-entry form Bonds as are appropriate or necessary;

(7) To modify, amend or supplement this Ordinance or any Supplemental Ordinance in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended,

1 or any similar federal statute hereafter in effect or to permit the qualification of any Bonds for sale under the  
2 securities laws of any of the states of the United State of America;

3  
4 (8) To add additional security as part of any Trust Estate subject to the pledge and lien of this  
5 Ordinance or any Supplemental Ordinance;

6  
7 (9) To provide any of the Tax Covenants not provided by this Ordinance or to modify in any  
8 respect any Tax Covenant so as to conform to the then applicable requirements of the Code or to delete or  
9 restrict the applicability of any Tax Covenant which, under the Code as then in effect, is no longer  
10 applicable to all or any Bonds issued or to be issued hereunder;

11  
12 (10) To surrender any right, power or privilege reserved to or conferred upon the Issuer by the  
13 terms of this Ordinance or any Supplemental Ordinance, but only if the surrender of such right, power or  
14 privilege is not contrary to or inconsistent with the applicable covenants and agreement of the Issuer  
15 contained in this Ordinance or any Supplemental Ordinance;

16  
17 (11) To confirm, as further assurance, any security interest or pledge created under this Ordinance  
18 or any Supplemental Ordinance;

19  
20 (12) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent  
21 provision in this Ordinance or any Supplemental Ordinance;

22  
23 (13) To insert such provisions clarifying matters or questions arising under this Ordinance or any  
24 Supplemental Ordinance as are necessary or desirable and are not contrary to or inconsistent with the  
25 applicable provisions of this Ordinance or any Supplemental Ordinance as theretofore in effect;

26  
27 (14) Prior to the issuance of the first Series of Bonds, to make any change whatsoever to the  
28 terms and provisions of this Ordinance;

29  
30 (15) To modify any of the provisions of this Ordinance or any Supplemental Ordinance in any  
31 other respect whatever, *provided that*:

32  
33 (i) no Bonds affected by such modification shall be Outstanding at the date of the  
34 adoption of such Supplemental Ordinance; or

35  
36 (ii)(a) such modification shall be, and be expressed to be, effective only after all affected  
37 Bonds Outstanding at the date of the adoption of such Supplemental Ordinance shall cease to be  
38 Outstanding, and (b) such Supplemental Ordinance shall be specifically referred to in the text of all  
39 Bonds authenticated and delivered after the date of the adoption of such Supplemental Ordinance and  
40 of Bonds issued in exchange therefor or in place thereof; or

41  
42 (iii) such modification does not materially and adversely affect the rights of the Owners of  
43 any Outstanding Bonds;

44  
45 (16) To make any change required by a Rating Agency as a precondition to the issuance of a rating  
46 on any Series of Bonds which is not to the prejudice of the Owners of the Bonds of any other Series;

47  
48 (17) So long as a Credit Facility is in full force and effect with respect to the Bonds affected by  
49 such Supplemental Ordinance, to make any other change which is consented to in writing by the issuer of  
50 such Credit Facility other than any change which:

(A) would result in a downgrading or withdrawal of the rating then assigned to the affected Bonds by the Rating Agencies; or

(B) changes the Stated Maturity (except as expressly permitted herein), the Interest Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption and purchase applicable to the affected Bonds or diminishes the security afforded by such Credit Facility; or

(C) materially and adversely affects the rights and security afforded to the Owners of any Outstanding Bonds not secured by such Credit Facility; or

(18) To incorporate into this Ordinance or any Supplemental Ordinance any financing powers hereafter be granted to or conferred upon the Issuer by law.

**Section 1002. Supplemental Ordinances Effective With Consent of Owners; Limitations.** At any time or from time to time, a Supplemental Ordinance may be enacted by the Issuer subject to consent by Owners in accordance with and subject to the provisions of Article XI, which Supplemental Ordinance, upon compliance with the provisions of said Article XI, shall become fully effective in accordance with its terms as Provided in said Article XI.

Notwithstanding anything expressed or implied herein or in any Supplemental Ordinance to the contrary, any amendment or supplement to this Ordinance which affects only a portion of the outstanding Bonds need not be consented to by the Owners of all outstanding Bonds but such consent shall be effective if obtained from the requisite percentage of the Owners of the affected Bonds.

**Section 1003. General Provisions.** The Ordinance shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of this Article X and Article XI hereof. Any Supplemental Ordinance referred to and permitted or authorized by Section 1001 may be enacted by the Issuer without the consent of any of the Owners, but shall become effective only on the conditions, to the extent and at the time provided in said Section. A copy of every Supplemental Ordinance shall be placed on file with the Trustee and shall be accompanied by an Opinion of Bond Counsel stating that such Supplemental Ordinance:

(i) has been duly and lawfully enacted by the Issuer in accordance with the provisions of this Ordinance, is authorized or permitted by this Ordinance, and is valid and binding upon the Issuer and enforceable in accordance with its terms; and

(ii) will not adversely affect the maintenance of any existing exclusion of interest payable on the affected Bonds from gross income for federal income tax purposes.

The Trustee is hereby authorized to accept the delivery of a certified copy of any Supplemental Ordinance referred to and permitted or authorized by Section 1001 or 1002 and to make all further agreements and stipulations which may be therein contained, and the Trustee or the Trustee (as the case may be), in taking such action, shall be fully protected in relying on an Opinion of Bond Counsel that such Supplemental Ordinance is authorized or permitted by the provisions of this Ordinance.

No Supplemental Ordinance shall change or modify any of the rights or obligations of any issuer of a Credit Facility or any Fiduciary, including any agent appointed by the Issuer in connection with issuance of Variable Rate Obligations or Options Bonds, without its written assent thereto.

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## ARTICLE XI

### NOTICE OF AND CONSENT TO AMENDMENTS

**Section 1101. Mailing of Notice.** Any provision in this Article for the mailing of a notice or other paper to Owners shall be fully complied with if it is mailed by first class mail, postage prepaid, only (i) to each Owner of affected Bonds then Outstanding at his address appearing upon the registry books of the Issuer and (ii) to the Trustee, any related Paying Agent, any Bond Registrar and any related Credit Provider.

**Section 1102. Powers of Amendment.** Any modification or amendment of this Ordinance and of the rights and obligations of the Issuer and of the Owners of the Bonds, in any particular other than for the purposes set forth in Section 1001, may be made by a Supplemental Ordinance with the written consent given as provided in Section 1103 of the Owners of at least a majority in principal amount of the affected Bonds Outstanding at the time such consent is given and any affected Credit Provider; *provided, however, that* if such modification or amendment will, by its terms, not take effect so long as any Bonds of like maturity remain Outstanding, the consent of the Owners of such Bonds and affected Credit Provider with respect to such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under Articles X or XI hereof.

No such modification or amendment shall permit 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 premium (if any) thereof or in the rate of interest thereon or diminish the security afforded by any Credit Facility, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Owners of which is required to effect any such modification or amendment, without the consent of the Owner of each Bond affected thereby, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto.

For the purposes of this Section 1102, Bonds of a particular maturity shall be deemed to be affected by a modification or amendment of this Ordinance if the same adversely affects or diminishes the rights of the Owners of Bonds of such maturity. The Trustee may in its discretion determine whether or not in accordance with the foregoing powers of amendment Bonds of any particular maturity would be affected by any modification or amendment of this Ordinance, any may rely upon the advice of Bond Counsel, and any such determination shall be binding and conclusive on the Issuer and all Owners of Bonds.

