



BOARD OF DIRECTORS  
BUDGET AND FINANCE COMMITTEE MEETING

COMMITTEE MEMBERS

BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

CAROLE GROOM – CHAIRPERSON  
JOHN GIOIA  
LIZ KNISS  
MARK ROSS  
SHIRLEE ZANE

ERIC MAR – VICE CHAIRPERSON  
DAVE HUDSON  
NATE MILEY  
BRAD WAGENKNECHT

MONDAY  
AUGUST 5, 2013  
9:30 A.M.

4<sup>th</sup> FLOOR CONFERENCE ROOM  
939 ELLIS STREET  
SAN FRANCISCO, CA 94109

VIDEOCONFERENCE LOCATION:  
SANTA ROSA JUNIOR COLLEGE  
DOYLE LIBRARY ROOM 4243  
1501 MENDOCINO AVENUE  
SANTA ROSA, CA 95401

AGENDA

1. **CALL TO ORDER - ROLL CALL**
2. **PUBLIC COMMENT PERIOD** (*Public Comment on Non-Agenda Items Pursuant to Government Code § 54954.3*) Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at Air District headquarters, 939 Ellis Street, San Francisco, CA, and on the Air District's website [www.baaqmd.gov](http://www.baaqmd.gov) at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Board's authority. Speakers will be limited to three (3) minutes each.
3. **APPROVAL OF MINUTES OF APRIL 24, 2013**
4. **FOURTH QUARTER FINANCIAL REPORT – FISCAL YEAR ENDING (FYE) 2013**

J. McKay/4629

[jmckay@baaqmd.gov](mailto:jmckay@baaqmd.gov)

*The Committee will receive an update on the Air District's financial results for the fourth quarter of FYE 2013.*

5. **APPROVAL OF FINANCING FOR JOINT REGIONAL AGENCY CO-LOCATION AT 375 BEALE STREET**

J. McKay/4629

[jmckay@baaqmd.gov](mailto:jmckay@baaqmd.gov)

*The Committee will consider recommending Board of Directors authorize the Executive Officer to sign necessary documents to finance the purchase of the Bay Area Air Quality Management District portion of 375 Beale Street, San Francisco.*

**6. COMMITTEE MEMBER COMMENTS/ OTHER BUSINESS**

*Any member of the Board, or its staff, on his or her own initiative or in response to questions posed by the public, may: ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2)*

**7. TIME AND PLACE OF NEXT MEETING** – Monday, September 9, 2013, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 11:00 a.m.

**8. ADJOURNMENT**

**CONTACT THE CLERK OF THE BOARDS  
939 ELLIS STREET SF, CA 94109**

**(415) 749-5073  
FAX: (415) 928-8560  
BAAQMD homepage:  
[www.baaqmd.gov](http://www.baaqmd.gov)**

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities notification to the Clerk's Office should be given at least 3 working days prior to the date of the meeting, so that arrangements can be made accordingly.

Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all, members of the body to which this Agenda relates shall be made available at the District's offices at 939 Ellis Street, San Francisco, CA 94109, at the time such writing is made available to all, or a majority of all, members of that body.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109**  
**FOR QUESTIONS PLEASE CALL (415) 749-4963**

**EXECUTIVE OFFICE:**  
**MONTHLY CALENDAR OF DISTRICT MEETINGS**

**AUGUST 2013**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Budget &amp; Finance Committee</b> <i>(Meets on the 4<sup>th</sup> Wednesday of each Month)</i>	Monday	5	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
				And via videoconference at Santa Rosa Junior College Doyle Library, Room 4243 1501 Mendocino Avenue Santa Rosa, CA
<b>Board of Directors Executive Committee</b> <i>(Meets on the 3<sup>rd</sup> Monday of each Month)</i>	Monday	5	11:00 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Regular Meeting</b> <i>(Meets on the 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	7	9:45 a.m.	Board Room
<b>Board of Directors Executive Committee</b> <i>(Meets on the 3<sup>rd</sup> Monday of each Month)</i> - CANCELLED & RESCHEDULED TO MONDAY, AUGUST 5, 2013 AT 11:00 A.M.	Monday	19	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Stationary Source Committee</b> <i>(Meets on the 3<sup>rd</sup> Monday of each Month)</i> - CANCELLED	Monday	19	10:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Mobile Source Committee</b> <i>(Meets on the 4<sup>th</sup> Thursday of each Month)</i> - CANCELLED	Thursday	22	9:30 a.m.	Board Room
<b>Board of Directors Regular Meeting</b> <i>(Meets on the 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i> - CANCELLED	Wednesday	21	9:45 a.m.	Board Room
<b>Board of Directors Budget &amp; Finance Committee</b> <i>(Meets on the 4<sup>th</sup> Wednesday of each Month)</i> - CANCELLED & RESCHEDULED TO MONDAY, AUGUST 5, 2013 AT 9:30 A.M.	Wednesday	28	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

**SEPTEMBER 2013**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Regular Meeting</b> <i>(Meets on the 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	4	9:45 a.m.	Board Room
<b>Board of Directors Public Outreach Committee</b> <i>(At the Call of the Chair)</i> - CANCELLED	Monday	9	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

## SEPTEMBER 2013

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Budget &amp; Finance Committee</b> <i>(Meets on the 4<sup>th</sup> Wednesday of each Month)</i>	Monday	9	11:00 a.m.	4 <sup>th</sup> Floor Conf. Room  And via videoconference at Santa Rosa Junior College Doyle Library, Room 4243 1501 Mendocino Avenue Santa Rosa, CA
<b>Advisory Council Regular Meeting</b> <i>(Meets on the 2<sup>nd</sup> Wednesday of each Month)</i>	Wednesday	11	9:00 a.m.	Board Room
<b>Board of Directors Executive Committee</b> <i>(Meets on the 3<sup>rd</sup> Monday of each Month)</i>	Monday	16	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Stationary Source Committee</b> <i>(Meets on the 3<sup>rd</sup> Monday of each Month)</i>	Monday	16	10:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Regular Meeting</b> <i>(Meets on the 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	18	9:45 a.m.	Board Room
<b>Board of Directors Climate Protection Committee</b> <i>(Meets on the 3<sup>rd</sup> Thursday every other month)</i>	Thursday	19	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room  And via videoconference at Santa Rosa Junior College Doyle Library, Room 4243 1501 Mendocino Avenue Santa Rosa, CA
<b>Board of Directors Budget &amp; Finance Committee</b> <i>(Meets on the 4<sup>th</sup> Wednesday of each Month)</i>	Wednesday	25	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Mobile Source Committee</b> <i>(Meets on the 4<sup>th</sup> Thursday of each Month)</i>	Thursday	26	9:30 a.m.	Board Room

## OCTOBER 2013

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Regular Meeting</b> <i>(Meets on the 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	2	9:45 a.m.	Board Room
<b>Advisory Council Regular Meeting</b> <i>(Meets on the 2<sup>nd</sup> Wednesday of each Month)</i>	Wednesday	9	9:00 a.m.	Board Room
<b>Board of Directors Regular Meeting</b> <i>(Meets on the 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	16	9:45 a.m.	Board Room
<b>Board of Directors Executive Committee</b> <i>(Meets on the 3<sup>rd</sup> Monday of each Month)</i>	Monday	21	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Stationary Source Committee</b> <i>(Meets on the 3<sup>rd</sup> Monday of each Month)</i>	Monday	21	10:30 a.m.	4 <sup>th</sup> Floor Conf. Room

# OCTOBER 2013

## TYPE OF MEETING

## DAY

## DATE

## TIME

## ROOM

**Board of Directors Budget & Finance  
Committee** *(Meets on the 4th Wednesday of each  
Month)*

**Wednesday**

**23**

**9:30 a.m.**

**4<sup>th</sup> Floor  
Conf. Room**

**Board of Directors Mobile Source  
Committee** *(Meets on the 4<sup>th</sup> Thursday of each Month)*

**Thursday**

**26**

**9:30 a.m.**

**Board Room**

HL – 7/29/13 (11:10 a.m.)

P/Library/Forms/Calendar/Calendar/Moncal

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
Memorandum

To: Chairperson Carole Groom and Members  
of the Budget and Finance Committee

From: Jack P. Broadbent  
Executive Officer/Air Pollution Control Officer

Date: July 22, 2013

Re: Approval of the Minutes of April 24, 2013

RECOMMENDED ACTION

Approve the attached draft minutes of the Budget and Finance Committee meeting of April 24, 2013.

DISCUSSION

Attached for your review and approval are the draft minutes of the Budget and Finance Committee meeting of April 24, 2013.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Sean Gallagher  
Reviewed by: Rex Sanders

Attachment

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, California 94109  
(415) 749-5073

Videoconference Location:  
Santa Rosa Junior College  
Doyle Library Room 4243  
1501 Mendocino Avenue  
Santa Rosa, CA 95401

### **DRAFT MINUTES**

Summary of Board of Directors  
Budget and Finance Committee Meeting  
Wednesday, April 24, 2013

#### **1. Call to Order – Roll Call**

Chairperson Carole Groom called the meeting to order at 9:32 a.m.

Present: Chairperson Carole Groom; Vice-Chairperson Eric Mar; and Directors David Hudson, Mark Ross, Brad Wagenknecht and Shirlee Zane (from videoconference location).

Absent: Directors John Gioia, Liz Kniss and Nate Miley.

Also Present: None.

#### **2. Public Comment Period: None.**

#### **3. Approval of Minutes of March 27, 2013**

Committee Comments: None.

Public Comments: None.

Committee Action: Director Hudson made a motion to approve the Minutes of March 27, 2013; Director Wagenknecht seconded; and the motion carried unanimously.

#### **4. Summary of Draft Fee Amendments for Fiscal Year Ending (FYE) 2014**

Jeffrey McKay, Deputy Air Pollution Control Officer, gave the staff presentation Draft Amendments to Regulation 3, Fees, including an explanation of the background and current cost recovery policy, proposed changes to fee schedules, impact on small businesses, proposed online customer interface, incident response and open burning fees, public comments and the rule development schedule.

NOTED PRESENT: Director Mar was noted present at 9:37 a.m.

Director Wagenknecht asked, regarding slide 4, Impact on Small Businesses, if all of the examples are in the 9% increase category, which question was answered by Jim Karas, Director of Engineering.

Mr. McKay continued the presentation.

Director Wagenknecht asked, regarding slide 5, Regulation 3, Fee Update, why the Air District is working with public fire agencies on the open burning fee, which question was answered by Wayne Kino, Director of Compliance and Enforcement.

Director Zane said public fire agencies in the north counties are concerned about the open burning fee because of questions about whether the agencies or farmers will be responsible for the fees. Mr. Kino clarified the proposal. Director Zane asked about outreach efforts, which clarification was provided by Mr. Kino.

Mr. McKay concluded the presentation.

Public Comments:

Tito Sasaki, North Bay Agriculture Alliance, addressed the Committee in opposition to the adoption of the open burning fee. Mr. Kino provided background on the regulations and Air District activities relative to open burning.

Committee Comments:

Director Hudson requested that information on when the open burns occur be provided to the Board of Directors when this matter comes before them.

Chairperson Groom requested that information relative to where the open burns occur, by County, be provided to the Board of Directors when this matter comes before them.

Director Zane asked about the availability of open burn fee waivers and anticipated total costs for members of the regulated community, which questions were answered by Mr. Kino and Jack Broadbent, Executive Officer/Air Pollution Control Officer.

Director Zane suggested the Air District enhance its outreach efforts relating to new technology alternatives to burning.

Committee Action: None; informational only.

**5. Continued Discussion of FYE 2014 Proposed Air District Budget and Consideration to Recommend Adoption**

Mr. McKay gave the staff presentation Proposed FYE 2014 Budget, including the status of the current FYE 2013, an overview of the revenue and expenditure forecast for FYE 2014, a



summary of personnel costs and vacancy distribution, a review of strategic staffing principles and implementation, and trending in Air District reserve funds.

Committee Comments:

Director Zane noted the reserves target of 15% of the General Fund and asked if the Air District should slowly increase the percentage towards 25%, which question was answered by Mr. McKay. Director Zane recommended a slow increase without regard for the target levels of other agencies.

Director Wagenknecht asked about the long-term plan for filling the remaining 43 staff vacancies, which question was answered by Mr. McKay.

Public Comments: None.

Committee Action: Director Wagenknecht made a motion to recommend Board of Directors adoption of the proposed FYE 2014 Budget; Director Hudson seconded; and the motion carried unanimously.

**6. Third Quarter Financial Report – FYE 2013**

Jack Colbourn, Director of Administrative Services, gave the staff presentation 3rd Quarter Financial Report, including an overview of general fund revenues and expenses, fund balances and vendor payments in excess of \$70,000 without Board of Directors review.

Director Zane asked, regarding slide 3, 3<sup>rd</sup> Quarter Results FYE 2013 General Fund Expenses, for an explanation of “capital outlay,” which was provided by Mr. McKay.

Mr. Colbourn continued the presentation.

Director Zane asked, regarding slide 4, 3<sup>rd</sup> Quarter Results FYE 2013 Investments, for the definition of “TFCA” and “MSIF,” which were provided by Mr. Colbourn.

Mr. Colbourn concluded the presentation.

Committee Comments: None.

Public Comments: None.

Committee Action: None; informational only.

**7. Committee Member Comments/Other Business:**

Chairperson Groom thanked staff for the launch of videoconferencing capability.

Director Zane echoed Chairperson Groom and urged for decreased Air District staffing at videoconferencing locations to lessen emissions.

Director Zane announced the continued work by Sonoma County on the Sonoma Clean Power project and the recent submission of the related application to the California Public Utilities Commission.

Director Hudson commended staff and the Committee members on their work.

Director Ross commended staff for the launch of the videoconferencing capability and suggested a visual cue be established for speaker requests from remote locations.

8. **Time and Place of Next Meeting:** Wednesday, May 22, 2013, at Bay Area Air Quality Management District Headquarters, 939 Ellis Street, San Francisco, CA 94109 at 9:30 a.m.
9. **Adjournment:** The meeting adjourned at 10:20 a.m.

Sean Gallagher  
Clerk of the Boards

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Budget and Finance Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: July 22, 2013

Re: Fourth Quarter Financial Report – Fiscal Year Ending (FYE) 2013

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Finance staff will present an update on the Air District’s financial results for the fourth quarter of FYE 2013. The following information summarizes those results.