**Section 1103. Consent of Owners.** The Issuer may at any time enact a Supplemental Ordinance making a modification or amendment permitted by the provisions of Section 1102 to take effect at the time provided in such Supplemental Ordinance (if the consent of the Owners of the affected Bonds and the issuers of any affected Credit Facilities is not required) or when and as provided in this Section 1103 (if the consent of the Owners of the affected Bonds and the issuers of any affected Credit Facilities is required). If consent of any Owners or Credit Providers is required in connection therewith, a brief summary of such Supplemental Ordinance, together with a request to affected Owners affected Credit Facility for their consent thereto in form satisfactory to the Trustee, shall be mailed by the Issuer to affected Owners and the issuer of any affected Credit Facility. Such Supplemental Ordinance shall not be effective unless and until:

- (i) there shall have been filed with the Trustee:

1  
2 (a) if required, the written consents of Owners of the percentages of Outstanding  
3 Bonds specified in Section 1102 which are affected by such Supplemental Ordinance and the issuer  
4 of any affected Credit Facility; and  
5

6 (b) an Opinion of Bond Counsel stating that such Supplemental Ordinance has been  
7 duly and lawfully entered into by the Issuer in accordance with the provisions of this Ordinance, is  
8 authorized or permitted by this Ordinance, and is valid and binding upon the Issuer and enforceable  
9 in accordance with its terms, subject to bankruptcy, insolvency and other laws affecting creditors'  
10 rights generally; and  
11

12 (ii) a notice shall have been given as hereinafter in this Section 1103 provided.  
13

14 Each required consent shall be effective only accompanied by proof of the ownership, at the date of such consent, of  
15 the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 1202.  
16 A certificate or certificates executed by the Trustee and filed with the Issuer stating that it has examined such proof  
17 and that such proof is sufficient in accordance with Section 1202 shall be conclusive that the consents have been  
18 given by the Owners of the affected Bonds and the issuer of any affected Credit Facility described in such certificates  
19 of the Trustee.  
20

21 Any such consent shall be binding upon the Owner of the Bonds and the issuer of any affected Credit  
22 Facility giving such consent and, anything in Section 1202 to the contrary notwithstanding, upon any subsequent  
23 Owner of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Owner thereof  
24 has notice thereof) unless such consent is revoked in writing by the Owner of such Bonds or the issuer of any Credit  
25 Facility giving such consent or a subsequent Owner thereof by filing such revocation with the Trustee, prior to the  
26 time when the written statement of the Trustee hereinafter in this paragraph provided for is filed. The fact that a  
27 consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Issuer to the effect  
28 that no revocation thereof is on file with the Trustee. Within 10 days after the Owners of the required percentages of  
29 affected Bonds and the issuer of any affected Credit Facility shall have filed their consents to the Supplemental  
30 Ordinance or resolution, the Trustee shall make and file with the Issuer a written statement that the Owners of such  
31 required percentages of affected Bonds and the issuer of any affected Credit Facility have filed such consents. Such  
32 written statements shall be conclusive that such consents have been so filed.  
33

34 At any time thereafter, notice stating in substance that the Supplemental Ordinance (which may be referred  
35 to as a Supplemental Ordinance enacted by the Issuer on a stated date, a copy of which is on file with the Trustee)  
36 has been consented to by the Owners of the required percentages of affected Bonds and the issuer of any affected Credit  
37 Facility, and will be effective as provided in this Section 1103, shall be given to affected Owners and the issuer of  
38 any affected Credit Facility by mailing such notice to affected Owners and the issuer of any affected Credit Facility  
39 not more than ninety (90) days after the Owners of the required percentages of affected Bonds and the issuer of any  
40 affected Credit Facility shall have filed their consents to the Supplemental Ordinance and the written statement of the  
41 Trustee provided for in the preceding paragraph is filed. A record, consisting of the certificates or statements required  
42 or permitted by this Section 1103 to be made by the Trustee shall be proof of the matters therein stated. Such  
43 Supplemental Ordinance making such amendment or modification shall be deemed conclusively binding upon the  
44 Issuer, the Fiduciaries, the Owners of all affected Bonds and the issuer of any affected Credit Facility upon the  
45 mailing of such last mentioned notice.  
46

47 **Section 1104. Modifications by Unanimous Consent.** The terms and provisions of this  
48 Ordinance and the rights and obligations of the Issuer and of the Owners of the Bonds may be modified or amended in  
49 any respect upon the enactment by the Issuer of a Supplemental Ordinance and the consent of the issuer of any  
50 affected Credit Facility, and the Owners of all of the affected Bonds then outstanding, such consent to be given as



1 provided in Section 1103 except that no notice to affected Owners by mailing shall be required; provided, however,  
2 that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary  
3 without the filing with the Issuer of the written assent thereto of such Fiduciary in addition to the consent of the  
4 affected Owners and the issuer of any affected Credit Facility.  
5

6 **Section 1105. Exclusion of Bonds.** Bonds owned or held by or for the account of the Issuer shall  
7 not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds  
8 provided for in Articles X or XI hereof, and the Issuer shall not be entitled with respect to such Bonds to give any  
9 consent or take any other action provided for in Articles X or XI hereof. At the time of any consent or other action  
10 taken under Articles X or XI hereof, the Issuer shall furnish the Trustee a certificate of an Authorized Issuer  
11 Representative upon which the Trustee may rely, describing all Bonds so to be excluded.  
12

13 **Section 1106. Notation on Bonds.** Affected Bonds authenticated and delivered after the effective  
14 date of any action taken as in Article X or this Article XI provided may, and, if the Issuer so determines, shall bear a  
15 notation by endorsement or otherwise in form approved by the Issuer as to such action, and in that case upon demand  
16 of the Owner of any affected Bond Outstanding at such effective date and presentation of such affected Bond at the  
17 corporate trust office of the Trustee or upon any transfer or exchange of any affected Bond Outstanding at such  
18 effective date, suitable notation shall be made on such Bond or upon any Bond issued upon any such transfer or  
19 exchange by the Trustee shall so determine, new Bonds so modified as in the opinion of the Trustee are necessary to  
20 conform to such action shall be prepared, authenticated and delivered, and upon demand of the holder of any affected  
21 Bond then Outstanding shall be exchanged, without cost to such Owner, for Bonds of the same maturity then  
22 Outstanding, upon surrender of such Bonds.  
23

24 **Section 1107. Issuer of a Credit Facility as Owner of the Bonds.** Except as otherwise  
25 expressly provided in a Supplemental Ordinance, as long as a Credit Facility securing all or a portion of any Bonds  
26 Outstanding is in effect, the issuer of such Credit Facility shall be deemed to be the Owner of the Bonds secured by  
27 such Credit Facility:  
28

29 (i) at all times for the purpose of the execution and delivery of a Supplemental Ordinance or  
30 of any amendment, change or modification of this Ordinance or the initiation by Owners of any action to be  
31 undertaken by the Trustee at the Owner's request, which under this Ordinance requires the written approval  
32 or consent of or can be initiated by the Owners of at least a majority in principal amount of the affected  
33 Bonds at the time Outstanding; and  
34

35 (ii) following an Event of Default for all other purposes.  
36

37 Notwithstanding the foregoing, the issuer of such Credit Facility shall not be deemed to be an Owner of the Bonds  
38 secured thereby with respect to any such Supplemental Ordinance or of any amendment, change or modification of  
39 this Ordinance which:  
40

41 (a) would result in a downgrading or withdrawal of the rating then assigned to the affected  
42 Bonds by the Rating Agencies; or  
43

44 (b) changes the Stated Maturity (except as expressly permitted herein), the Interest Payment  
45 Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption  
46 and purchase applicable to the affected Bonds or diminishes the security afforded by such Credit Facility; or  
47

48 (c) reduces the percentage or otherwise affecting the classes of affected Bonds the consent of  
49 the Owners of which is required to effect any such modification or amendment.  
50

1 In addition and notwithstanding the foregoing, no issuer of a Credit Facility given as security for any Bonds shall be  
2 entitled to exercise any rights under this Section 1107 during any period where:  
3

4 (i) the Credit Agreement or Credit Facility to which such Credit Provider is a party shall not  
5 be in full force and effect;  
6

7 (ii) such Credit Provider shall have filed a petition or otherwise sought relief under any federal  
8 or state bankruptcy or similar law;  
9

10 (iii) such Credit Provider shall, for any reason, have failed or refused to honor a proper demand  
11 for payment under such Credit Facility; or  
12

13 (iv) an order or decree shall have been entered, with the consent or acquiescence of such Credit  
14 Provider, appointing a receiver or receivers of the assets of the Credit Provider, or if such order or decree  
15 having been entered without the consent or acquiescence of such Credit Provider, shall not have been vacated  
16 or discharged or stayed within ninety (90) days after the entry thereof.  
17

18 **Section 1108. Treatment of Owners of Capital Appreciation Obligations.** For purposes  
19 of determining the percentage of Owners consenting to, waiving or otherwise acting with respect to any matter that  
20 may arise under this Ordinance, the Owners of Bonds which constitute Capital Appreciation Obligations shall be  
21 treating as Owners of Bonds in an aggregate principal amount equal to the Accreted Value of such Bonds as of the  
22 date the Trustee sends out notice of requesting consent, waiver or other action as provided in Section 1103 hereof.  
23  
24  
25  
26

## 27 **ARTICLE XII**

### 28 **DEFEASANCE AND MISCELLANEOUS**

### 29 **PROVISIONS**

30

31  
32 **Section 1201. Defeasance.** If the Issuer shall pay or cause to be paid, or there shall otherwise be  
33 paid, to the Owners of all Bonds of a particular Series the principal of, premium (if any) and interest due or to  
34 become due thereon and the obligations under any related Credit Agreement at the times and in the manner stipulated  
35 therein, in this Ordinance and in any related Supplemental Ordinance, then the lien of this Ordinance and any related  
36 Supplemental Ordinance securing such Series of Bonds and all covenants, agreements and other obligations of the  
37 Issuer to the Owners of such Series of Bonds and the issuer of any related Credit Facility shall thereupon cease,  
38 terminate and become void and be discharged and satisfied. In such event, the Trustee shall cause an accounting for  
39 such period or periods as shall be requested by the Issuer to be prepared and filed with the Issuer and, upon the request  
40 of the Issuer, shall execute and deliver to the Issuer all such instruments as may be desirable to evidence such  
41 discharge and satisfaction, and the Fiduciaries shall pay over or deliver, as directed by the Issuer, all moneys or  
42 securities held by them pursuant to this Ordinance or any Supplemental Ordinance with respect to such discharged  
43 Series of Bonds and which are not required for the payment of principal of, premium (if any) and interest on Bonds of  
44 such Series not theretofore surrendered for such payment or redemption or for payment of obligations under any  
45 related Credit Agreement.  
46

47 Bonds or interest installments thereon for the payment or redemption of which moneys shall have been set  
48 aside and shall be held in trust by the Trustee (through deposit pursuant to this Ordinance of funds for such payment  
49 or redemption or otherwise, as verified by a report of nationally recognized independent certified public accountants)

1 at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect  
2 expressed in the first paragraph of this Section 1201. Financial Obligations or interest installments thereon for the  
3 payment or prepayment of which moneys shall have been set aside and shall be held in trust by a person other than  
4 the Issuer (through deposit with such person of funds for such payment or prepayment or otherwise, as verified by a  
5 report of nationally recognized independent certified public accountants) at the maturity or prepayment date thereof  
6 shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this  
7 Section 1201. All Outstanding Bonds of any particular Series or maturity shall prior to the maturity or redemption  
8 date thereof be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of  
9 this Section 1201 if:

10  
11 (a) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Issuer  
12 shall have given to the Trustee irrevocable instructions to mail as provided in Article IV notice of  
13 redemption of such Bonds on said date;

14  
15 (b) there shall have been deposited with the Trustee either moneys in an amount which shall  
16 be sufficient, or Government Obligations (including any Government Obligations issued or held in  
17 book-entry form on the books of the Department of the Treasury of the United States) the principal of and  
18 the interest on which when due will provide moneys which, together with the moneys, if any, deposited  
19 with the Trustee at the same time, shall be sufficient, to pay when due the principal of, premium (if any)  
20 and interest due and to become due on said Bonds on or prior to the redemption date or maturity date thereof,  
21 as the case may be; and

22  
23 (c) the Issuer shall have given the Trustee in form satisfactory to it irrevocable instructions  
24 to mail, postage prepaid, to each registered owner of Bonds then outstanding at his address, if any, appearing  
25 upon the registry books of the Issuer, a notice to the registered owners of such Bonds and to the Bond  
26 Registrar that the deposit required by (b) above has been made with the Trustee and that said Bonds are  
27 deemed to have been paid in accordance with this Section 1201 and stating such maturity or redemption date  
28 upon which moneys are to be available for the payment of the principal or Redemption Price, if applicable,  
29 on said Bonds.

30  
31 All Outstanding amounts owing under an Financial Obligation shall prior to the maturity or prepayment date thereof  
32 be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this  
33 Section 1201 if:

34  
35 (i) in case any amounts of said Financial Obligation are to be prepaid on any date prior to  
36 their maturity, the Issuer, if required under the terms of such Financial Obligation, shall have given to the  
37 appropriate person irrevocable instructions to mail or give notice of prepayment of such amounts on said  
38 date; and

39  
40 (ii) there shall have been deposited with a person (other than the Issuer) either moneys in an  
41 amount which shall be sufficient, or Government Obligations (including any Government Obligations  
42 issued or held in book-entry form on the books of the Department of the Treasury of the United States) the  
43 principal of and the interest on which when due will provide moneys which, together with the moneys, if  
44 any, deposited with such person at the same time, shall be sufficient, to pay when due the principal of,  
45 premium (if any) and interest due and to become due on said amounts of such Financial Obligation on or  
46 prior to the prepayment date or maturity date thereof, as the case may be.