GENERAL FUND BUDGET: STATEMENT OF REVENUE

Comparison of Budget to Actual Revenue

- County receipts \$22,780,360 (108%) of budgeted revenue.
- Permit Fee receipts \$29,238,916 (121%) of budgeted revenue.
- Title V Permit Fees \$4,555,495 (123%) of budgeted revenue.
- Asbestos Fees \$2,482,831 (138%) of budgeted revenue.
- Toxic Inventory Fees \$692,682 (99%) of budgeted revenue.
- Penalties and Settlements \$1,714,787 (101%) of budgeted revenue.
- Miscellaneous Revenue \$67,664 (47%) of budgeted revenue.
- Interest Revenue \$262,551 (128%) of budgeted revenue.

GENERAL FUND BUDGET: STATEMENT OF EXPENDITURES

Comparison of Budget to Actual Expenditures

- Personnel – Salaries \$29,895,644 (96%) of budgeted expenditures.
- Personnel - Fringe Benefits \$14,980,976 (106%) of budgeted expenditures.
- Operational Services  
and Supplies \$13,060,675 (72%) of budgeted expenditures.
- Capital Outlay \$1,506,053 (76%) of budgeted expenditures.

**Cash and Investments in County Treasury:**

( Based on the June 2013 Account Balance)

General Fund	\$17,772,629
TFCA	\$65,893,372
MSIF	\$40,010,652
Carl Moyer	\$2,222,207
CA Goods Movement	\$32,852,966
	<u>\$158,751,826</u>

**Investments Held as:**

( Based on the June 2013  
- Account Balance)

Fixed Income Investments	60% of total investment pool
Short Term Investments	40% of total investment pool

**FUND BALANCES**

	<u>6/30/2011</u> <u>Audited</u>	<u>6/30/2012</u> <u>Unaudited</u>	<u>6/30/2013</u> <u>Projected</u>
Imprest Cash	\$ -	-	-
Building and Facilities	4,075,756	4,075,756	3,711,210
PERS Funding	1,500,000	1,500,000	1,365,836
Radio Replacement	75,000	75,000	68,292
Capital Equipment	1,219,818	1,219,818	1,110,714
Post-Employment Benefits	2,000,000	2,000,000	1,821,116
Worker's Compensation	1,000,000	1,000,000	910,557
Economic Uncertainties	130,660	130,660	118,973
TOTAL SPECIAL RESERVES	<u>\$ 10,001,234</u>	<u>\$ 10,001,234</u>	<u>\$ 9,106,698</u>
UNDESIGNATED	<u>9,528</u>	<u>3,441,554</u>	<u>4,358,208</u>
TOTAL FUND BALANCES	<u>\$ 10,010,762</u>	<u>\$ 13,442,788</u>	<u>\$13,464,906</u>

## VENDOR PAYMENTS

In accordance with provisions of the Administrative Code, Division II Fiscal Policies and Procedures - Section 4 Purchasing Procedures: 4.3 Contract Limitations, staff is required to provide the Board a listing of all of the vendors receiving payments in excess of \$70,000 under contracts that have not been previously reviewed by the Board. Prior Air District practice does not bring payments for recurring routine business costs such as utilities, licenses, office supplies and the like, before the Board, except as part of the Air District budget. The current practice now is to list such payments over \$70,000 in a quarterly financial report. The purpose is to increase the information flow to the Board, to maintain committee efficiency, and to clarify policy.

As a related practice, staff will report on vendors that undertook work for the Air District on several projects that individually were less than \$70,000, but cumulatively now total in excess of \$70,000.

## BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Marina Smotkin  
Reviewed by: Jack M. Colbourn

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Ash Kalra and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: August 1, 2013

Re: Approval of Financing for Joint Regional Agency Co-location at 375 Beale Street

RECOMMENDED ACTION

Consider authorizing the Executive Officer to sign necessary documents to finance the purchase of the Bay Area Air Quality Management District (Air District) portion of 375 Beale Street, San Francisco.

BACKGROUND

On February 25 and February 27, 2013 the Executive Committee and the Budget and Finance Committee recommended, and on March 6, 2013 the full Board approved, an authorization for the Executive Officer to prepare necessary documents to finance the purchase of the Air District portion of 375 Beale Street (formerly 390 Main Street), San Francisco.

The terms include an approximate cost of \$29,000,000 for approximately 75,000 square feet.

The Principles of Financing include:

- Floating interest rate
- Graduated caps on the interest rate
- Maximum payment obligations of \$1.2 M for the first ten years
- Maximum payment obligations of \$1.37 M for the subsequent years
- Maximum term of obligation is 30 years
- Interest begins to accrue at occupancy
- Remarketing of the obligation leaves Air District terms unchanged

The financing terms anticipate the disposition of 939 Ellis Street with a minimum of \$8 M of the proceeds used to pay down the 375 Beale Street acquisition.

## DISCUSSION

The financing is arranged as Certificates of Participation in which the Air District Leases the premises to the Bay Area Headquarters Authority (BAHA), and BAHA then subleases the premises back to the Air District. The Sublease will secure payments on Certificates of Participation, delivered pursuant to a Trust Agreement to BAHA as initial investor.

The financing documents include:

- A ***District Resolution*** of the Air District Board authorizing the financing
- A ***Site Lease*** with terms of the lease of the premises from the Air District to BAHA
- A ***Facilities SubLease*** with terms of the sublease from BAHA back to the Air District
- A ***Trust Agreement*** defining the Certificates
- A ***Placement Agent Agreement*** with the bank selling the Certificates to BAHA
- A ***Purchase Contract*** by which BAHA buys the Certificates of Participation (Certificates)

## BUDGET CONSIDERATION/FINANCIAL IMPACT

None at this time. Payment obligations will begin with building occupancy. Costs will be approximately offset by the sale of 939 Ellis Street, including both sale proceeds and termination of operating expenses.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jeff McKay

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

**Resolution No. 2013-\_\_\_**

**A Resolution to Approve the Financing for the Acquisition of Office Space  
At 375 Beale Street, San Francisco and the Related Documents**

WHEREAS, the Board of Directors of the Bay Area Air Quality Management District (Air District) has the statutory authority to lease (as lessee and lessor) and purchase real and personal property pursuant to Health & Safety Code Sections 40200, 40220 and 40700-40701;

WHEREAS, the Air District has entered into a 390 Main Street Office Lease (Office Lease) with the Bay Area Headquarters Authority (Headquarters Authority) for the use and possession by the Air District of office space at 375 Beale Street (formerly 390 Main Street), San Francisco, California (Leased Property);

WHEREAS, pursuant to the Office Lease the Headquarters Authority has granted the Air District an option to purchase the Leased Property, which the Air District intends to exercise when the Leased Property is ready for its use and occupancy (Acquisition);

WHEREAS, the Headquarters Authority has offered to finance the Air District's Acquisition of the Leased Property through entry into a financing lease arrangement with the Air District in which certificates of participation in the financing lease will be executed and delivered and purchased by the Headquarters Authority (2013 Certificates);

WHEREAS, the Air District's staff and advisors have indicated that the terms of such financing are favorable to the Air District;

WHEREAS, in connection with the execution and delivery of the 2013 Certificates, the Air District and the Headquarters Authority propose to enter into: (i) a Site and Facilities Lease (as hereinafter defined) pursuant to which the Air District will agree to lease the Leased Property to the Headquarters Authority, and (ii) a Facilities Sublease (as hereinafter defined), pursuant to which the Headquarters Authority will agree to sublease the Leased Property back to the Air District in consideration for which the Air District will agree to make option payments prior to the Acquisition (Option Payments), base rental payments following the Acquisition (Base Rental) and additional rental payments;

WHEREAS, the Headquarters Authority proposes to assign and transfer to The Bank of New York Mellon Trust Company, N.A., as trustee (Trustee), pursuant to an Assignment Agreement (as hereinafter defined), all of its rights, title and interests (excluding its rights to indemnification and payment or reimbursement of its costs and expenses) in and to the Site and Facilities Lease and the Facilities Sublease, including the right to receive Option Payments and payments of Base Rental under the Facilities Sublease;



WHEREAS, the 2013 Certificates will represent proportionate interests of the owners thereof in rights under the Facilities Sublease including, without limitation, the right to receive Option Payments and payments of Base Rental thereunder;

WHEREAS, the Headquarters Authority, the Air District and the Trustee propose to enter into a Trust Agreement (as hereinafter defined) to, among other things, fix and declare the terms and conditions upon which the 2013 Certificates are to be executed, delivered, secured and accepted and to secure the payment thereof and the interest with respect thereto;

WHEREAS, Merrill Lynch, Pierce, Fenner & Smith Incorporated (Merrill Lynch) is serving as Placement Agent to the Air District in connection with the sale of the 2013 Certificates;

WHEREAS, the Headquarters Authority will purchase the 2013 Certificates pursuant to the terms of a Purchase Contract (as hereinafter defined);

WHEREAS, the Air District desires to participate in the execution and delivery of the 2013 Certificates pursuant to and in accordance with the Trust Agreement, and to approve all proper and necessary documents and transactions in connection therewith; and

WHEREAS, the Air District is authorized to undertake all of the above pursuant to the laws of the State of California.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors does hereby resolve, determine and order as follows:

Section 1. The proposed form of Site and Facilities Lease (BAAQMD Office Project) (Site and Facilities Lease), by and between the Air District and the Headquarters Authority in substantially the form presented at this meeting and on file with the Clerk of the Board, is hereby approved. The Air District Executive Officer / Air Pollution Control Officer (Executive Officer) and any other authorized officers of the Air District acting on behalf of the Air District Executive Officer (each an Authorized Representative and, collectively, the Authorized Representatives) are, and each of them acting alone is, hereby authorized and directed, for and in the name of and on behalf of the Air District, to execute and deliver the Site and Facilities Lease in substantially the form presented at this meeting and on file with the Clerk of the Board, with such changes therein as such Authorized Representative executing and delivering such document may require or approve, such requirement or approval to be conclusively evidenced by the execution and delivery thereof.

Section 2. The proposed form of Facilities Sublease (BAAQMD Office Project) (Facilities Sublease), by and between the Air District and the Headquarters Authority and in substantially the form presented at this meeting and on file with the Clerk of the Board, is hereby approved. The Authorized Representatives are, and each of them acting alone is, hereby authorized and directed, for and in the name of and on behalf of the Air District, to execute and deliver the Facilities Sublease substantially in the form presented at this meeting and on file with the Clerk of the Board, with such changes therein as the Authorized Representative executing and delivering such document may require or approve, such requirement or approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. The proposed form of Trust Agreement (BAAQMD Office Project) (Trust Agreement), by and among the Air District, the Headquarters Authority and the Trustee and in substantially the form presented at this meeting and on file with the Clerk of the Board, is hereby approved. The Authorized Representatives are, and each of them acting alone is, hereby authorized and directed, for and in the name of and on behalf of the Air District, to execute and deliver the Trust Agreement in substantially the form presented at this meeting and on file with the Clerk of the Board, with such changes therein as such Authorized Representative executing and delivering such document may require or approve, such requirement or approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. The proposed form of Placement Agent Agreement (Placement Agent Agreement), by and between the Air District and Merrill Lynch, in substantially the form presented at this meeting and on file with the Clerk of the Board, is hereby approved. The Authorized Representatives are, and each of them acting alone is, hereby authorized and directed, for and in the name of and on behalf of the Air District, to execute and deliver the Placement Agent Agreement, in substantially the form presented at this meeting and on file with the Clerk of the Board with such changes therein as such Authorized Representative executing and delivering such document may require or approve, such requirement or approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. The proposed form of Purchase Contract (Purchase Contract), by and between the Air District and the Headquarters Authority, in substantially the form presented at this meeting and on file with the Clerk of the Board, is hereby approved. The Authorized Representatives are, and each of them acting alone is, hereby authorized and directed, for and in the name of and on behalf of the Air District, to execute and deliver the Purchase Contract, in substantially the form presented at this meeting and on file with the Clerk of the Board with such changes therein as such Authorized Representative executing and delivering such document may require or approve, such requirement or approval to be conclusively evidenced by the execution and delivery thereof.

Section 6. The Air District hereby approves the execution and delivery of the 2013 Certificates by the Trustee in an amount not to exceed \$30,000,000 and the sale of the 2013 Certificates pursuant to the Purchase Contract.

Section 7. All actions heretofore taken by any officer of the Air District with respect to the execution, delivery and sale of the 2013 Certificates or in connection with or related to any of the agreements referred to herein, to the leasing or subleasing of the Leased Property or to the financing of the Acquisition are hereby approved, confirmed and ratified.

Section 8. The Authorized Representatives are, and each of them acting alone is, authorized and directed to take any and all such actions, and to execute and deliver any and all such agreements, documents, certificates or other instruments as may be necessary or desirable to effectuate the purposes of this Resolution and the financing of the Acquisition.

The foregoing resolution was duly and regularly introduced, passed and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the Motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_ 2013

by the following vote of the Board:

AYES:

NOES:

ABSENT:

ATTEST:

\_\_\_\_\_  
ASH KALRA  
Chairperson of the Board of Directors

\_\_\_\_\_  
CAROLE GROOM  
Secretary of the Board of Directors

RECORDING REQUESTED BY AND )  
 WHEN RECORDED MAIL TO: )  
 )  
 NIXON PEABODY LLP )  
 555 West Fifth Street )  
 46<sup>th</sup> Floor )  
 Los Angeles, California 90013 )  
 )  
 Attention: Charles C. Wolf, Esq. )

---

(Space above for Recorder's Use)

**SITE AND FACILITIES LEASE**

**(BAAQMD Office Project)**

Dated as of October 1, 2013

by and between

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

and

**BAY AREA HEADQUARTERS AUTHORITY**

NO DOCUMENTARY TRANSFER TAX DUE

This Site and Facilities Lease is exempt pursuant to  
 Section 6103 of the California Government Code.

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## SITE AND FACILITIES LEASE

THIS SITE AND FACILITIES LEASE (BAAQMD Office Project), dated as of October 1, 20\_\_ (this “Site Lease”), is by and between the BAY AREA AIR QUALITY MANAGEMENT DISTRICT, a regional air pollution control district organized and existing under and by virtue of the laws of the State of California, particularly Division 26, Part 3, Chapter 4 of the California Health and Safety Code (the “District”), and the BAY AREA HEADQUARTERS AUTHORITY, a joint powers authority organized and existing under and by virtue of the laws of the State of California, particularly Title 1, Division 7, Chapter 5 of the California Government Code (the “Authority”);

### WITNESSETH:

That in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

**Section 1. Definitions.** All capitalized terms used herein without definition shall have the meanings given to such terms in the Trust Agreement (BAAQMD Office Project), dated as of the date hereof (the “Trust Agreement”), by and among the District, the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”).