47  
48 Neither Government Obligations nor moneys deposited with the Trustee or (in the case of an Financial Obligation) a  
49 person other than the Issuer pursuant to this Section 1201 or principal or interest payments on any such Government  
50 Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the

1 principal of, premium (if any) and interest on said Bonds or Financial Obligation, as the case may be; *provided that*  
2 any cash received from such principal or interest payments on such Government Obligations deposited with the  
3 Trustee or such other person (in the case of an Financial Obligation):  
4

5 (A) to the extent such cash will not be required at any time for such purpose as determined by  
6 the Trustee or such other person (in the case of an Financial Obligation), and to the extent all obligations  
7 under any related Credit Agreement are satisfied, as determined by the obligee thereunder, shall be paid over  
8 to or upon the direction of the Issuer as received by the Trustee or such other person (in the case of an  
9 Financial Obligation), free and clear of any trust, lien, pledge or assignment securing said Bonds or  
10 Financial Obligation or otherwise existing under this Ordinance or any Supplemental Ordinance; and  
11

12 (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent  
13 practicable, be reinvested in Government Obligations maturing at times and in amounts sufficient to pay  
14 when due the principal of, premium (if any) and interest to become due on said Bonds or Financial  
15 Obligation on or prior to such redemption date or maturity date thereof, as the case may be, and interest  
16 earned from such reinvestments, to the extent such interest earnings will not be required at any time for  
17 such purpose as determined by the Trustee or such other person (in the case of an Financial Obligation)  
18 shall be paid over as received by such trustee to the Issuer, free and clear of any lien, pledge, or security  
19 interest securing said Bonds or Financial Obligation or otherwise existing under this Ordinance.  
20

21 As to the Variable Rate Obligations discharged and satisfied under the foregoing provisions, the amount  
22 required for the interest thereon shall be calculated at the maximum rate permitted by the terms of the Supplemental  
23 Ordinance which authorized the issuance of such Variable Rate Obligations or the agreement giving rise to such  
24 Variable Rate Obligations, as the case may be; *provided, however, that* if on any date, as a result of such Variable  
25 Rate Obligations having borne interest at less than such maximum rate for any period, the total amount of moneys  
26 deemed to have been paid in accordance with this Section 1201 and stating such maturity or redemption date upon  
27 which moneys are to be available for the payment of the principal or Redemption Price, if applicable, on said Bonds.  
28

29 All Outstanding amounts owing under an Financial Obligation shall prior to the maturity or prepayment date thereof  
30 be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this  
31 Section 1201 if:  
32

33 (i) in case any amounts of said Financial Obligation are to be prepaid on any date prior to  
34 their maturity, the Issuer, if required under the terms of such Financial Obligation, shall have given to the  
35 appropriate person irrevocable instructions to mail or give notice of prepayment of such amounts on said  
36 date; and  
37

38 (ii) there shall have been deposited with a person (other than the Issuer) either moneys in an  
39 amount which shall be sufficient, or Government Obligations (including any Government Obligations  
40 issued or held in book-entry form on the books of the Department of the Treasury of the United States) the  
41 principal of and the interest on which when due will provide moneys which, together with the moneys, if  
42 any, deposited with such person at the same time, shall be sufficient, to pay when due the principal of,  
43 premium (if any) and interest due and to become due on said amounts of such Financial Obligation on or  
44 prior to the prepayment date or maturity date thereof, as the case may be.  
45

46 Neither Government Obligations nor moneys deposited with the Trustee or (in the case of an Financial Obligation) a  
47 person other than the Issuer pursuant to this Section 1201 or principal or interest payments on any such Government  
48 Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the  
49 principal of, premium (if any) and interest on said Bonds or Financial Obligation, as the case may be; *provided that*

1 any cash received from such principal or interest payments on such Government Obligations deposited with the  
2 Trustee or such other person (in the case of an Financial Obligation):

3  
4 (A) to the extent such cash will not be required at any time for such purpose as determined by  
5 the Trustee or such other person (in the case of an Financial Obligation), and to the extent all obligations  
6 under any related Credit Agreement are satisfied, as determined by the obligee thereunder, shall be paid over  
7 upon the direction of the Issuer as received by the Trustee or such other person (in the case of an Financial  
8 Obligation), free and clear of any trust, lien, pledge or assignment securing said Bonds or Financial  
9 Obligation or otherwise existing under this Ordinance or any Supplemental Ordinance; and

10  
11 (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent  
12 practicable, be reinvested in Government Obligations maturing at times and in amounts sufficient to pay  
13 when due the principal of, premium (if any) and interest to become due on said Bonds or Financial  
14 Obligation on or prior to such redemption date or maturity date thereof, as the case may be, and interest  
15 earned from such reinvestments, to the extent such interest earnings will not be required at any time for  
16 such purpose as determined by the Trustee or such other person (in the case of an Financial Obligation)  
17 shall be paid over as received by such trustee to the Issuer, free and clear of any lien, pledge, or security  
18 interest securing said Bonds or Financial Obligation or otherwise existing under this Ordinance.

19  
20 As to the Variable Rate Obligations discharged and satisfied under the foregoing provisions, the amount  
21 required for the interest thereon shall be calculated at the maximum rate permitted by the terms of the Supplemental  
22 Ordinance which authorized the issuance of such Variable Rate Obligations or the agreement giving rise to such  
23 Variable Rate Obligations, as the case may be; *provided, however, that* if on any date, as a result of such Variable  
24 Rate Obligations having borne interest at less than such maximum rate for any period, the total amount of moneys  
25 and Investment Securities on deposit for the payment of interest on such Variable Rate Obligations is in excess of  
26 the total amount which would have been required to be deposited on such date in respect of such Variable Rate  
27 Obligations in order to fully discharge and satisfy such Variable Rate Obligations and obligations under any Credit  
28 Agreement pursuant to the provisions of this Section, the Issuer may use the amount of such excess free and clear of  
29 any trust, lien, security interest, pledge or assignment securing said Variable Rate Obligations or otherwise existing  
30 under this Ordinance, any Supplemental Ordinance or under any related Credit Agreement.

31  
32 Notwithstanding any of the provisions of this Ordinance to the contrary, Option Obligations may only be  
33 fully discharged and satisfied either pursuant to the foregoing provisions by depositing in the Debt Service Account,  
34 or in such other accounts which are irrevocably dedicated to the payment of the Option Obligations (in the case of  
35 Financial Obligations), moneys which together with other moneys lawfully available therefor shall be sufficient at  
36 the time of such deposit to pay when due the maximum amount of principal of and Redemption Price, if any, and  
37 interest on such Option Obligations which could become payable to the Owners or holders of such Option  
38 Obligations upon the exercise of any options provided to such Owners or holders; *provided, however, that* if, at the  
39 time a deposit is made pursuant to this paragraph, the options originally exercisable by the Owner or holder of an  
40 Option Obligation are no longer exercisable, such Option Obligation shall not be considered an Option Obligation  
41 for purposes of this paragraph. If any portion of the moneys deposited for the payment of the principal of, premium  
42 (if any) and interest on Option Obligations is not required for such purpose and is not needed to reimburse the  
43 obligee under any related Credit Agreement, the Issuer may use the amount of such excess free and clear of any trust,  
44 lien, security interest, pledge or assignment securing said Option Obligations or otherwise existing under this  
45 Ordinance or any related Credited Agreement or other agreement.