**Section 2. Leased Premises.** From and after the date (the “Acquisition Date”) that the District acquires from the Authority the real property and improvements described in Exhibit A hereto and made a part hereof (the “Leased Premises”), the District hereby leases to the Authority the Leased Premises, subject to the terms hereof and subject to any conditions, reservations, exceptions and rights of way which are of record as of the date hereof. Notwithstanding anything contained in this Site Lease to the contrary, the Leased Premises set forth in such Exhibit A may be amended, modified, released, transferred, changed or substituted by other properties pursuant to Section 2.2 of the Facilities Sublease (BAAQMD Office Project), dated as of the date hereof (the “Sublease”), by and between the District and the Authority. The legal description of the Leased Premises shall be added as Exhibit A to this Site Lease when such legal description becomes available. The revision to Exhibit A pursuant to the preceding sentence shall be deemed a ministerial matter and shall not, in and of itself, require adherence to the provisions of Section 2.2 of the Sublease or Section 11.01(b) of the Trust Agreement.

**Section 3. Ownership.** The District covenants that, as of the Acquisition Date, it is the owner of and holds title in fee simple to the Leased Premises.

**Section 4. Term.** This Site Lease shall commence on the date of execution and delivery hereof and shall end on the date of termination of the Sublease; provided, however, that if, in the exercise of its remedies under Section 12 of the Sublease, the Authority terminates the Sublease, then this Site Lease shall not terminate, and the term hereof shall end on October 1, 2053.

**Section 5. Rent.** The Authority shall pay to the District an advance rent of \$1.00 and other valuable consideration, as full consideration for this Site Lease over its term, the receipt of which is hereby acknowledged by the District. The Authority waives the right to rebate of such

advance rent in the event of loss of use of the Leased Premises or any portion thereof due to damage, destruction or theft.

**Section 6. Purpose.** The Authority shall utilize the Leased Premises for the purposes described in the Sublease and for such other purposes as may be incidental thereto; provided that upon an event of default under the Sublease, the Authority or its assignee may exercise without limitation the remedies provided in the Sublease.

**Section 7. Assignment and Sublease.** The Authority shall not assign, mortgage, hypothecate or otherwise encumber this Site Lease or any rights hereunder or the leasehold created hereby by trust agreement, indenture or deed of trust or otherwise or sublet the Leased Premises without the written consent of the District, except that the District expressly approves and consents to (i) the Sublease and (ii) the assignment and transfer of the Authority's rights, title and interests in this Site Lease to the Trustee pursuant to the Assignment Agreement. In the event of default by the District under the Sublease, the District expressly approves the assignment of this Site Lease.

**Section 8. Right of Entry.** The District reserves the right for any of its duly authorized representatives to enter upon the Leased Premises at any reasonable time.

**Section 9. Expiration.** The Authority agrees, upon the expiration of this Site Lease, to relinquish its rights in and to quit and surrender the Leased Premises; it being the understanding of the parties hereto that upon termination of this Site Lease any title to the buildings and improvements on the Leased Premises shall vest in the District free and clear of any interest of the Authority.

**Section 10. Quiet Enjoyment.** The Authority at all times during the term of this Site Lease shall peaceably and quietly have, hold and enjoy all of the Leased Premises.

**Section 11. Taxes.** The District covenants and agrees to pay any and all taxes and assessments levied or assessed upon the Leased Premises.

**Section 12. Eminent Domain.** If the whole or any part of the Leased Premises shall be taken under the power of eminent domain, the interest of the Authority shall be recognized by the District, and any proceeds shall be paid to the Trustee, as assignee of the interest of the Authority, in accordance with the terms of the Sublease and the Trust Agreement.

**Section 13. Default.** In the event that the Authority or its assignee shall be in default in the performance of any obligation on its part to be performed under the terms of this Site Lease, the District may exercise any and all remedies granted by law, except that no merger of this Site Lease and the Sublease shall be deemed to occur as a result thereof; provided, however, that the District shall have no power to terminate this Site Lease by reason of any default on the part of the Authority or its assignee. So long as any such assignee of the Authority or any successor-in-interest to the Authority shall duly perform the terms and conditions of this Site Lease and of the Sublease, such assignee shall be deemed to be and shall become the tenant of the District hereunder and shall be entitled to all of the rights and privileges granted under any such assignment.

**Section 14. Notices.** All notices, statements, demands, requests, consents, approvals, authorizations, offers, agreements, appointments or designations hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party, if sent by United States registered mail, return receipt requested, postage prepaid and addressed as follows:

District:

Prior to the Acquisition Date: Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, California 94109, Attention Executive Director.

Following the Acquisition Date: Bay Area Air Quality Management District, 390 Main Street, Suite \_\_\_\_, San Francisco, California 94105, Attention: Executive Director.

Authority:

Prior to the Acquisition Date: Bay Area Headquarters Authority, 101 8<sup>th</sup> Street, Oakland, California 94607, Attention: Executive Director.

Following the Acquisition Date: Bay Area Headquarters Authority, 390 Main Street, Suite \_\_\_\_, San Francisco, California 94105, Attention: Executive Director.

**Section 15. Partial Invalidity.** If any one or more of the terms, provisions, promises, covenants or conditions of this Site Lease shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Site Lease shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

**Section 16. Governing Law.** This Site Lease shall be construed and governed in accordance with the laws of the State.

**Section 17. Execution in Counterparts.** This Site Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

**Section 18. Amendment.** This Site Lease may be amended by the parties hereto in writing, but only in accordance with and as permitted by the terms of Section 11.01(b) of the Trust Agreement.

*[The remainder of this page has been intentionally left blank.]*



**IN WITNESS WHEREOF**, the parties hereto have caused this Site Lease to be executed and attested by their proper officers thereunto duly authorized, as of the day and year first above written.

**BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT**

By: \_\_\_\_\_  
Executive Director

Approved as to form:

By: \_\_\_\_\_  
District Counsel

**BAY AREA HEADQUARTERS  
AUTHORITY**

By: \_\_\_\_\_  
Executive Director

Approved as to form:

By: \_\_\_\_\_  
General Counsel

STATE OF CALIFORNIA            )  
COUNTY OF SAN FRANCISCO    )

On \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_ (here insert name & title of the officer), personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

STATE OF CALIFORNIA            )  
COUNTY OF SAN FRANCISCO    )

On \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_ (here insert name & title of the officer), personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

## **EXHIBIT A**

### **DESCRIPTION OF THE LEASED PREMISES**

[Attached]

The legal description of the Leased Premises will be added as Exhibit A to this Site and Facilities Lease when such legal description becomes available.

Notwithstanding anything contained in this Site Lease to the contrary, the Leased Premises set forth in this Exhibit A may be amended, modified, released, transferred, changed or substituted by other properties pursuant to Section 2.2 of the Sublease.

RECORDING REQUESTED BY AND )  
 WHEN RECORDED MAIL TO: )  
 )  
 NIXON PEABODY LLP )  
 555 West Fifth Street )  
 46<sup>th</sup> Floor )  
 Los Angeles, California 90013 )  
 )  
 Attention: Charles C. Wolf, Esq. )

(Space above for Recorder's Use)

**FACILITIES SUBLEASE**

**(BAAQMD Office Project)**

Dated as of October 1, 2013

by and between

**BAY AREA HEADQUARTERS AUTHORITY**

and

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

**NO DOCUMENTARY TRANSFER TAX DUE**

This Facilities Sublease is exempt pursuant to Section 6103 of the California Government Code.

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## FACILITIES SUBLEASE

THIS FACILITIES SUBLEASE (**BAAQMD Office Project**), dated as of October 1, 2013 (this “**Sublease**”), by and between the **BAY AREA HEADQUARTERS AUTHORITY**, a joint powers authority organized and existing under and by virtue of the laws of the State of California, particularly Title 1, Division 7, Chapter 5 of the California Government Code (the “**Authority**”), and the **BAY AREA AIR QUALITY MANAGEMENT DISTRICT**, a regional air pollution control district organized and existing under and by virtue of the laws of the State of California, particularly Division 26, Part 3, Chapter 4 of the California Health and Safety Code (the “**District**”);

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

WHEREAS, the Authority, as landlord, and the District, as tenant, are parties to that certain 390 Main Street Office Lease dated [\_\_\_\_\_], 20[\_\_\_] (the “**390 Main Street Lease**”) pursuant to which, among other things, the Authority has granted to the District the option to purchase the premises that are the subject thereof (the “**Purchase Option**”); and

WHEREAS, from and after the date (the “**Acquisition Date**”) that the District acquires from the Authority (the “**Acquisition**”) the real property and improvements described in Exhibit A hereto (the “**Leased Premises**”), the District will lease the Leased Premises to the Authority pursuant to the Site and Facilities Lease (**BAAQMD Office Project**), dated as of the date hereof (the “**Site Lease**”), by and between the District and the Authority and will sublease the Leased Premises from the Authority pursuant to this Sublease; and

WHEREAS, the District is authorized pursuant to the laws of the State of California to enter into leases and subleases; and

WHEREAS, the District, the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the “**Trustee**”) have entered into a Trust Agreement dated the date hereof (the “**Trust Agreement**”); and

WHEREAS, pursuant to an Assignment Agreement dated the date hereof (the “**Assignment Agreement**”) between the Authority and the Trustee, the Authority has transferred all its rights, title and interests (excluding its rights to indemnification and payment or reimbursement of its costs and expenses) in and to the Site Lease and this Sublease, including the right to receive option payments due hereunder in consideration of the Purchase Option (“**Option Payments**”) and rental payments due hereunder (“**Base Rental**”), to the Trustee for the benefit of the owners (the “**Owners**”), from time to time, of the Bay Area Air Quality Management District Certificates of Participation (**BAAQMD Office Project**) (the “**Certificates**”) to be executed and delivered by the Trustee pursuant to the Trust Agreement, and any provider of credit and/or liquidity enhancement for Certificates; and

WHEREAS, prior to the Acquisition Date, the Certificates will be sold to the Owners and the proceeds of such sale will be held in escrow by the Trustee in the Escrow Account established in the Acquisition Fund under the Trust Agreement (the “**Escrow Phase**”); during



the Escrow Phase the District shall make payments of Option Payments solely from amounts held in the Escrow Account, including any investment earnings on such amounts; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Sublease do exist, have happened and have been performed in due time, form, and manner as required by law, and the parties hereto are duly authorized to execute and enter into this Sublease.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

## **SECTION 1. DEFINITIONS AND OPTION PAYMENTS.**

**1.1 Definitions.** All capitalized terms used herein without definitions shall have the meanings given to such terms in the Trust Agreement.

**1.2 Option Payments.** The District hereby agrees to make Option Payments to the Authority in consideration of the Purchase Option. The Option Payments shall be payable during the Escrow Period as defined in the Trust Agreement and shall be payable solely from amounts in the Escrow Account of the Acquisition Fund held by the Trustee under the Trust Agreement. The amount and time of the Option Payments shall be determined for the Initial Escrow Period and any Subsequent Escrow Period by the District and the Authority based on the receipt of investment earnings on amounts held in the Escrow Account of the Acquisition Fund under the Trust Agreement during such Escrow Period. The Option Payments for the Initial Escrow Period shall be in the amounts and at the times set forth in Exhibit B hereto. The District and the Authority shall revise Exhibit B with the Option Payments for any Subsequent Escrow Period. Any revision to Exhibit B pursuant hereto shall be deemed a ministerial matter and shall not, in and of itself, require adherence to the provisions of Section 11.01(b) of the Trust Agreement. The Option Payments made from investment earnings on amounts in the Escrow Account shall constitute the interest component of Certificate Payments during the Escrow Period. Any Option Payment constituting an extraordinary prepayment upon the occurrence of an Extraordinary Prepayment Event under the Trust Agreement shall constitute the principal component of such Certificate Payment.

## **SECTION 2. TERMS OF LEASE AND SUBLEASE.**

**2.1 Agreement to Sublease; Term of Sublease.** The Authority hereby agrees to sublease the Leased Premises to the District from and after the Acquisition Date, and the District hereby agrees to pay Base Rental and Additional Rental as provided herein in consideration for the use and occupancy of the Leased Premises, all on the terms and conditions set forth herein. The Lease Term (the "**Lease Term**") shall begin on the date of execution and delivery hereof and shall end on \_\_\_\_\_ 1, 20\_\_, or at such earlier time as the Certificates have been paid or provision for their payment has been made in accordance with the provisions of this Sublease and the Trust Agreement; provided, however, that in the event any amounts of Base Rental remain outstanding, whether due to abatement of rent pursuant to Section 3.5 hereof

or any other reason, or if amounts due to any provider of credit and/or liquidity enhancement remain outstanding, the Lease Term shall be extended for up to an additional ten years.

**2.2 Description, Substitution and Release of Leased Premises.** The legal description of the Leased Premises shall be added as Exhibit A to this Facilities Sublease when such legal description becomes available. The revision to Exhibit A pursuant to the preceding sentence shall be deemed a ministerial matter and shall not, in and of itself, require adherence to the following sentence or to the provisions of Sections 7.16 and 11.01(b) of the Trust Agreement. Notwithstanding anything contained herein to the contrary other than the preceding sentence, the Leased Premises may be amended, modified, released, transferred, changed or substituted by other properties, solely in the discretion of the District; provided, however, that: (i) the Authority shall have provided its prior written consent to such amendment, modification, release, transfer, change or substitution, which such consent shall not be unreasonably withheld; (ii) such amendment, modification, release, transfer, change or substitution complies with the requirements set forth in Section 11.01(b) of the Trust Agreement; and (iii)(a) such amendment, modification, release, transfer, change or substitution does not, in the opinion of Special Counsel, adversely affect the exclusion for federal or state income tax purposes of interest with respect to any Certificates previously executed and delivered on a tax-exempt basis; (b) the District delivers to the Trustee a certificate of an Authorized District Representative confirming that (1) the fair rental value of the Leased Premises following such amendment, modification, release, transfer, change or substitution is at least equal to Base Rental payable under this Sublease and (2) the useful life of any amended, modified, transferred, changed or substituted Leased Premises equals or exceeds the remaining term of this Sublease; and (c) the District shall provide evidence that the title insurance required under Section 4.3(5) herein includes such amended, modified, transferred, changed or substituted Leased Premises or, prior to the release of all or any portion of the Leased Premises, the District shall provide evidence that the existing title insurance required under Section 4.3(5) herein on the remaining Leased Premises is not affected by such release.