46  
47 **Section 1202. Evidence of Signatures of Owners and Ownership of Bonds.** Any request,  
48 consent, revocation of consent or other instrument which this Ordinance may require or permit to be signed and  
49 executed by the Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such  
50 Owners in person or by their attorneys appointed in writing. The ownership of Bonds and the amount, numbers and

1 other identification, and date of holding the same shall be proved by the registry books therefor. Any request or  
2 consent by the Owner of any Bond or the issuer of any Credit Facility shall bind all future Owners of such Bond and  
3 all future issuers of any Alternate Credit Facility given in replacement or substitution of such Credit Facility in  
4 respect of anything done or suffered to be done by the Issuer or any Fiduciary in accordance therewith.  
5

6 **Section 1203. Moneys Held for Particular Bonds; Unclaimed Moneys.** The amounts held  
7 by any Fiduciary for the payment of the interest, principal or Redemption Price due on any date with respect to  
8 particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust  
9 by it for the Owners of the Bonds entitled thereto.  
10

11 Anything in this Ordinance to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the  
12 payment and discharge of any of the Bonds which remain unclaimed for six years after the date when such Bonds have  
13 become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were  
14 held by the Fiduciary at such date, or for six years after the date of deposit of such moneys if deposited with the  
15 Fiduciary after the date when such Bonds became due and payable, shall, at the written request of the Issuer be repaid  
16 by the Fiduciary to the Issuer, as its absolute property and free from trust, and the Fiduciary shall thereupon be  
17 released and discharged with respect thereto and the Owners shall look only to the Issuer for the payment of such  
18 Bonds; *provided, however, that* before being required to make any such payment to the Issuer the Fiduciary shall, at  
19 the expense of the Issuer, cause to be mailed, postage prepaid, to the obligee under any Credit Agreement and to each  
20 registered owner of any unpaid Bonds at his address, if any, appearing upon the related registry books of the Issuer, a  
21 notice that said moneys remain unclaimed and that after a date named in said notice, which date shall be not less than  
22 30 days after the date of the mailing of such notice, the balance of such moneys then unclaimed will be returned to  
23 the Issuer.  
24

25 **Section 1204. Preservation and Inspection of Documents.** All documents received by any  
26 Fiduciary under the provisions of this Ordinance shall be retained in its possession and shall be subject at all  
27 reasonable times to the inspection of the Issuer, any other Fiduciary, and any related Owner and their agents and their  
28 representatives, any of whom may make copies thereof.  
29

30 **Section 1205. Parties Interested Herein.** Nothing in this Ordinance expressed or implied is  
31 intended or shall be construed to confer upon, or to give to, any person or corporation, other than the Issuer, the  
32 Fiduciaries, the Credit Providers and the Owners of the Bonds, any right, remedy or claim under or by reason of this  
33 Ordinance or any covenant, condition or stipulation thereof; and all the covenants, stipulations, promises and  
34 agreements in this Ordinance contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of  
35 the Issuer, the Fiduciaries, the Credit Providers and the Owners of the Bonds.  
36

37 **Section 1206. No Recourse.** No recourse shall be had for the payment of the principal of or interest  
38 on the Bonds or on any obligation under a Credit Agreement or for any claim based thereon or on this Ordinance  
39 against any member or officer of the Issuer or any person executing the Bonds.  
40

41 **Section 1207. Severability of Invalid Provisions.** If any one or more of the covenants or  
42 agreements provided in this Ordinance on the part of the Issuer or any Fiduciary to be performed should be contrary  
43 to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining  
44 covenants and agreements and shall in no way affect the validity of the other provisions of this Ordinance.  
45

46 **Section 1208. Holidays.** If the date for making any payment or the last date for performance of any  
47 act or the exercising of any right, as provided in this Ordinance, shall be a legal holiday or a day on which banking  
48 institutions in the city in which is located the principal office of the Trustee or the issuer of any Credit Facility are  
49 authorized bylaw to remain closed, such payment may be made or act performed or right exercised on the next  
50 succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Ordinance.

1  
2       **Section 1209. Limitation of Issuer's Liability.** The obligations of the Issuer under this  
3 Ordinance as well as any costs or expenses of the Issuer incurred in respect of its obligations and duties hereunder  
4 shall never constitute a debt or indebtedness of the Issuer within the meaning of any provision or limitation of the  
5 Constitution or statutes of the State of Oregon but shall be payable solely from the Net Revenues and the Trust  
6 Estate. It is hereby recognized and agreed that neither the members of the Council of the Issuer nor any officer,  
7 employee or agent of the Issuer shall be individually liable on the Bonds or the interest thereon, on any obligation  
8 under a Credit Agreement or in respect of any undertakings by the Issuer under this Ordinance.  
9

10       **Section 1210. Governing Law.** This Ordinance shall be interpreted, governed by and construed  
11 under the laws of the State, including the Act, as if executed and to be performed wholly within the State.  
12

13       **Section 1211. Headings Not Binding.** The headings in this Ordinance are for convenience only  
14 and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.  
15

16       **Section 1212. Effective Date.** This Ordinance shall, except as otherwise provided by law, become  
17 effective immediately upon enactment.  
18

1  
2  
3  
4 **Certification of Ordinance**  
5  
6  
7

8       *The undersigned do hereby certify that we are the duly elected or appointed, qualified and acting*  
9 *Executive Officer, Presiding Officer of the Council and Clerk of the Council of the Metropolitan Service*  
10 *District, Counties of Multnomah, Clackamas and Washington, State of Oregon; that the foregoing is a*  
11 *true and complete copy of Ordinance No. 91-\_\_ as enacted by the Council of said district at a regular*  
12 *meeting duly called and held in accordance with law on \_\_\_\_\_, 1991; and that the*  
13 *following Councilors voted in favor of said Ordinance.*  
14

15 \_\_\_\_\_  
16  
17  
18 *the following Councilors voted against said Ordinance:*  
19

20 \_\_\_\_\_  
21  
22  
23 *and the following Councilors abstained from voting on said Ordinance:*  
24

25 \_\_\_\_\_  
26  
27  
28 *In addition, the Executive Officer hereby certifies that the foregoing ordinance has not been*  
29 *vetoed thereby.*  
30

31 *In witness whereof, the undersigned have hereunto set their hands as of the dates set forth below.*  
32

33 *Attest:*  
34  
35  
36

37 \_\_\_\_\_  
38 *Presiding Officer*

39 *Date:* \_\_\_\_\_  
40  
41  
42

37 \_\_\_\_\_  
38 *Clerk of the Council*

39 *Date:* \_\_\_\_\_  
40  
41  
42

43 \_\_\_\_\_  
44 *Rena Cusma, Executive Officer*

45 *Date:* \_\_\_\_\_



## FINANCE COMMITTEE REPORT

ORDINANCE NO. 91-439A, AN ORDINANCE ESTABLISHING A PLAN FOR THE FINANCING FROM TIME TO TIME OF VARIOUS FACILITIES AND OPERATIONS OF THE METROPOLITAN SERVICE DISTRICT; AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF REVENUE BONDS FOR SUCH PURPOSE UNDER THE PROVISIONS OF SUPPLEMENTAL ORDINANCES ADOPTED PURSUANT HERETO; AND ESTABLISHING AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

ORDINANCE NO. 91-440A, AN ORDINANCE ENACTED AS A SUPPLEMENTAL ORDINANCE TO ORDINANCE NO. 91-439A; ESTABLISHING A PLAN FOR FINANCING THE METRO HEADQUARTERS BUILDING; AUTHORIZING THE ISSUANCE OF THE METRO HEADQUARTERS BUILDING BONDS FOR SUCH PURPOSE; AND ESTABLISHING AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

---

Date: December 5, 1991

Presented by: Councilor Van Bergen

COMMITTEE RECOMMENDATION: At its December 5, 1991 meeting the Committee voted unanimously to recommend Council adoption of Ordinance No. 91-439 and Ordinance No. 91-440. Present and voting were Councilors Buchanan, Devlin, Hansen and Van Bergen. Councilor Wyers was absent.

COMMITTEE DISCUSSION / ISSUES: Jennifer Sims, Director of Finance and Management Information, and Mr. Chris Scherer, Finance Supervisor, presented the staff report. Ms. Sims noted both ordinances would be presented for consideration together. She noted that each Committee member has been given revised copies of each ordinance which contains proposed amendments.

Ms. Sims presented additional information to the Committee in a handout titled Metro Headquarters Facility Bonds Update, (scheduled as Attachment 1 to this report). She noted Metro received a rating of A+ from the Fitch Rating Agency for the facility general revenue bonds because of Metro's large service area, substantial resource base and sound finances. Ms. Sims reviewed the time line for the bond sale indicating the pricing of the bonds would occur on December 11, and the ordinances, if approved, would be before the Council on December 12. The closing of the facility purchase is scheduled for December 16 and the bonds are scheduled to be sold on December 20.

Mr. Scherer reviewed project costs shown in Attachment 1. The total project is estimated to cost approximately \$23,000,000 for the purchase and renovation of the building and parking garage. This includes approximately \$19.4 million in total project costs plus \$3.56 million in financing costs. The annual debt service on the estimated \$23,000,000 bond sale would be \$1.81 million.

In response to questions from Council staff, Mr. Scherer said the \$2.1 million Metro project costs include property taxes, previously incurred

(Continued)

FINANCE COMMITTEE REPORT

December 5, 1991

Page 2

due diligence costs, in house project management costs and a project contingency. He indicated a contingency was approximately 8% of the total project costs which appeared to be normal for a project such as this.

Mr. Scherer indicated the category entitled "Other" included common area furniture and fixtures such as Council Chamber and conference rooms for the most part along with telephone and data wiring plus 1% for art. He indicated \$925,000 for design services for the parking structure included a seismic upgrade. Council staff noted the ordinance requested an authorization for \$25 million with an anticipated expenditure of \$23 million. Mr. Scherer indicated the amount was to allow a contingency for authorization in excess of actual plans. Dan Cooper, Legal Counsel, said the Council would have to approve specific constructions contracts to expend the funds. In response to Mr. Cooper, Mr. Scherer said bids for the bond issue would be received Wednesday, December 11, and said when the Council took action on December 12 the actual bond size would be known.

In response to Chair Van Bergen, Mr. Scherer indicated the Regional Facilities Department produced the figures for project costs, and said Paine Weber Co. estimated the debt service figures. Council staff asked how the estimated annual debt service compared to the original figures presented when the decision was made to purchase the building and the garage. Mr. Scherer said the portion allocable to the building of \$1,484,00 was originally projected at \$1,449,000, a difference of less than \$40,000 increase. He said the difference was related to an increase in the area of contingency. He said the original estimate for the parking garage was \$384,000 which was now estimated at \$357,000, a reduction of less than \$30,000. He said the reduction was the result of allocating the broker fees between the two projects.

In response to Chair Van Bergen, Ms. Sims said three sources were proposed to fund the debt service for the facility. She said department assessments were proposed used for the building portion, and said parking revenues and excise tax revenues were proposed for funding the parking structure portion. Mr. Scherer added needs for excise revenue were currently estimated at \$100,000 for the first year and would decline over the following six years. Council staff noted the decision would be made by the Council during the annual budget process.

Mr. Cooper discussed the revisions to the ordinance before the Committee. He said Metro was attempting to secure credit which would give the lowest interest cost to finance the headquarters project, while at the same time build a financing structure which would govern and regulate future Metro borrowing. He said the present structure and potential future revenues were taken into account. He said Metro's existing revenue bond statutory authority was being used to create a limited general obligation bond, which he noted would be payable from non-restricted revenues and available funds of the district. Mr.

Cooper said the assessment vehicle under discussion and written into the proposed master ordinance, Ordinance No. 91-439, and into the proposed supplemental ordinance, Ordinance No. 91-440, was an accounting tool by which Metro would be able to demonstrate to the bond holders compliance with the covenants made to them, and how Metro was able to pay its debts. He said two types of assessments were proposed: 1) department assessment, based on each department's use and benefit from the facility being financed, and 2) general assessment, made from other unrestricted district resources and intended to be from general fund types of revenues, were proposed. He said the covenants the proposed ordinances made to the bondholders were that Metro assessments would be budgeted annually to equal revenues of 1.1 times the annual debt service and would be placed in a separate fund to pay the annual debt service. He said a 10% surplus from the previous year's current revenues would be a fund balance carried forward to the following year and made available for other Metro purposes as needed. He said if additional debt were issued in the future, Metro would have to demonstrate the ability to meet the same coverage test for the additional debt as well as the existing debt. Mr. Cooper said another covenant made to bondholders would be that Metro would not issue other debt or create superior liens or pledges on the revenues that were superior to the liens and pledges created currently with one exception. He explained a departmental revenue bond financing scheme such as the Solid Waste revenue bonds presently outstanding could be created in the event Metro created a utility type department such as Solid Waste and assets were financed from that department's dedicated revenues. Mr. Cooper said the financing structure was well received by the rating agencies both formally and informally. He indicated some of the rating agencies' questions resulted in changes which were marked in the proposed ordinances to demonstrate the differences. He said the rating agencies wanted language which defined the method for department assessments and their connection to the use and benefit of each department. He noted the term "available funds" was added in order to characterize carry forward balances and ending fund balances as resources for debt service payments as opposed to new revenues only. Mr. Cooper noted typographical errors had been corrected in the revisions before the Committee.

In response to Chair Van Bergen, Mr. Cooper said the Metro General Fund currently created from excise tax revenue was available for any Metro purpose. He said there were other unrestricted revenues which could be available as potential sources for General Fund assessments. He said in presentation to and discussion with the rating agencies, use of department revenues which might be legally unrestricted was not anticipated for the payment of a general assessment, but said rather general assessments would come from the excise tax or other potential future unrestricted Metro tax sources. He noted staff attempted to draft the ordinance keeping in mind potential revenue sources during the thirty year time frame the bonds would be outstanding.

FINANCE COMMITTEE REPORT

December 5, 1991

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In response to Chair Van Bergen's inquiry regarding lien superiority, Mr. Cooper said Metro outstanding bonds for the Convention Center were from separate dedicated sources of revenues not impacted by the ordinance before the Committee. Mr. Cooper said the commitment Metro made when it issued the solid waste revenue bonds for the transfer station was to set solid waste rates high enough to pay operating expenses, debt service and other related expenses budgeted annually.

In response to Chair Van Bergen, Mr. Cooper said Metro had not foreclosed itself to future bonds but would have to demonstrate the ability to provide coverage for these bonds as well as additional bonds. Mr. Cooper indicated if the bond covenants were violated or debt was not paid, the trustee; i.e. the First Interstate Bank, would have the obligation and legal authority to compel specific performance for Metro to budget and pay the debt service from all available funds and revenues.