**2.3 Transfer of Title.** Upon payment of all Base Rental and Additional Rental required by this Sublease with respect to the Leased Premises, or the termination of this Sublease with respect to the Leased Premises other than in connection with an event of default under Section 12 hereof, all fee title and possessory interest in and to such Leased Premises, and any improvements thereon or additions thereto, shall be in or transferred directly to the District or, at the option of the District, to any assignee or nominee of the District, in accordance with the provisions of this Sublease; provided that any instrument of conveyance shall be sufficient if it is in the form of a quitclaim deed.

### **SECTION 3. RENT.**

**3.1 Rental Payments.** The parties hereto agree that, subject to Section 3.5 hereof, the fair rental value of the Leased Premises is not less than the amount set forth in the certificate of the District delivered on the Closing Date, except as adjusted pursuant to Section 14 hereof upon the District's exercise of its option to prepay Base Rental. In satisfaction of its obligations hereunder, the District shall pay Base Rental and Additional Rental in the amounts, at the times and in the manner set forth herein, such amounts constituting in the aggregate the rental payable under this Sublease as follows:

(a) Base Rental. (i) The District agrees to pay from legally available funds Base Rental in the amounts set forth in Exhibit C hereto (“**Base Rental**”), a portion of which shall constitute principal and a portion of which shall constitute interest as determined in accordance with the terms of Exhibit C and subject to Section 3.1(a)(ii). Following the Acquisition Date, Base Rental payable by the District in support of Adjustable Rate Certificates shall be due on the first day of each month during the Lease Term commencing on the first day of the first month following the Acquisition Date, or on the preceding Business Day in the event that any such day is not a Business Day, in accordance with Exhibit C. The first 120 of such monthly payments shall be in the amount of \$100,000; provided that the first payment shall be pro-rated based on the number of days from the Acquisition Date to the first payment date, divided by the number of days in the month in which the Acquisition Date occurred. The next 216 monthly payments shall be in the amount of \$114,166; provided that each twelfth such payment shall be in the amount of \$114,174. Upon the Acquisition Date, Exhibit C shall be revised to reflect the actual date and amount of each monthly payment calculated pursuant to the foregoing. In addition, upon any prepayment of Certificates, Exhibit C may be revised, if necessary, to reflect the Base Rental payments following such prepayment. Any revision to Exhibit C pursuant hereto shall be deemed a ministerial matter and shall not, in and of itself, require adherence to the provisions of Section 11.01(b) of the Trust Agreement. Base Rental payable in any Fiscal Year shall be for the use and occupancy of the Leased Premises for such Fiscal Year.

(ii) The interest components of Base Rental shall be paid by the District as and constitute interest paid on the principal components of Base Rental. The interest components of Base Rental evidenced by Certificates in an Adjustable Rate Mode shall accrue at the Adjusted Interest Rates, calculated as provided in the Trust Agreement. The interest components of Base Rental evidenced by Certificates in the Fixed Rate Mode shall accrue at the Fixed Interest Rate, calculated as provided in the Trust Agreement. Notwithstanding the foregoing, the interest components of Base Rental evidenced by Provider Certificates shall accrue at the Provider Rate, calculated as provided in any applicable Credit and/or Liquidity Facility. Pursuant to the Trust Agreement, the Trustee shall apply Base Rental first to the interest component. Amounts of Base Rental available thereafter shall be applied to the principal component pursuant to the Trust Agreement.

(iii) To secure the performance of its obligation to pay Base Rental in support of Certificates, the District shall deposit Base Rental in support of Certificates with the Trustee on or before the twenty-fifth day of the month immediately preceding the month in which such Base Rental is due, for application by the Trustee in accordance with the terms of the Trust Agreement. In the event any such date of deposit is not a Business Day, such deposit shall be made on the succeeding Business Day.

(iv) In no event shall the amount of Base Rental payable in any Fiscal Year exceed the aggregate amount of principal and interest required to be paid or prepaid with respect to the Certificates in such Fiscal Year.

(b) Additional Rental. In addition to Base Rental set forth herein, the District agrees to pay as Additional Rental all of the following:

(i) All taxes and assessments of any nature whatsoever, including but not limited to excise taxes, ad valorem taxes, ad valorem and specific lien special assessments and gross receipts taxes, if any, levied upon the Leased Premises, or upon any interest of the Authority, the Trustee or the Owners therein or in this Sublease;

(ii) Insurance premiums, if any, on all insurance required under the provisions of Section 4.3 of this Sublease;

(iii) All fees and expenses (not otherwise paid or provided for out of the proceeds of the sale of the Certificates) of the Trustee in connection with the Trust Agreement;

(iv) All fees and expenses payable to any Credit and/or Liquidity Provider or any indemnified person or participant pursuant to any Credit and/or Liquidity Facility, other than amounts payable to any Credit and/or Liquidity Provider with respect to Provider Certificates;

(v) All fees of any Remarketing Agent pursuant to any Remarketing Agreement relating to Adjustable Rate Certificates; and

(vi) Any other fees, costs or expenses incurred by the Authority in connection with the execution, performance or enforcement of this Sublease or any assignment hereof or the Trust Agreement or any of the transactions contemplated hereby or thereby or related to the Leased Premises, including, without limitation, any amounts (not otherwise paid or provided for out of the proceeds of the sale of the Certificates) which may become due.

Amounts constituting Additional Rental payable hereunder shall be paid by the District directly to the person or persons to whom such amounts shall be payable. The District shall pay all such amounts when due or at such later time as such amounts may be paid without penalty or, in any other case, within 60 days after notice in writing from the Trustee to the District stating the amount of Additional Rental then due and payable and the purpose thereof.

**3.2 Consideration.** The payments of Option Payments under this Sublease are for and in consideration of the option to purchase the Leased Premises granted by the Authority to the District. The parties hereto have agreed and determined that such Option Payments are not in excess of the fair market value of the option to purchase the Leased Premises. The payments of Base Rental and Additional Rental under this Sublease for each Fiscal Year or portion thereof during the Lease Term shall constitute the total rental for such Fiscal Year or portion thereof and shall be paid by the District following the Acquisition Date,

for and in consideration of the right to the use and occupancy, and the continued quiet use and enjoyment, of the Leased Premises by the District for and during such Fiscal Year or portion thereof. The parties hereto have agreed and determined that such total rental is not in excess of the total fair rental value of the Leased Premises. In making such determination of fair rental value, consideration has been given to the costs of construction, acquisition, delivery and financing of the Leased Premises, the replacement cost of the Leased Premises, the uses and purposes served by the Leased Premises, and the benefits therefrom that will accrue to the parties by reason of this Sublease and to the general public by reason of the District's use of the Leased Premises.

**3.3 Budget.** The District hereby covenants to take such action as may be necessary to include all Base Rental and Additional Rental due hereunder in its annual budget and to make the necessary annual appropriations for all such Base Rental and Additional Rental, subject to Section 3.5 hereof.

In order to determine the interest components of Base Rental evidenced by Certificates in an Adjustable Rate Mode coming due in a Rental Period for purposes of this Section, it shall be assumed that such interest components shall accrue at no less than the then applicable Cap Rate.

The covenants on the part of the District herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the District to take such action and do such things as are required by law in the performance of such official duty of such officials to enable the District to carry out and perform the covenants and agreements on the part of the District contained in this Sublease. The obligation of the District to make Base Rental or Additional Rental does not constitute an obligation of the District for which the District is obligated to levy or pledge any form of taxation or for which the District has levied or pledged any form of taxation. Neither the Certificates nor the obligation of the District to make Base Rental or Additional Rental constitutes an indebtedness of the District, the State or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.

**3.4 Payment; Credit.** Amounts necessary to pay Base Rental shall be deposited by the District on the dates set forth in Section 3.1(a) hereof in lawful money of the United States of America, at the office of the Trustee in \_\_\_\_\_, California, or at such other place or places as may be established in accordance with the Trust Agreement. Except as provided in Section 3.5 hereof, any amount necessary to pay any Base Rental or portion thereof which is not so deposited shall remain due and payable until received by the Trustee. Notwithstanding any dispute between the District and the Authority hereunder, the District shall make all rental payments when due and shall not withhold any rental payments pending the final resolution of such dispute or for any other reason whatsoever. The District's obligation to make rental payments in the amounts and on the terms and conditions specified hereunder shall be absolute and unconditional without any right of set-off or counterclaim, subject only to the provisions of Section 3.5 hereof. Amounts required to be deposited with the Trustee pursuant to this Section 3.4 on any date shall be reduced to the extent of amounts on deposit on such date in the Certificate Fund (other than in the Prepayment Account) established under the Trust Agreement.

**3.5 Rental Abatement.** Except to the extent of (i) amounts held by the Trustee in the Certificate Fund, (ii) amounts received in respect of rental interruption insurance or title insurance, and (iii) amounts, if any, otherwise legally available to the Trustee for payments in respect of the Certificates, Base Rental due hereunder following the Acquisition Date with respect to the Leased Premises or any portion thereof shall be abated during any period in which, by reason of material damage, destruction, theft, condemnation or defects in title to such Leased Premises or portion thereof, there is substantial interference with the use or right of possession by the District of such Leased Premises or portion thereof. The amount of abatement shall be such that the resulting Base Rental and Additional Rental do not exceed fair rental value for the use and possession of the remaining portions of the Leased Premises as to which the District has beneficial use and occupancy and as to which such damage, destruction, theft, condemnation or title defects do not substantially interfere with the use and right of possession by the District, provided that when determining the fair rental value of the remaining portion of the Leased Premises such determination shall be made based on the greater of the fair rental value of such portion of the Leased Premises at that time or the fair rental value such portion of the Leased Premises would have had on the Closing Date. The Trustee may require a certificate from an appropriate representative of the District to the effect that the resulting total rental does not exceed such fair rental value as elaborated in the preceding sentence. Such abatement shall continue for the period commencing with the date of such substantial interference due to damage, destruction, theft, condemnation or title defects and ending with the restoration of the Leased Premises to tenantable condition. In the event of any such damage, destruction, theft, condemnation or title defects, this Sublease shall continue in full force and effect, except as set forth in Sections 5 and 6 hereof.

**3.6 Triple Net Lease.** This Sublease is intended to be a triple net lease. The District agrees that the rentals provided for herein shall be an absolute net return to the Authority free and clear of any expenses, charges, counter-claim or recoupment or set-offs whatsoever.

**SECTION 4. AFFIRMATIVE COVENANTS OF THE AUTHORITY AND THE DISTRICT.** The Authority and the District are entering into this Sublease in consideration of, among other things, the following covenants:

**4.1 Replacement, Maintenance and Repairs.** The District shall, at its own expense, during the term of this Sublease from and after the Acquisition Date maintain the Leased Premises, or cause the same to be maintained, in good order, condition and repair and shall replace any portion of the Leased Premises which is destroyed; provided that the District shall not be required to repair or replace any such portion of the Leased Premises pursuant to this Section 4.1 if there shall be applied to the prepayment of Certificates insurance proceeds or other legally available funds sufficient to prepay (i) all of the Certificates Outstanding or (ii) any portion thereof relating to the Leased Premises or such portion thereof and Base Rental allocable to the remaining portion of the Leased Premises equals the pro-rata portion of Base Rental allocable to the Certificates Outstanding after such prepayment. The District shall provide or cause to be provided, including by the Authority, all security service, custodial service, janitorial service and other services necessary for the proper upkeep and maintenance of the Leased Premises. It is understood and agreed that in consideration of the payment by the District of the rental herein provided for, the District is entitled to occupy and use the Leased Premises, and, except as hereinafter set forth, no other party shall have any obligation to incur any expense of

any kind or character in connection with the management, operation or maintenance of the Leased Premises during the Lease Term. The Authority shall not be required at any time to make any improvements, alterations, changes, additions, repairs or replacements of any nature whatsoever in or to the Leased Premises except as otherwise required or permitted by the Condominium Documents. The District hereby expressly waives the right to make repairs or to perform maintenance of the Leased Premises at the expense of the Authority and (to the extent permitted by law) waives the benefit of Sections 1932, 1941 and 1942 of the Civil Code of the State relating thereto. The District and the Authority shall keep the Leased Premises free and clear of all liens, charges and encumbrances, subject only to the provisions of Section 4.4 hereof.

Notwithstanding the foregoing, nothing herein is intended to alter the allocation of responsibilities for the repair, replacement, upkeep, maintenance and security of the Leased Premises set out in the Condominium Documents; provided, however, that the District shall not be entitled to withhold or set off against Base Rental due hereunder any amounts arising from any default or alleged default by the Authority under the Condominium Documents or any dispute with respect thereto.

**4.2 Utilities.** Except as otherwise set forth in the Condominium Documents, the District shall pay for the furnishing of all utilities which may be used in or upon the Leased Premises from and after the Acquisition Date during the Lease Term. Such payment shall be made by the District directly to the respective utility companies furnishing such utility services or products, under such contract or contracts therefor as the District may make.

**4.3 Insurance.** The District shall secure and maintain or cause to be secured and maintained at all times from and after the Acquisition Date with insurers of recognized responsibility or through a program of self-insurance to the extent specifically permitted in this Section 4.3, all coverage on the Leased Premises required by this Section 4.3. Such insurance shall consist of:

- (1) A policy or policies of property insurance against loss or damage to the Leased Premises known as "all risk," including earthquake (as scheduled) and flood. Such insurance shall be maintained with respect to the Leased Premises at any time in an amount not less than the aggregate principal amount of Certificates at such time Outstanding with respect to the Leased Premises. Such insurance may at any time include deductible clauses, on a per loss basis in any one year, not to exceed (i) \$50,000, in the case of all risk insurance, (ii) in the case of flood insurance, 2% of the value per structure with respect to locations situated within a 100 year flood plain (as defined by FEMA), subject to a minimum of \$100,000 and a maximum of \$500,000 per occurrence and (iii) 5% of total value per structure per occurrence subject to a \$100,000 minimum for earthquake insurance. However, in the case of all risk and flood insurance, if insurance under this clause is not available from reputable insurers at a reasonable cost, the District may self-insure to the extent necessary to enable it to repair or replace the Leased Premises in accordance with the provisions of Section 4.3 hereof; provided further, in the case of earthquake insurance, the District need not insure against earthquake damage if earthquake insurance is not available from reputable insurers at a reasonable cost;

(2) Commercial general liability coverage against claims for damages including death, personal injury, bodily injury, or property damage arising from operations involving the Leased Premises. Such insurance shall afford protection with a combined single limit of not less than \$1,000,000 per occurrence with respect to bodily injury, death or property damage liability, or such greater amount as may from time to time be recommended by the District's risk management officer or an independent insurance consultant retained by the District for that purpose; provided, however, that the District's obligations under this clause (2) may be satisfied by self-insurance;

(3) Workers' compensation insurance issued by a responsible carrier authorized under the laws of the State to insure employers against liability for compensation under the Labor Code of the State, or any act hereafter enacted as an amendment or supplement thereto or in lieu thereof, such workers' compensation insurance to cover all persons employed by the District in connection with the Leased Premises and to cover full liability for compensation under any such act aforesaid; provided, however, that the District's obligations under this clause (3) may be satisfied by self-insurance;

(4) Rental interruption insurance from a provider rated at least "A" by A.M. Best & Company to cover loss, total or partial, of the use of the Leased Premises as a result of any of the hazards covered by the insurance required pursuant to clause (1) above in an amount sufficient at all times to pay the total rent payable under this Sublease with respect to the Leased Premises for a period adequate to cover the period of repair or reconstruction; provided, however, that the amount payable under such policy shall not be less than the amount equal to two years' maximum Base Rental; and provided further that the District's obligations under this clause (4) shall not be satisfied by self insurance;

(5) A CLTA policy or policies of title insurance for the Leased Premises, in an amount not less than the aggregate principal amount of the Certificates Outstanding. Such policy of title insurance shall show title to the Leased Premises in the name of the Authority or the District, subject to this Sublease and such other encumbrances as will not, in the opinion of the Authority and the District, materially affect the use, occupancy and possession of the Leased Premises and will not result in the abatement of Base Rental payable by the District hereunder with respect to the Leased Premises; and

(6) Boiler and machinery coverage against loss or damage by explosion of steam boilers, pressure vessels and similar apparatus now or hereafter installed on the Leased Premises in an amount not less than \$2,000,000 per accident.