Metro Headquarters Facility Bonds Update  
Council Finance Committee  
December 5, 1991

- Rating agency presentation Sims
- Schedule for bonds sale Sims
- Project and financing costs Scherer
- Ordinance overview and revisions Cooper

**ESTIMATED PROJECT COSTS**  
**FINANCIAL ANALYSIS OF HEADQUARTERS BUILDING PURCHASE AND RENOVATION**  
**METROPOLITAN SERVICE DISTRICT**

	<u>Building</u>	<u>Parking</u>	<u>Total</u>
Real estate			
Purchase of land and building	\$2,550,000	\$2,600,000	\$5,150,000
Brokers and other fees	229,000	88,000	317,000
	-----	-----	-----
	\$2,779,000	\$2,688,000	\$5,467,000
Project management	\$2,043,000	\$70,000	\$2,113,000
Design/build contract			
Design services	\$519,000	\$61,000	\$580,000
Renovation/new construction	6,800,000	925,000	7,725,000
Tenant improvements	1,800,000		1,800,000
Miscellaneous	245,000	5,000	250,000
	-----	-----	-----
	\$9,364,000	\$991,000	\$10,355,000
Other	1,432,000	9,000	1,441,000
	-----	-----	-----
Total Project costs	\$15,618,000	\$3,758,000	\$19,376,000
Estimated financing costs	2,870,000	691,000	3,561,000
	-----	-----	-----
Total	\$18,488,000	\$4,449,000	\$22,937,000
Estimated Annual Debt Service	\$1,484,000	\$357,000	\$1,841,000

**Tax Supported****New Issue**

# Metropolitan Service District, Oregon

**Rating**

General Revenue Bonds..... A+  
Credit Trend ..... Stable

**Analyst**

Stewart Simon  
(212) 908-0508

**Issuer Contact**

Christopher Scherer  
Financial Planning Manager  
(503) 221-1646

**New Issue Details**

Approximately \$23,000,000 General Revenue Bonds (Metro Headquarters Building Project), 1991 Series A. Sale is expected through negotiation Dec. 10 by a syndicate led by PaineWebber. Serial maturities July 1, 1992-2003. Optional prepayment July 1, 1999 at initial price of 102, declining to 100 July 1, 2001 and thereafter. Terms due July 1, 2012 and 2022.

**Security:** Trust estate that consists of moneys in the reserve, construction, and debt service accounts; bonds payable from the district's revenues (unless restricted by law), and other legally available funds.

**Purpose:** To acquire and improve a new headquarters building including parking facilities.

**Outlook**

*The Metropolitan Service District's large service area, substantial resource base, and sound finances, as well as the bonds' strong security structure, provide the basis for the 'A+' rating. The bonds are issued under the district's revenue bond authority. However, the bonds are payable from all district revenues (unless restricted by law) and other legally available resources, making them, in effect, limited general obligations of the district. Bondholder protections include the requirement to annually budget debt service coverage, a prohibition against senior lien bonds, and a strong additional bonds test. The credit trend is stable.*

**Rating Considerations**

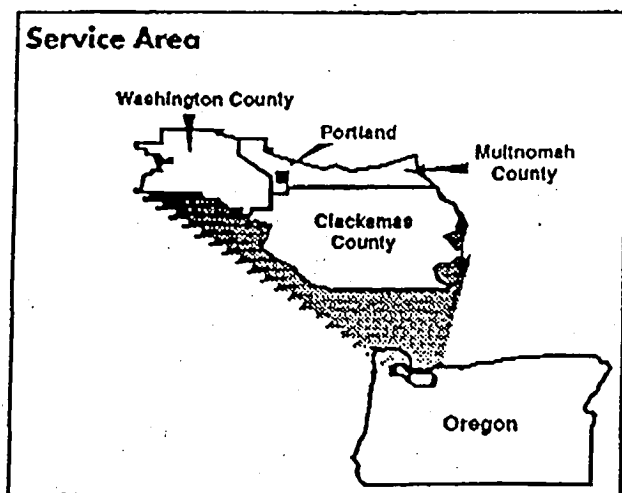
The district serves 1.2 million people in the urban Portland region and is responsible for a broad range of functions including solid waste management, transportation planning, regional planning, and management of various spectator facilities. Created in 1977, the district is the only directly elected regional government in the nation. Most of the \$112 million revenue base now comprises enterprise revenues, but the district has broad revenue-raising authority. The district's various departments will be assessed annually to provide 1.10 times (x) debt service coverage, based on the square footage occupied in the new headquarters building. Since debt service costs on the bonds will be allocated to each department as an operating expense, such costs would have a claim on resources before payment of revenue bonds being paid from net departmental revenues.

December 6, 1991

**FITCH**

Where experience rates.





The district's budgetary levels have quadrupled since 1985 to over \$110 million in fiscal 1991-92 because it has continued to assume additional functions. Its financial position is strong, with \$9.5 million in unreserved governmental funds in fiscal 1989-90. The capital plan includes \$155-\$265 million in new bonds, most of it planned to be supported by unlimited property taxes. The Portland region has a growing, diverse economic base with above-average wealth levels.

### Strengths

- Bonds approximate limited general obligations, although they are issued under the district's revenue bond authority; additional bondholder protections are provided.
- Revenues are diverse and broad-based.
- The large, growing service area has a diverse economy.
- The district's finances are strong.

### Risks

- The relatively new and expanding organization has broad functions; growth could place pressure on resources, although the district has significant revenue-raising capacity.
- Capital plans are sizeable, but future issuance plans focus on unlimited tax bonds and departmental revenue bonds.

### The District

The Metropolitan Service District serves the Portland region and is the only directly elected regional government in the nation. With more than one million residents, the service region consists of the urban areas of Clackamas, Multnomah, and Washington counties. The district was created in 1977 and is governed by a 12-member council. The district's extensive statutory responsibilities and functions

include management of the region's solid waste system and promotion of recycling; planning of the regional transportation system and regional growth; operation of the Metro Washington Park Zoo; and management of the Oregon Convention Center, Memorial Coliseum, Civic Stadium, and Portland Center of the Performing Arts under the umbrella of the Metro Exposition-Recreation Commission. The district also is authorized to provide regional sewerage, water supply, transportation, parks and recreation, and correctional facilities. The district employs 1,200 full time and seasonal employees including 216 located at its current headquarter facilities, which are leased.

### Financing Plan

The bonds are being issued under the district's revenue bond authority as provided under state law. A master ordinance will be enacted concurrently with the bond sale to provide for this type of financing as well as issuance of parity bonds in the future.

The bonds are payable from the district's revenues (unless restricted by law) and other legally available resources. Sources of bond repayment include all taxes, fees, charges, rentals, investments, or other liquid assets of the district, except that property taxes imposed for repayment of voted general obligation bonds for the convention center are restricted to that purpose. In effect, these bonds are a limited general obligation of the district.

Each of the district's seven departments will be assessed annually for its share of debt service costs from current revenues to provide 1.10x coverage, based on the square footage occupied in the new headquarters building. Since these assessments are operating costs of each department, they are available for debt service payments on these bonds prior to any claim on a particular department's enterprise revenues that may support repayment of revenue bonds. To supplement or replace department assessments, the district also may impose a general assessment on its agencywide resources sufficient to provide 1.10x coverage. If a department fails to generate enough revenues to cover its share of debt service, the district can reassess each department or impose a general assessment to cover the shortfall. The trustee may bring suit if the district fails to set aside revenues to meet its obligations.

To repay these bonds, the district plans to assess the departments 80% of total debt service costs with the remainder paid from a general assessment on the district's resources. The district intends to pay this general assessment from parking garage revenues and excise taxes.