All policies or certificates of insurance issued by the respective insurers or insurance with the exception of workers' compensation insurance, shall provide that such policies or certificates shall not be canceled or materially changed without at least 30 days' prior written notice to the Trustee. A certificate executed by an Authorized District Representative certifying that such policies required or self-insurance permitted by this Section 4.3 have been obtained and that the requirements of this Section 4.3 have been fulfilled shall be deposited with the Trustee by the District before December 31 of each calendar year. To the extent to which the District self-insures, the District's risk manager, or an independent insurance consultant, shall certify to the Trustee before December 31 of each calendar year, the sufficiency of such self-insurance.



All policies or certificates of insurance provided for herein shall name the District as a named insured, and the Authority and the Trustee as additional insureds. All insurance policy claims payments received under clauses (1), (4), (5) and (6) above, shall be deposited with the Trustee for application pursuant to the Trust Agreement. All proceeds of insurance, other than self-insurance, maintained under clauses (2) and (3) shall be deposited with the District.

Notwithstanding the foregoing, but subject to the proviso in Section 4.3(1), the District shall not be required to maintain or cause to be maintained more insurance than is specifically referred to above. Further, notwithstanding any of the foregoing, the District shall not be required to secure or maintain insurance in excess of or different from the insurance required to be secured and maintained by the District pursuant to the Condominium Documents except that rental interruption insurance described in Section 4.3(4) must be maintained.

**4.4 Liens.** The District and, to the extent of work ordered by the Authority, the Authority shall promptly pay or cause to be paid all sums of money that may become due for any labor, services, materials, supplies or equipment alleged to have been furnished or to be furnished to or for, in, upon or about the Leased Premises and which may be secured by any mechanic's, materialman's or other lien against the Leased Premises, or the interest of the Authority therein, and shall cause each such lien to be fully discharged and released; provided, however, that the District or the Authority (i) may contest any such claim or lien without payment thereof so long as such non-payment and contest stays execution or enforcement of the lien, but if such lien is reduced to final judgment and such judgment or such process as may be issued for the enforcement thereof is not stayed, or if stayed and the stay thereafter expires, then and in any such event the District and, to the extent of work ordered by the Authority, the Authority shall forthwith pay and discharge such judgment or lien; or (ii) delay payment without contest so long as and to the extent that such delay will not result in the imposition of any penalty. The District and the Authority shall not, directly or indirectly, create, incur, assume or suffer to exist any pledge, lien, charge, encumbrance or claim on or with respect to the Leased Premises, other than the rights of the Authority and the District as herein provided. Except as expressly provided herein, the District and the Authority shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, if the same shall arise at any time.

**4.5 Laws and Ordinances.** The District agrees to observe and comply with all rules, regulations and laws applicable to the District with respect to the Leased Premises and the operation thereof. The cost, if any, of such observance and compliance shall be borne by the District, and the Authority shall not be liable therefor except as otherwise required or permitted by the Condominium Documents. The District agrees further to place, keep, use, maintain and operate the Leased Premises in such a manner and condition as will provide for the safety of its agents, employees, invitees, subtenants, licensees and the public.

**SECTION 5. APPLICATION OF INSURANCE PROCEEDS.** Proceeds of insurance (other than rental interruption insurance) received in respect of theft of, damage to or destruction of the Leased Premises or portion thereof by fire, earthquake or other casualty or event shall be paid to the Trustee for application in accordance with the provisions of Section 7.08 of the Trust Agreement. If the District elects pursuant to such 7.08 of the Trust Agreement to apply such proceeds to the replacement, repair or reconstruction of the stolen, damaged or

destroyed Leased Premises or portion thereof, Base Rental shall again begin to accrue with respect thereto upon restoration of such Leased Premises to tenantable condition. If the District does not so elect to so apply such proceeds within the time permitted by such Section 7.08, then, upon the prepayment of the Certificates relating to such Leased Premises or portion thereof in accordance with the Trust Agreement, this Sublease shall terminate with respect to such Leased Premises or portion thereof stolen, damaged or destroyed and not replaced, repaired or reconstructed.

Notwithstanding the foregoing, to the extent the application of insurance proceeds herein is inconsistent with the application of insurance proceeds under the Condominium Documents, the Condominium Documents shall prevail to the extent of such inconsistency.

**SECTION 6. EMINENT DOMAIN.** In the event of a taking by eminent domain, there shall be an abatement of Base Rental in accordance with Section 3.5 hereof. If less than a substantial portion of the Leased Premises shall be taken under the power of eminent domain, and the remainder is usable for District purposes, then there shall be an abatement of Base Rental only to the extent of the portion of the Leased Premises which is unusable and this Sublease shall continue in full force and effect and shall not be terminated with respect to such Leased Premises by virtue of such taking and the parties waive the benefit of any law to the contrary. Any award made in eminent domain proceedings for the taking shall be paid to the Trustee for application in accordance with the provisions of Section 7.08 of the Trust Agreement. If the District elects pursuant to such Section 7.08 of the Trust Agreement to apply such proceeds to the repair or replacement of the condemned Leased Premises, then Base Rental shall again begin to accrue with respect thereto upon restoration of such Leased Premises to tenantable condition. If so much of the Leased Premises shall be taken under the power of eminent domain as to render the remainder of such Leased Premises unusable for the District's purposes under this Sublease, and the District does not elect to repair or replace said Leased Premises, then upon prepayment of the Certificates relating to such Leased Premises in accordance with the Trust Agreement this Sublease shall terminate with respect to such Leased Premises.

**SECTION 7. ASSIGNMENT AND LEASE.** The District shall not mortgage, pledge, assign or transfer any interest of the District in this Sublease by voluntary act or by operation of law, or otherwise; provided, however, that the District with the consent of the Authority may sublease all or any portion of the Leased Premises, may grant concessions to others involving the use of any portion of the Leased Premises, whether such concessions purport to convey a leasehold interest or a license to use a portion of the Leased Premises. The District shall at all times remain liable for the performance of the covenants and conditions on its part to be performed under this Sublease, notwithstanding any subletting or granting of concessions which may be made. Nothing herein contained shall be construed to relieve the District from its obligation to pay Base Rental and Additional Rental as provided in this Sublease or to relieve the District from any other obligations contained herein. In no event shall the District sublease or permit the use of all or any part of the Leased Premises to any person so as to cause the interest component of Base Rental to be subject to federal income tax or State personal income tax.

The Authority shall, concurrently with the execution hereof, assign all of its right, title and interest (other than its rights to give consents and approvals hereunder and its rights to

indemnification and payment or reimbursement for any costs or expenses) in and to, but none of its obligations under, this Sublease, including without limitation its right to receive Option Payments and Base Rental payable hereunder, to the Trustee pursuant to the Assignment Agreement, and the District hereby approves such assignment. The parties hereto further agree to execute any and all documents necessary and proper in connection therewith.

**SECTION 8. ADDITIONS AND IMPROVEMENTS; REMOVAL.** The District shall have the right during the Lease Term to make any additions or improvements to the Leased Premises, to attach fixtures, structures or signs, and to affix any personal property to the Leased Premises, so long as the fair market value of the Leased Premises is not thereby reduced. Title to all fixtures, equipment or personal property placed by the District on the Leased Premises shall remain in the District. The title to any personal property, improvements or fixtures placed on the Leased Premises by any sublessee or licensee of the District shall be controlled by the sublease or license agreement between such sublessee or licensee and the District, which sublease or license agreement shall not be inconsistent with this Sublease.

**SECTION 9. RIGHT OF ENTRY.** Representatives of the Authority shall, subject to reasonable security precautions, have the right to enter upon the Leased Premises during reasonable business hours (and in emergencies at all times) (i) to inspect the same, (ii) for any purpose connected with the rights or obligations of the Authority under this Sublease or (iii) for all other lawful purposes.

**SECTION 10. QUIET ENJOYMENT.** The Authority covenants and agrees that the District, by keeping and performing the covenants and agreements herein contained, shall, at all times during the Lease Term, peaceably and quietly have, hold, and enjoy the Leased Premises.

**SECTION 11. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT.** To the extent permitted by law, the District hereby agrees to indemnify and hold harmless the Authority and its officers and directors against any and all liabilities which might arise out of or are related to this Sublease, the Leased Premises or the Certificates, and the District further agrees to defend the Authority and its officers and directors in any action arising out of or related to this Sublease, the Leased Premises or the Certificates.

**SECTION 12. DEFAULT BY DISTRICT; REMEDIES.**

**12.1 Defaults.** If the District shall (i) fail to pay any Base Rental payable hereunder when the same becomes due and payable, time being expressly declared to be of the essence in this Sublease, (ii) become the subject of proceedings under Title 11 of the United States Code or any successor or similar law, act or regulation and such proceedings are not dismissed within 90 days, or (iii) fail to keep, observe or perform any other material term, covenant or condition contained herein or in the Trust Agreement to be kept or performed by the District, the District shall be deemed to be in default hereunder and it shall be lawful for the Authority to exercise any and all remedies available pursuant to law or granted pursuant to this Sublease. The District shall in no event be in default in the observance or performance of any covenant, condition or agreement in this Sublease on its part to be observed or performed, other than as referred to in clause (i) of the preceding sentence, unless the District shall have failed, for a period of 30 days or such additional time as is reasonably required, but in no event greater than

60 days without the prior written consent of the Authority, to correct any such default after notice by the Authority, the Trustee or the Owners of the Certificates to the District properly specifying wherein the District has failed to perform any such covenant, condition or agreement; provided, however, that if the District fails to perform its obligation to deposit Base Rental with the Trustee as set forth in Section 3.1(a)(iii) hereof, then the District shall not be in default unless the District shall have failed, for a period of 5 days, to correct such default after notice by the Trustee or the Owners of the Certificates to the District properly specifying such default.

**12.2 Remedies.** Upon any default set forth in Section 12.1 hereof, the Authority or its assignee (in the case of the Trustee, subject to its rights and protections under the Trust Agreement), in addition to all other rights and remedies it may have at law or in equity, shall have the option to do any of the following:

(a) To terminate this Sublease in the manner hereinafter provided on account of default by the District, notwithstanding any re-entry or re-letting of the Leased Premises as hereinafter provided for in subparagraph (b) hereof, and to re-enter the Leased Premises and remove all persons in possession thereof and all personal property whatsoever situated upon the Leased Premises and place such personal property in storage in any warehouse or other suitable place, for the account of and at the expense of the District. In the event of such termination, the District agrees to surrender immediately possession of the Leased Premises, without let or hindrance, and to pay the Authority all damages recoverable at law that the Authority may incur by reason of default by the District, including, without limitation, any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon the Leased Premises and removal and storage of such property by the Authority or its duly authorized agents in accordance with the provisions herein contained. Neither notice to pay Base Rental or to deliver up possession of the Leased Premises given pursuant to law nor any entry or re-entry by the Authority nor any proceeding in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Leased Premises nor the appointment of a receiver upon initiative of the Authority to protect the Authority's interest under this Sublease shall of itself operate to terminate this Sublease, and no termination of this Sublease on account of default by the District shall be or become effective by operation of law or acts of the parties hereto, or otherwise, unless and until the Authority shall have given written notice to the District of the election on the part of the Authority to terminate this Sublease. The District covenants and agrees that no surrender of the Leased Premises or of the remainder of the term hereof or any termination of this Sublease shall be valid in any manner or for any purpose whatsoever unless stated by the Authority by such written notice.

(b) Without terminating this Sublease, (x) to collect each installment of Base Rental as the same become due and enforce any other terms or provisions hereof to be kept or performed by the District, regardless of whether or not the District has abandoned the Leased Premises, or (y) to exercise any and all rights of entry and re-entry upon the Leased Premises. In the event the Authority does not elect to terminate this Sublease in the manner provided for in subparagraph (a) hereof, the District shall remain liable and agrees to keep or perform all covenants and conditions herein contained to be kept or performed by the District and, if the Leased Premises are not re-let, to pay the full amount of Base Rental to the end of the term of this Sublease or, in the event that the Leased Premises are re-let, to pay any deficiency in Base Rental that results therefrom; and further agrees to pay said Base Rental and/or Base Rental

deficiency punctually at the same time and in the same manner as hereinabove provided for the payment of Base Rental hereunder, notwithstanding the fact that the Authority may have received in previous years or may receive thereafter in subsequent years Base Rental in excess of Base Rental herein specified, and notwithstanding any entry or re-entry by the Authority or suit in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Leased Premises. Should the Authority elect to re-enter as herein provided, the District hereby irrevocably appoints the Authority as the agent and attorney-in-fact of the District to re-let the Leased Premises, or any part thereof, from time to time, either in the Authority's name or otherwise, upon such terms and conditions and for such use and period as the Authority may deem advisable and to remove all persons in possession thereof and all personal property whatsoever situated upon the Leased Premises and to place such personal property in storage in any warehouse or other suitable place, for the account of and at the expense of the District, and the District hereby indemnifies and agrees to save harmless the Authority and the Trustee from any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon and re-letting of the Leased Premises and removal and storage of such property by the Authority or its duly authorized agents in accordance with the provisions herein contained. The District agrees that the terms of this Sublease constitute full and sufficient notice of the right of the Authority to re-let the Leased Premises in the event of such re-entry without effecting a surrender of this Sublease, and further agrees that no acts of the Authority in effecting such re-letting shall constitute a surrender or termination of this Sublease irrespective of the use or the term for which such re-letting is made or the terms and conditions of such re-letting, or otherwise, but that, on the contrary, in the event of such default by the District the right to terminate this Sublease shall vest in the Authority to be effected in the sole and exclusive manner provided for in subparagraph (a) hereof. The District further agrees to pay the Authority the cost of any alterations or additions to the Leased Premises necessary to place the Leased Premises in condition for re-letting immediately upon notice to the District of the completion and installation of such additions or alterations.

(c) The District hereby waives any and all claims for damages caused or which may be caused by the Authority in re-entering and taking possession of the Leased Premises as herein provided and all claims for damages that may result from the destruction of or injury to the Leased Premises and all claims for damages to or loss of any property belonging to the District, or any other person, that may be in or upon the Leased Premises.

(d) Notwithstanding anything contained herein to the contrary, prior to the exercise of the Authority's right hereunder to re-let or otherwise change the use of the Leased Premises after termination of this Sublease, the Authority shall obtain an opinion of Special Counsel to the effect that such use of the Leased Premises will not adversely affect the tax exemption of interest with respect to the Certificates.

(e) In addition to the other remedies set forth in this Section 12.2, upon the occurrence of an event of default under this Section 12, the Authority or its assignee shall be entitled to proceed to protect and enforce the rights vested in the Authority or its assignee by this Sublease or by law. The provisions of this Sublease and the duties of the District and of its board, officers or employees shall be enforceable by the Authority or its assignee by mandamus or other appropriate suit, action or proceeding in any court of competent

jurisdiction. Without limiting the generality of the foregoing, the Authority or its assignee shall have the right to bring the following actions:

(i) *Accounting.* By action or suit in equity to require the District and its board, officers, employees and assigns (if any) to account as the trustee of an express trust.

(ii) *Injunction.* By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the Authority or its assignee.

(iii) *Mandamus.* By mandamus or other suit, action or proceeding at law or in equity to enforce the Authority's or its assignee's rights against the District (and its board, officers and employees) and to compel the District to perform and carry out its duties and obligations under the law and its covenants and agreements with the Authority as provided herein.

(f) Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative and the single or partial exercise of any right, remedy, power or privilege hereunder shall not impair the right of the Authority to the further exercise thereof or the exercise of any or all other rights, remedies, powers or privileges hereunder or at law or in equity. The term "re-let" or "re-letting" as used in this Section 12 shall include, but not be limited to, re-letting by means of the operation by the Authority of the Leased Premises. If any statute or rule of law validly shall limit the remedies given to the Authority hereunder, the Authority nevertheless shall be entitled to whatever remedies are allowable under any statute or rule of law.

In the event the Authority shall prevail in any action brought to enforce any of the terms or provisions of this Sublease, the District agrees to pay a reasonable amount as and for attorney's fees incurred by the Authority in connection with such action.

Notwithstanding anything contained herein to the contrary, the Authority shall have no right upon a default hereunder by the District to accelerate Base Rental.

**12.3 Effect of Termination; No Termination by District.** Notwithstanding anything contained herein to the contrary, (i) the termination of this Sublease by the Authority or its assignees on account of a default by the District under this Section 12 shall not effect or result in a termination of the lease of the Leased Premises by the District to the Authority pursuant to the Site Lease, and (ii) the District shall have no right to terminate this Sublease as a remedy for a default by the Authority in the performance of its obligations hereunder.

**12.4 Application of Damages and Other Payments.** All damages and other payments received by the Authority or its assignee pursuant to the exercise of its rights and remedies pursuant to this Section 12 shall be applied in the manner set forth in Section 9.08 of the Trust Agreement.

**SECTION 13. WAIVER.** Neither the waiver by the Authority of any breach by the District, nor the waiver by the District of any breach by the Authority, of any term, covenant or

condition hereof shall operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.

**SECTION 14. PREPAYMENT.** The District may prepay Base Rental as follows:

(a) The District may prepay all or a portion of Base Rental evidenced by Provider Certificates, from any source of available funds, on any Business Day, by paying all or a portion, as elected by the District, of the principal components of such Base Rental evidenced by Provider Certificates, and the accrued but unpaid interest components of such Base Rental to be prepaid to the date of such prepayment, without premium.

(b) The District may prepay all or a portion of Base Rental evidenced by Certificates, from any source of available funds, on any Business Day on which Certificates may be prepaid under the Trust Agreement, by paying all or a portion (in an amount equal to \$100,000 or an integral multiple of \$5,000 above \$100,000), as elected by the District, of the principal components of such Base Rental, and the accrued but unpaid interest components of such Base Rental to be prepaid to the date of such prepayment, without premium.

(c) Base Rental evidenced by Provider Certificates shall be prepaid prior to the prepayment of any other Base Rental.

(d) The District may prepay, from any source of available funds, all or any portion of Base Rental (other than Base Rental evidenced by Provider Certificates) by depositing with the Trustee moneys or securities as provided, and subject to the terms and conditions set forth, in Article XII of the Trust Agreement sufficient to make such Base Rental when due or to make such Base Rental through a specified date on which the District has a right to prepay such Base Rental pursuant to subsection (b) of this Section, and to prepay such Base Rental on such prepayment date, at a prepayment price determined in accordance with subsection (b) of this Section.

(e) If less than all of the Base Rental payments are prepaid pursuant to this Section then, as of the date of such prepayment pursuant to subsection (b) of this Section, or the date of a deposit pursuant to subsection (d) of this Section, the principal and interest components of Base Rental shall be recalculated in order to take such prepayment into account. The District agrees that if, following a partial prepayment of Base Rental, the Leased Premises are damaged, destroyed or taken by eminent domain, or a defect in title to the Leased Premises is discovered, the District shall not be entitled to, and by such prepayment waives the right of, abatement of such prepaid Base Rental and the District shall not be entitled to any reimbursement of such Base Rental.

(f) Prepayments of Base Rental made pursuant to this Section shall be applied to the prepayment of Certificates as provided in Section 4.02 and 4.03(b) of the Trust Agreement.

(g) Before making any prepayment pursuant to this Article, the District shall give written notice to the Authority and the Purchaser specifying the date on which the prepayment will be made, which date shall be not less than 20 nor more than 60 days from the date such notice is given to the Authority (unless otherwise agreed by the Authority and the

Purchaser); provided, however, that, with respect to Provider Certificates, such notice shall be not less than one Business Day's prior written notice to Authority and the Credit and/or Liquidity Provider, given in accordance with the Credit and/or Liquidity Facility.

(h) In the event the District exercises its option to prepay Base Rental hereunder, then from and after the date of prepayment, each installment of Base Rental shall be reduced by an amount equal to the Base Rental attributable to the Leased Premises or portions thereof so prepaid.

**SECTION 15. VALIDITY.** If any one or more of the terms, provisions, promises, covenants or conditions of this Sublease shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, then each and all of the remaining terms, provisions, promises, covenants and conditions of this Sublease shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

If for any reason this Sublease shall be held by a court of competent jurisdiction void, voidable, or unenforceable by the Authority or by the District, or if for any reason it is held by such a court that any of the covenants and agreements of the District hereunder, including the covenant to pay Base Rental and Additional Rental hereunder, is unenforceable for the full Lease Term, then and in such event for and in consideration of the right of the District to possess, occupy and use the Leased Premises, which right in such event is hereby granted, this Sublease shall thereupon become and shall be deemed to be a lease from year to year under which the annual Base Rental and Additional Rental herein specified will be paid by the District.

**SECTION 16. COUNTERPARTS.** This Sublease may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same agreement.

**SECTION 17. NO MERGER.** If both the Authority's and the District's estate under this or any other lease relating to the Leased Premises or any portion thereof shall at any time for any reason become vested in one owner, this Sublease and the estate created hereby shall not be destroyed or terminated by the doctrine of merger and the District shall continue to have and enjoy all of its rights and privileges as to the separate estates. This Sublease shall not operate as a merger of the District's leasehold estate in the Leased Premises pursuant hereto and its fee estate in the Leased Premises and shall not cause the extinguishment of the leasehold interest granted to the Authority in the Site Lease.

**SECTION 18. GOVERNING LAW.** This Sublease shall be construed and governed in accordance with the laws of the State.

**SECTION 19. AMENDMENT.** This Sublease may be amended by the parties hereto in writing, but only in accordance with and as permitted by the terms of Section 11.01(b) of the Trust Agreement.

**SECTION 20. RIGHTS OF CREDIT AND/OR LIQUIDITY PROVIDER.** As long as any Credit and/or Liquidity Facility is in effect and the Credit and/or Liquidity Provider is not in default of its obligation to honor a draw on the Credit and/or Liquidity Facility, the Credit and/or Liquidity Provider shall be deemed to be the sole and exclusive Owner of the



Outstanding Certificates for purposes of all approvals, consents, waivers, institution of any action, and the direction of all remedies, including but not limited to approval of or consent to any amendment or supplement to this Sublease and the Site Lease which requires the consent or approval of the Owners of a majority of the principal evidenced by the Certificates then Outstanding; provided, however, that the Credit and/or Liquidity Provider shall not be deemed the sole and exclusive Owner of the Outstanding Certificates for such purposes, and shall not have the right to direct or consent to District, Authority, Trustee or Owner action, during any period if:

(a) The Credit and/or Liquidity Provider shall fail to make any payment under the Credit and/or Liquidity Facility when due and such failure shall continue for three Business Days;

(b) Any material provision of the Credit and/or Liquidity Facility shall be held to be invalid by a final, non-appealable order of a court of competent jurisdiction, or the validity or enforceability thereof shall be contested by the Credit and/or Liquidity Provider; or

(c) A proceeding shall have been instituted in a court having jurisdiction in the premises seeking an order for relief, rehabilitation, reorganization, conservation, liquidation or dissolution in respect of the Credit and/or Liquidity Provider and such proceeding is not terminated for a period of 90 consecutive days or such court enters an order granting the relief sought in such proceeding.

**SECTION 21. THIRD PARTY BENEFICIARIES.** Any Credit and/or Liquidity Provider shall be a third-party beneficiary of this Sublease.

**SECTION 22. REFERENCE TO CREDIT AND/OR LIQUIDITY PROVIDER INEFFECTIVE.** Notwithstanding any provisions contained herein to the contrary, after the expiration or termination of a Credit and/or Liquidity Facility and after all amounts owed by the District to the Credit and/or Liquidity Provider of such Credit and/or Liquidity Facility pursuant to such Credit and/or Liquidity Facility have been paid in full, all references to the such Credit and/or Liquidity Provider of such Credit and/or Liquidity Facility contained herein shall be null and void and of no further force and effect.

*The remainder of this page has been intentionally left blank.*

**IN WITNESS WHEREOF**, the parties hereto have executed this Facilities Sublease as of the day and year first above written.

**BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT**

By: \_\_\_\_\_  
Executive Director

Approved as to form:

By: \_\_\_\_\_  
District Counsel

**BAY AREA HEADQUARTERS  
AUTHORITY**

By: \_\_\_\_\_  
Executive Director

Approved as to form:

By: \_\_\_\_\_  
General Counsel

STATE OF CALIFORNIA            )  
COUNTY OF SAN FRANCISCO    )

On \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_ (here insert name & title of the officer), personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

STATE OF CALIFORNIA            )  
COUNTY OF SAN FRANCISCO    )

On \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_ (here insert name & title of the officer), personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

**DESCRIPTION OF THE LEASED PREMISES**

[Attached]

The legal description of the Leased Premises will be added as Exhibit A to this Facilities Sublease when such legal description becomes available.

Notwithstanding anything contained in this Sublease to the contrary, the Leased Premises set forth in this Exhibit A may be amended, modified, released, transferred, changed or substituted by other properties pursuant to Section 2.2 of this Sublease.

## **EXHIBIT B**

### **OPTION PAYMENTS**

[Attached]

Upon execution of this Facilities Sublease, this schedule of Option Payments shall be determined pursuant to Section 1.2 of this Facilities Sublease based on the payment dates of the investments to be held in the Escrow Account of the Acquisition Fund for the Initial Escrow Period. Upon commencement of any Subsequent Escrow Period, this schedule of Option Payments shall be revised based on the payment dates of the investments to be held in the Escrow Account of the Acquisition Fund for such Subsequent Escrow Period.

## **EXHIBIT C**

### **BASE RENTAL PAYMENT SCHEDULE**

[Attached]

Base Rental payments pursuant to Section 3.1 of this Facilities Sublease shall commence on the first day of the first month following the Acquisition Date and shall be paid on the first day of each month thereafter until payments with respect to all the Certificates have been made or provided for. The first 120 of such monthly payments shall be in the amount of \$100,000; provided that the first payment shall be pro-rated based on the number of days from the Acquisition Date to the first payment date, divided by the number of days in the month in which the Acquisition Date occurred. The next 216 monthly payments shall be in the amount of \$114,166; provided that each twelfth such payment shall be in the amount of \$114,174. Upon the Acquisition Date, this Exhibit C shall be revised to reflect the actual date and amount of each monthly payment calculated pursuant to the foregoing and Section 3.1 of this Facilities Sublease.

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**TRUST AGREEMENT  
(BAAQMD OFFICE PROJECT)**

**Dated as of October 1, 2013**

**by and among**

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT,**

**BAY AREA HEADQUARTERS AUTHORITY**

**and**

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,  
as Trustee**

**Relating to the**

**\$ \_\_\_\_\_ BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
CERTIFICATES OF PARTICIPATION  
(BAAQMD OFFICE PROJECT)**

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## TRUST AGREEMENT

**THIS TRUST AGREEMENT (BAAQMD OFFICE PROJECT)** (this “Trust Agreement”), dated as of October 1, 2013, is by and among **THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.**, a national banking association duly organized and existing under and by virtue of the laws of the United States of America, as Trustee (the “Trustee”), the **BAY AREA AIR QUALITY MANAGEMENT DISTRICT**, a regional air pollution control district organized and existing under and by virtue of the laws of the State of California, particularly Division 26, Part 3, Chapter 4 of the California Health and Safety Code (the “District”), and the **BAY AREA HEADQUARTERS AUTHORITY**, a joint powers authority organized and existing under and by virtue of the laws of the State of California, particularly Title 1, Division 7, Chapter 5 of the California Government Code (the “Authority”).