No senior lien bonds may be issued. Additional parity bonds may be issued under either a historical or prospective test. Under the historical test, a qualified consultant must determine that in each of the prior three years, net revenues after payment of all expenditures cover average annual debt



### Estimated Coverage on Net Revenue Basis (\$000)

	Fiscal Years-Ended June 30		
	1993-4	1994-5	1995-6
Revenues*	112,507	118,091	124,508
Expenditures**	105,010	110,252	116,305
Remaining Balance	7,497	7,839	8,203
Total Assessments†	2,060	2,055	2,060
Amount Remaining After Assessments	5,437	5,784	6,143
Total Debt Service Coverage (x)	2.90	3.10	3.28

\*Includes enterprise funds and all governmental funds except taxes restricted to convention center bond repayment. \*\*Includes debt service payments on revenue bonds. †Total assessments represent 1.10x debt service coverage.

service on the proposed bonds 1.10x. Expenditures include payment of all debt obligations except revenue bonds supported by departmental revenues. Debt obligations include the 1.10x coverage assessment required on outstanding parity bonds, and payments made under lease-purchase and installment purchase agreements. Under the prospective test, a consultant must determine that in each of three years following a period of capitalized interest, revenues will cover all existing expenditures and maximum annual debt service on proposed bonds (including the 1.10x coverage factor).

The debt service reserve for these bonds will be funded from bond proceeds. The master ordinance authorizes a credit facility (letter of credit, bond insurance, or other credit enhancement device) in one of the three highest rating categories to meet the reserve requirement. The district covenants to annually budget assessments to provide 1.10x coverage, set adequate rates and fees to meet its obligations, and maintain adequate insurance. Debt service is capitalized through most of fiscal 1993.

### Debt

The district's existing outstanding debt consists of \$65.0 million Convention Center bonds secured by unlimited property taxes; \$28.5 million Metro East (waste) Station

bonds secured by departmental solid waste revenues; and \$30.1 million Composter Project bonds secured by tipping fee revenues. These new \$23.0 million in general revenue bonds will fund the acquisition and improvement of the district's new headquarters, which include a parking garage. The district plans to occupy the first two floors of the headquarters building.

The district may issue an additional \$155-\$265 million in bonds to fund planned future projects, including solid waste transfer stations and a green-spaces program. The district plans to request voter approval of \$100-\$200 million unlimited tax bonds to support the green-spaces program.

### Finances

The district has assumed responsibility for convention, trade, and spectator facilities as well as other functions in recent years, so its total budget has grown to over \$110 million in fiscal 1991-92 from \$23 million in fiscal 1985-86. Its financial position is strong. At fiscal year-end 1990, the district had \$9.5 million in unreserved moneys in governmental funds.

The district has broad powers to raise revenues. Available district revenues consist primarily of enterprise revenues (78% of the total) generated from the solid waste system,

### Financial Summary\* (\$000)

	Fiscal Years-Ended June 30		
	1988	1989	1990
Revenues	15,038	19,861	20,978
Expenditures	22,928	18,416	23,491
Add Enterprise Reimbursement	1,488	2,142	2,298
Results Before Transfers	(6,402)	3,587	(215)
Unreserved Balances	6,793	8,359	9,529

\*Governmental funds only; includes general, special revenue, debt service, and capital projects funds; excludes transfers and enterprise funds, except for enterprise reimbursement of administrative costs.

zoo, and the district's spectator, trade, and convention operations. The district imposes a per capita tax. In fiscal 1991-92, the \$0.43 per capita tax is expected to generate \$578,000 in revenues and will help fund transportation planning. The \$0.51 per capita maximum authorization expires in 1993. However, the state legislature has renewed this authority every four years since 1977. The district also receives hotel/motel taxes (about 3% of total revenues) through an Intergovernmental agreement with Multnomah County. An excise tax of up to 6% of the district's total gross revenues is authorized on the revenues of enterprise operations, with certain exceptions. The excise tax is now imposed at a rate of 5.25%, mostly on tipping fees and zoo admissions, but could be increased to about 8% before the gross 6% limit is met. These taxes comprise about 4% of total revenues. Exclusive of the unlimited taxes imposed to repay the convention center bonds, property taxes are levied for zoo operations and account for 4% of revenues. As a result of the recent Measure 5 tax limitation, these property taxes were reduced by 12% this year to meet the overall tax rate limit. No other district revenues are affected by the Measure 5 tax limitation. If approved by district voters, an income tax also could be imposed.

### Economy

The district covers 350 square miles in the urban Portland region. As the state's major urban area, Portland is the center of Oregon's financial, trade, transportation, and service activity. Population growth in the district has been relatively rapid, increasing by nearly 12% over 1980-90 to nearly 1.2 million, or over 40% of the state's entire population. Washington county has been the fastest growing county in the state. Portland's population increased 10.2% to 437,319 over the ten-year period. The district's market value of property has more than doubled since 1980 and currently is a sizeable \$50.9 billion. Wealth levels in the Portland PMSA are above the state average and slightly above national figures. The PMSA per capita income of \$18,163 in 1989 was 113% of the state average and 103% of the national level.

The area's economic and employment base continues to diversify, with relatively little dependence now on the forest products industries. The area is a center of financial services in the Northwest and benefits from Pacific Rim trade and its proximity to California. Although trade and services employment is somewhat above national averages, the overall

### Revenue Composition\* 1991-92 Budget

	\$000	% of Total
Revenues		
Enterprise	87,385	77.7
Property Tax (Zoo)	4,765	4.2
Excise	4,015	3.6
Hotel/Motel	3,000	2.7
Grants	3,895	3.5
Interest Earnings	4,394	3.9
Other**	5,027	4.5
Total†	112,480	100.0

\* Includes enterprise funds; excludes \$72 million fund balances and \$5.5 million restricted property taxes for convention center bond repayment.

\*\* Includes about \$578,000 in per capita tax revenues. † Numbers may not add due to rounding.

composition of the employment base is relatively balanced. Trade and services each account for 26% of nonfarm employment. Lumber and wood products account for only 1% of the district's employment base. After a sharp 13% decline in employment during 1981-83, nonagricultural employment in the Portland PMSA has increased 31.5% since 1983. While jobs in manufacturing remain significantly below the 1980 total, growth in regional manufacturing activity has been strong in recent years. Since 1986, manufacturing jobs have increased by over 13%, with particularly strong growth in the machinery, electronics, transportation equipment, and fabricated metal products industries. Major private sector employers include Fred Meyer, Inc. (retail variety chain — 9,000 jobs), Tektronix, Inc. (electronics — 7,000 jobs), Legacy Health System (health care — 8,000 jobs) and U.S. Bancorp (banking — 4,820 jobs). Other employers providing 3,000 jobs or more include Intel Corp. (semiconductors), Precision Castparts (steel castings), Kaiser Permanente (hospitals), and First Interstate Bank (banking).

Unemployment rates have been consistently below state and national averages in recent years. Since 1988, the area's average annual unemployment rate has been below 5%. Notwithstanding national recession, September's unemployment rate was a low 4.8%, which is 89% of the state level and 75% of the national unadjusted average.



**METRO**

2000 S.W. First Avenue  
Portland, OR 97201-5398  
503/221-1646

# Memorandum

DATE: December 16, 1991  
TO: Rena Cusma, Executive Officer  
FROM: Paulette Allen, Clerk of the Council *PA*  
RE: TRANSMITTAL OF ORDINANCE NOS. 91-439, 91-440 and 91-421A

Attached for your consideration are true copies of the ordinances referenced above adopted by the Council on December 12, 1991.

If you wish to veto any of the ordinances referenced above, I must receive a signed and dated written veto message from you no later than 5:00 p.m., Thursday, December 19, 1991. The veto message, if submitted, will become part of the permanent record. If no veto message is received by the time and date stated above, these ordinances will be considered finally adopted.

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I, *Paulette Allen*, received this memo and true copies of Ordinance Nos. 91-439, 91-440 and 91-421A from the Clerk of the Council on 12-16-91.

ORD.MEM