### WITNESSETH:

**WHEREAS**, the District and the Authority have entered into a Site and Facilities Lease, dated as of the date hereof (the “Site Lease”), pursuant to which the District has agreed to lease to the Authority the real property and improvements to be described in Exhibit A to the Site Lease (the “Leased Premises”) commencing on the Acquisition Date; and

**WHEREAS**, the Authority and the District have entered into a Facilities Sublease, dated as of the date hereof (the “Lease”), pursuant to which the Authority has agreed to lease to the District the Leased Premises commencing on the Acquisition Date, in consideration for which the District has agreed to make certain payments of Base Rental and Additional Rental, as defined herein and as more particularly described in the Lease; and

**WHEREAS**, the Authority has granted to the District the option to purchase the Leased Premises from the Authority and prior to the Acquisition Date the District has agreed in the Lease to make payments to the Authority in consideration of the purchase option (the “Option Payments”); and

**WHEREAS**, the Authority and the Trustee have entered into an Assignment Agreement, dated as of the date hereof (the “Assignment Agreement”), pursuant to which the Authority has transferred all of its rights, title and interests (excluding its rights to indemnification and payment or reimbursement for its costs and expenses) in and to the Lease, including the right to receive Option Payments and payments of Base Rental due under the Lease, to the Trustee for the benefit of the Owners of the Bay Area Air Quality Management District Certificates of Participation (BAAQMD Office Project) executed and delivered pursuant to this Trust Agreement (the “Certificates”); and

**WHEREAS**, the Trustee shall execute and deliver the Certificates evidencing proportionate interests in the Lease, including the right to receive Option Payments and Base Rental payable thereunder, and shall undertake such other responsibilities as are assigned to the Trustee pursuant to this Trust Agreement; and

**WHEREAS**, the Certificates shall be executed, delivered and sold prior to the Acquisition Date and the District shall cause the proceeds of such sale to be deposited and

applied pursuant to Article VII hereof, including the deposit to the Escrow Account in the Acquisition Fund (the “Escrow Account”); and

**WHEREAS**, during the Escrow Phase of the Lease, which commences on the Delivery Date and ends on the Acquisition Date, Option Payments under the Lease shall be payable solely from amounts on deposit in the Escrow Account, including investment earnings on such amounts; and

**WHEREAS**, during the Escrow Phase interest with respect to the Certificates shall be in a Term Rate Mode at a Term Rate determined by the District and the Purchaser based on the yield on investments held in the Escrow Account; and

**WHEREAS**, commencing on the Acquisition Date and ending on the last day of the fifth Certificate Year, interest with respect to the Certificates shall be in an Index Rate Mode for a five-year Index Rate Period with an Applicable Spread over the Index Rate Index of 120 basis points, or 1.20% per annum; and

**WHEREAS**, the District and the Authority have determined that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Trust Agreement do exist, have happened and have been performed in due time, form, and manner as required by law, and the parties hereto are duly authorized to execute and enter into this Trust Agreement.

**NOW, THEREFORE**, in consideration of the promises herein contained, of the acceptance by the Trustee of its duties hereby imposed, and of the purchase and acceptance of the Certificates by the Owners thereof, and to fix and declare the terms and conditions upon which the Certificates are to be executed, delivered, secured and accepted by all persons who shall from time to time be or become Owners thereof, and to secure the payment of the Certificates and the interest with respect thereto according to their tenor, purport and effect, and to secure the performance and observance of all of the covenants, agreements and conditions contained therein, herein and in the Lease, the District by these presents does hereby grant, bargain, sell, release, convey, assign, transfer and pledge unto the Trustee for the benefit of the Owners and any provider of credit and/or liquidity support for the Certificates all its right, title and interest in and to all amounts on hand from time to time in the funds and accounts established hereunder and any additional property that may from time to time, by delivery or by writing of any kind, be subjected to the lien hereof by the District or by anyone on its behalf, subject only to the provisions of this Trust Agreement and the Lease.

To have and to hold all of the above unto the Trustee and its successors and assigns forever for the equal and ratable benefit of the Owners from time to time of all the Certificates executed and delivered hereunder and Outstanding (as defined herein) and each provider of credit and/or liquidity support for the Certificates, without any priority of any one Certificate over any other, upon the trusts and subject to the covenants and conditions hereinafter set forth.

## ARTICLE I

### DEFINITIONS; EQUAL SECURITY

**Section 1.01. Definitions.** Unless the context otherwise requires, the terms defined in this Section shall for all purposes hereof and of any amendment hereof or supplement hereto and of the Certificates and of any certificate, opinion, request or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein. Capitalized terms used herein or referred to in other documents or opinions and not otherwise defined herein or therein shall have the meanings assigned to such terms in the Lease.

**“Acquisition”** means the acquisition of the Leased Premises by the District from the Authority pursuant to Article 23 of the 390 Main Street Office Lease between the Authority, as landlord, and the District, as tenant (the “Office Lease”), and the Purchase and Sale Agreement and Joint Escrow Instructions substantially in the form of Exhibit E to the Office Lease, and the satisfaction of all conditions to the commencement of the Rental Phase under the Lease.

**“Acquisition Date”** means the date on which the Acquisition is consummated and all conditions to the commencement of the Rental Phase set forth in the Lease are satisfied.

**“Acquisition Fund”** means the fund by that name established in accordance with Section 7.04 hereof.

**“Additional Rental”** means all amounts payable by the District as Additional Rental pursuant to Section 3.1 of the Lease.

**“Adjustable Rate Certificates”** means the Certificates in any Mode other than the Fixed Rate Mode.

**“Adjustable Rate Mode”** means the Daily Rate Mode, the Weekly Rate Mode, the Commercial Paper Rate Mode, the Index Rate Mode and the Term Rate Mode.

**“Adjusted Interest Rate”** means, with respect to the interest rate applicable to the interest evidenced by a Certificate during any Adjustment Period, the interest rate per annum determined on the applicable Rate Determination Date in accordance with Section 3.01(a)(i), 3.01(a)(ii), 3.01(a)(iii), 3.01(a)(iv), 3.01(a)(v) or 3.01(a)(vi) hereof.

**“Adjustment Period”** means the period of time that any Adjusted Interest Rate remains in effect, which period:

(a) with respect to an Adjustable Rate Certificate in the Daily Rate Mode, shall be the period consisting of one day;

(b) with respect to an Adjustable Rate Certificate in a Weekly Rate Mode, initially shall be the period from and including the first day that such Adjustable Rate Certificate becomes subject to the Weekly Rate Mode to and including the first following Wednesday and thereafter commencing on each Thursday to and including Wednesday of the following week;

(c) with respect to an Adjustable Rate Certificate in a Commercial Paper Rate Mode, shall be the period from and including the first day that such Adjustable Rate Certificate becomes subject to the Commercial Paper Rate Mode to and including the last day of the Commercial Paper Rate Period established pursuant to Section 3.01(a)(iii) hereof;

(d) with respect to an Adjustable Rate Certificate in an Index Rate Mode, shall be the period from and including the first day that such Adjustable Rate Certificate becomes subject to the Index Rate Mode to and including the first following Wednesday and thereafter commencing on each Thursday to and including Wednesday of the following week;

(e) with respect to an Adjustable Rate Certificate in a Term Rate Mode, shall be the period from and including the first day that such Adjustable Rate Certificate becomes subject to the Term Rate Mode to and including the last day of the Term Rate Period established pursuant to Section 3.01(a)(iv) hereof; and

(f) with respect to a Certificate in the Fixed Rate Mode, shall be the period from and including the Conversion Date for such Certificate to the day preceding the maturity date of such Certificate.

No Adjustment Period for an Adjustable Rate Certificate shall extend beyond the day preceding the Principal Payment Date of such Adjustable Rate Certificate.

“**Administrative Expense Fund**” means the fund by that name established in accordance with Section 7.03 hereof.

“**Applicable Spread**” means, for the Initial Index Rate Period, 120 basis points or 1.20% per annum, and thereafter shall have the meaning specified in Section 3.01(a)(vi)(B).

“**Assignment Agreement**” means the Assignment Agreement, dated as of the date hereof, by and between the Authority and the Trustee.

“**Authority**” means the Bay Area Headquarters Authority, a joint powers authority organized and existing under and by virtue of the laws of the State of California, particularly Title 1, Division 7, Chapter 5 of the California Government Code.

“**Authorized Denominations**” means, until such time as the District prepares and distributes, or causes to be distributed, a final official statement as defined in Rule 15c2-12(f)(3) promulgated by the Securities and Exchange Commission, \$1,000,000 and any integral of \$100,000 in excess thereof, and thereafter (a) with respect to Fixed Rate Certificates, Term Rate Certificates and Index Rate Certificates, \$5,000 and any integral multiple thereof, and (b) with respect to all other Adjustable Rate Certificates, \$100,000 and any integral multiple of \$5,000 in excess thereof, provided, however, that if as a result of Principal Payments on the Certificates, it is not possible to deliver all Certificates required or permitted to be Outstanding in a denomination permitted above, Certificates may be delivered, to the extent necessary, in different denominations.



**“Authorized District Representative”** means the Executive Director or his designee set forth in writing and any other person authorized by the governing body of the District to act on behalf of the District under or with respect to this Trust Agreement.

**“Base Rental”** means all amounts payable to the Authority by the District as Base Rental pursuant to Section 3.1 of the Lease.

**“Base Rental Account”** means the account by that name established within the Certificate Fund in accordance with Section 7.05(a) hereof.

**“Beneficial Owners”** means those individuals, partnerships, corporations or other entities for whom the Participants have caused the Depository to hold Book-Entry Certificates.

**“Book-Entry Certificates”** means the Certificates registered in the name of the nominee of DTC, or any successor securities depository for the Certificates, as the registered owner thereof pursuant to the terms and provisions of Section 2.11 hereof.

**“Business Day”** means a day which is not (a) a Saturday, Sunday or legal holiday in the State of California, (b) a day on which banking institutions in the State of California, or in any state in which the Principal Office of the Trustee is located are required or authorized by law (including executive order) to close, (c) a day on which banking institutions in the state in which the office of the Credit and/or Liquidity Provider at which draws are required to be presented under the Credit and/or Liquidity Facility then in force is located are required or authorized by law (including executive order) to close or a day on which the principal office of the Remarketing Agent in New York, New York is closed, provided that the provisions of this clause (c) shall apply only if Adjustable Rate Certificates are Outstanding and a Remarketing Agent is in place hereunder, or (d) a day on which the New York Stock Exchange is closed. Unless otherwise specifically provided in this Trust Agreement or the Lease, if the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Trust Agreement or the Lease, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Trust Agreement or the Lease and no interest shall accrue for the period from and after such nominal date (provided, however, that such extended time shall be included in the computation of interest evidenced by Provider Certificates).

**“Calendar Week”** means, for purposes of Index Rate Certificates and Weekly Rate Certificates, the period of seven (7) days from and including Thursday of any week through and including Wednesday of the next following week.

**“Cap Rate”** means (a) with respect to Certificate Years one through five, 3.20% per annum; (b) with respect to Certificate Years six through ten, 4.20% per annum; and (c) with respect to Certificate Year eleven and all subsequent Certificate Years until no Certificates remain Outstanding, 5.20%.

**“Cede & Co.”** means Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Certificates.

“**Certificate Fund**” means the fund by that name established in accordance with Section 7.05 hereof.

“**Certificate of the District**” means an instrument in writing signed by an Authorized District Representative. If and to the extent required by the provisions of Section 13.05 hereof, each Certificate of the District shall include the statements provided for in Section 13.05 hereof.

“**Certificate Year**” means the period commencing on the first day of the month immediately following the anniversary of the Acquisition Date in each year through and including the last day of the month in which the anniversary of the Acquisition Date occurs in the immediately following year; provided that the first Certificate year shall commence on the Acquisition Date and end on the last day of the month in which the first anniversary of the Acquisition Date occurs.

“**Certificates**” means the Bay Area Air Quality Management District Certificates of Participation (BAAQMD Office Project) executed and delivered by the Trustee pursuant hereto in the aggregate principal amount of \$\_\_\_\_\_, including any Adjustable Rate Certificates that constitute Provider Certificates hereunder.

“**Change in Mode**” means any change pursuant to Section 3.01 hereof from one Mode to another Mode.

“**Code**” means the Internal Revenue Code of 1986.

“**Commercial Paper Rate**” means the rate applied to the interest component of Base Rental during a Commercial Paper Rate Mode, which rate shall be determined in accordance with Section 3.01(a)(iii) hereof.

“**Commercial Paper Rate Certificate**” means a Certificate the interest component of which is determined at the Commercial Paper Rate.

“**Commercial Paper Rate Mode**” means the Adjustable Rate Mode in which the duration of each Adjustment Period is determined in accordance with clause (c) of the definition of Adjustment Period.

“**Commercial Paper Rate Period**” means each period during which Certificates bear interest at a Commercial Paper Rate determined pursuant to Section 3.01(a)(iii).

“**Condominium Documents**” means the Declaration of Covenants, Conditions and Restrictions of the Agency Space at 390 Main Street, San Francisco, California by the Bay Area Headquarters Authority [dated \_\_\_\_\_, 2013].

“**Consensual Rate Determination**” shall have the meaning given to that term in Section 3.02.

“**Consensual Rate Determination Notice**” shall have the meaning given to that term in Section 3.02.

“**Conversion**” means any conversion of the Certificates from one Mode to another, including, without limitation, any continuation of an Adjustable Rate Mode following the end of a Rate Period, which may be made from time to time in accordance with the terms of Section 3.01(b).

“**Conversion Date**” means the date on which the determination of the interest component of Base Rental is converted from one Adjustable Rate Mode to another Adjustable Rate Mode or to the Fixed Rate Mode; or continued in an Adjustable Rate Mode following the end of a Rate Period, provided, however, that notwithstanding anything to the contrary herein, the term “Conversion Date” shall include any date on which the Certificates may be optionally redeemed pursuant to Section 4.02.

“**Conversion Notice**” means a written notice delivered by an Authorized District Representative to the Notice Parties pursuant to Sections 3.01(b)(i)(A) and 3.01(b)(iii)(A) advising that the District intends to exercise its right to convert the Mode for the Certificates.

“**Conversion Order**” means the Order of the District delivered at least two Business Days prior to each Conversion Date pursuant to Section 3.01, which shall specify the application of proceeds of the remarketing of the Certificates on the Conversion Date, the revised maturity schedule for the Certificates, if any, which shall apply on and after the Conversion Date, the revised redemption provisions, if any, which shall apply to the Certificates on and after the Conversion Date, the Mode to be in effect on and after the Conversion Date, the Rate Period to be in effect on and after the Conversion Date, the Index or Index Rate Index to be in effect on and after the Conversion Date, the Applicable Spread (if converting to or continuing in the Index Rate Mode) to be in effect on and after the Conversion Date, the Adjusted Interest Rate (if converting to or continuing in a Term Rate Mode or if converting to a Fixed Rate Mode) to be in effect on and after the Conversion Date, the Credit and/or Liquidity Facility, if any, to be in effect on and after the Conversion Date, the Credit and/or Liquidity Provider, if any, to be in place on and after the Conversion Date, the Remarketing Agent, if any, to be in place on and after the Conversion Date, and such other matters as the District shall determine are necessary to include in such Conversion Order, and which Conversion Order may instruct the Trustee to establish an additional fund or accounts to facilitate payment of the costs of the Conversion.

“**Costs of Issuance**” means all the costs of executing and delivering the Certificates, including, but not limited to, printing expenses, rating agency fees, filing and recording fees, initial fees, expenses and charges of the Trustee and its counsel (including the Trustee’s initial annual administrative fee), the fees and expenses of the Placement Agent, fees, charges and disbursements of attorneys, financial advisors, accounting firms, consultants and other professionals, fees and charges for preparation, execution and safekeeping of the Certificates and any other cost, charge or fee in connection with the original execution and delivery of the Certificates.

“**Costs of Issuance Fund**” means the fund by that name established in accordance with Section 7.02 hereof.

“**Credit and/or Liquidity Facility**” means a letter of credit, line of credit, standby bond purchase agreement, bond insurance policy, surety or any other facility, if any, supporting the

payment of the Base Rental or the Purchase Price. On the Delivery Date there is no Credit and/or Liquidity Facility in place.

**“Credit and/or Liquidity Provider”** means any bank, insurance company or other financial institution providing a Credit and/or Liquidity Facility. On the Delivery Date there is no Credit and/or Liquidity Provider.

**“Daily Put Certificates”** shall have the meaning given to that term in Section 5.06(a)(i).

**“Daily Rate”** means the rate applied to the interest component of Base Rental during a Daily Rate Mode, which rate shall be determined in accordance with Section 3.01(a)(i) hereof.

**“Daily Rate Certificate”** means a Certificate the interest component of which is determined at the Daily Rate.

**“Daily Rate Index”** means, on any Business Day, the SIFMA Municipal Swap Index or, if the SIFMA Municipal Swap Index is no longer published, an index or rate agreed upon by the District and the Remarketing Agent; provided, however, that if the Remarketing Agent advises the Trustee and the District that the use of such index would not result or no longer results in a market rate of interest on the Certificates, “Daily Rate Index” shall mean an index agreed to by the District and the Remarketing Agent that would result in a market rate of interest on the Certificates, which Daily Rate shall in no event exceed the Cap Rate.

**“Daily Rate Mode”** means the Adjustable Rate Mode in which the duration of each Adjustment Period is determined in accordance with clause (a) of the definition of Adjustment Period.

**“Daily Rate Period”** means any period during which the Certificates bear interest at the Daily Rate.

**“Default Rate”** has the meaning set forth in any Credit and/or Liquidity Facility.

**“Defeasance Securities”** means (a) direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), (b) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by, the United States of America or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the United States of America including:

- U.S. treasury obligations
- All direct or fully guaranteed obligations
- Farmers Home Administration
- General Services Administration
- Guaranteed Title XI financing
- Government National Mortgage Association (GNMA)
- State and Local Government Series

or (c) obligations described in clause B(7) of the definition of Permitted Investments.

Any security used for defeasance must provide for the timely payment of principal and interest and cannot be callable or prepayable prior to maturity or earlier prepayment of the rated debt (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date).

“**Delivery Date**” means October \_\_\_\_, 2013.

“**Depository**” means, initially, DTC, as the securities depository acting as Depository pursuant to Section 2.11 hereof.

“**District**” means the Bay Area Air Quality Management District, a regional air pollution district organized and existing under and by virtue of the laws of the State of California, particularly Division 26, Part 3, Chapter 4 of the California Health and Safety Code.

“**DTC**” means The Depository Trust Company, New York, New York and its successors.

“**Electronic Means**” means e-mail, telecopy, or other accepted means of digital communication.

“**EMMA**” means the Electronic Municipal Market Access System maintained by the Municipal Securities Rulemaking Board.

“**Escrow Account**” means the account of that name established within the Acquisition Fund pursuant to Section 7.04 hereof.

“**Escrow Period**” shall have the meaning given to that term in Section 2.12.

“**Escrow Phase**” means the period commencing on the Delivery Date and ending on the consummation of the Acquisition on the Acquisition Date, during which Option Payments under the Lease shall be made solely from amounts held in the Escrow Account within the Acquisition Fund, including investment earnings on such amounts.

“**Expiration Date**” means the stated expiration date of any Credit and/or Liquidity Facility, as it may be extended from time to time as provided in such Credit and/or Liquidity Facility.

“**Extraordinary Prepayment Event**” means that the Acquisition has not been consummated and the Acquisition Date has not occurred by October 31, 2017, as such date may be extended by mutual agreement of the Purchaser and the District.

“**Failed Tender Date**” means, for Certificates bearing interest at a Term Rate or an Index Rate, the date on which insufficient funds are available for the purchase of all Certificates tendered or deemed tendered and required to be purchased at the end of the Term Rate Period or Index Rate Period as described in Section 5.10.

“**Fitch**” means Fitch Ratings and its successors and assigns.

**“Fixed Rate”** means the rate applied to the interest component of Base Rental during the Fixed Rate Mode, which rate shall be determined in accordance with Section 3.01(a)(v) hereof.

**“Fixed Rate Certificate”** means a Certificate the interest component of which is determined at the Fixed Rate.

**“Fixed Rate Computation Date”** means any Business Day during the period from and including the date of receipt of a Conversion Notice relating to a Fixed Rate Conversion to and including the Business Day next preceding the proposed Conversion Date.

**“Fixed Rate Conversion Date”** means the Conversion Date on which the interest rate on the Certificates shall be converted to a Fixed Rate (or, with respect to notices, time periods and requirements in connection with the proceedings for each such Conversion, the day on which it is proposed that such Conversion occur).

**“Fixed Rate Mode”** means the Mode in which the duration of the Adjustment Period is determined in accordance with clause (f) of the definition of Adjustment Period.

**“Fixed Rate Period”** means the period from and including the Fixed Rate Conversion Date of the Certificates to and including their final maturity date or earlier date of redemption.

**“Index”** means the Daily Rate Index, the Weekly Rate Index and the Index Rate Index.

**“Index Agent”** means such Person designated by the District to act as such with respect to the Certificates bearing interest at an Index Rate, as provided in Section 3.01(a)(vi). Except as otherwise designated by the District, the Index Agent shall be the Trustee.

**“Index Rate”** means the rate applied to the interest component of Base Rental during an Index Rate Mode, which rate shall be determined in accordance with Section 3.01(a)(vi) hereof.

**“Index Rate Certificate”** means a Certificate the interest component of which is determined at the Index Rate.

**“Index Rate Continuation Notice”** shall have the meaning given to that term in Section 3.05(a)(vi)(D).

**“Index Rate Conversion Date”** means: (i) the Conversion Date on which the interest rate on any Certificates shall be converted to an Index Rate; and (ii) the date on which a new Index Rate Period and Index Rate are to be established (or, with respect to notices, time periods and requirements in connection with the proceedings for each such Conversion, the day on which it is proposed that such Conversion occur). Notwithstanding anything herein to the contrary, the Acquisition Date shall be an Index Rate Conversion Date.

**“Index Rate Determination Date”** means (i) with respect to the SIFMA Municipal Swap Index, the Conversion Date, and thereafter, each Wednesday, or if any such Wednesday is not a Business Day, then the next preceding Business Day, such date being the same day the SIFMA Municipal Swap Index is expected to be published or otherwise made available to the Index Agent; and if the SIFMA Municipal Swap Index is published on a different day, such day

will be the Index Rate Determination Date; and the Index Rate so calculated will apply to the Calendar Week from and including the immediately succeeding Thursday through and including the following Wednesday; and (ii) with respect to the Three-Month LIBOR Rate, a date that is two London Banking Days preceding the date of a Conversion to the Index Rate Period, a date that is two London Banking Days preceding each Purchase Date during the Index Rate Period, and a date that is two London Banking Days preceding each Interest Payment Date during the Index Rate Period; provided, that if the District specifies alternative dates as “Index Rate Determination Dates” for any Certificates in the Conversion Order delivered in connection with the Conversion of such Certificates, “Index Rate Determination Date” shall mean the dates specified in such Conversion Order; and provided further, that “Index Rate Determination Date” shall mean such other date as is determined by the District in consultation with the Remarketing Agent in accordance with Section 3.01(a)(vi)(A).

“**Index Rate Index**” means 100% of the SIFMA Municipal Swap Index or, if the SIFMA Municipal Swap Index is not available, 67% of the Three-Month LIBOR Rate or, if neither the SIFMA Municipal Swap Index nor the Three-Month LIBOR Rate is available, 67% of the Treasury Rate; provided that “Index Rate Index” shall mean such other index as is determined by the District in consultation with the Remarketing Agent at the commencement of an Index Rate Period in accordance with Section 3.01(b)(i)(B).

“**Index Rate Mode**” means the Adjustable Rate Mode in which the duration of each Adjustment Period is determined in accordance with clause (d) of the definition of Adjustment Period.

“**Index Rate Period**” means any period during which the Certificates bear interest at the Index Rate.

“**Initial Escrow Period**” shall have the meaning given to that term in Section 2.12.

“**Initial Index Rate Period**” shall mean the Index Rate Period commencing on the Acquisition Date and ending on the last day of the fifth Certificate Year thereafter.

“**Interest Account**” means the account by that name established within the Certificate Fund in accordance with Section 7.04(b) hereof.

“**Interest Payment Date**” means (a) with respect to the Certificates: (i) in the Daily Rate Mode or the Weekly Rate Mode, the first Business Day of each calendar month; (ii) in the Commercial Paper Rate Mode, the day immediately succeeding the last day of each Commercial Paper Rate Period for such Certificates; (iii) each Conversion Date and each date of mandatory tender pursuant to Section 5.02 if such date is not otherwise an Interest Payment Date and, with respect to Term Rate Periods during the Escrow Phase, the day investment earnings on amounts held in the Escrow Account are received by the Trustee; (iv) in any Term Rate Mode (other than Term Rate Periods during the Escrow Phase) or in the Fixed Rate Mode, each Semi-Annual Interest Payment Date; and (v) in the Index Rate Mode, on the first Business Day of each calendar month, or on such other periodic dates as shall be selected by the District in accordance with Section 3.01(a)(vi)(A); (b) with respect to any Provider Certificates, the dates specified as

interest payment dates in the applicable Credit and/or Liquidity Facility; and (c) in all events, the Acquisition Date, the final maturity date, Redemption Date or Purchase Date of each Certificate.

“**Lease**” means the Facilities Sublease (BAAQMD Office Project), dated as of the date hereof, between the Authority and the District with respect to the Leased Premises, including any amendments or supplements thereto.

“**Leased Premises**” means the real property and improvements described in Exhibit A to the Site Lease and the Lease, as such Exhibit A may be modified from time to time including, without limitation, on the Acquisition Date.

“**Letter of Representations**” means the letter of the District delivered to and accepted by the Depository on or prior to the delivery of the Certificates as Book-Entry Certificates setting forth the basis on which the Depository serves as depository for such Book-Entry Certificates, as originally executed or as it may be supplemented or revised or replaced by a letter to a substitute Depository.

“**London Banking Day**” means any day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency) in the City of London, United Kingdom.

“**Mandatory Purchase Date**” means (a) the date of any Change in Mode or any Conversion Date, other than (i) any continuation of the Term Rate Mode for any Subsequent Escrow Period, (ii) the automatic Conversion to an Index Rate Mode for the Initial Index Rate Period on the Acquisition Date, or (iii) any Change in Mode or any Conversion Date occurring in connection with a Consensual Rate Determination, none of which shall be a Mandatory Purchase Date, (b) any Substitution Date, (c) the fifth Business Day prior to the Expiration Date, and (d) the fifth Business Day following the Trustee’s receipt of a written notice from a Credit and/or Liquidity Provider that either (x) an event of default (as defined in the Credit and/or Liquidity Facility) has occurred and directing the Trustee to give notice of the mandatory purchase of Adjustable Rate Certificates in accordance with Section 5.02(f) hereof, or (y) when the amount of the Credit and/or Liquidity Facility has been reduced by a drawing thereunder to pay interest only on the Adjustable Rate Certificates, and the Credit and/or Liquidity Provider will not reinstate the amount of the Credit and/or Liquidity Facility by an amount equal to the amount so drawn.

“**Mandatory Sinking Account Payment**” means payments to be made of principal evidenced by Certificates pursuant to the table set forth in Section 4.03 hereof and payments to be made of principal to the extent of amounts on hand in the Base Rental Account of the Certificate Fund following the transfers to the Interest Account and the Principal Account on each Mandatory Sinking Account Payment Date pursuant to Section 4.03 hereof.

“**Mandatory Sinking Account Payment Date**” means (a) for the Certificates, on each January 1, from and after the first January 1 occurring at least twelve months following the Acquisition Date, and (b) with respect to Provider Certificates, the dates determined pursuant to the applicable Credit and/or Liquidity Facility.



**“Mandatory Tender Certificates”** shall have the meaning specified in Section 5.06(c)(i).

**“Maximum Rate”** means 12% per annum, subject to the Cap Rate in all instances excepting only with respect to Provider Certificates.

**“Mode”** means the Daily Rate Mode, the Weekly Rate Mode, the Commercial Paper Rate Mode, the Index Rate Mode, the Term Rate Mode or the Fixed Rate Mode.

**“Moody’s”** means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and assigns.

**“Net Proceeds”** means the proceeds of insurance or condemnation proceedings pursuant to the Lease, less the costs of obtaining such proceeds.

**“Nominee”** means Cede & Co. as the nominee of the Depository, which may be the Depository, as determined from time to time pursuant to Section 2.11 hereof.

**“Notice Parties”** means the Authority, the District, the Trustee, any Remarketing Agent and any Credit and/or Liquidity Provider.

**“Notice of Change in Mode”** means the notice required to be delivered by the Trustee to the Owners prior to any Change in Mode pursuant to Section 3.01(b)(iv) hereof.

**“Office Lease”** means the 390 Main Street Office Lease between the Authority, as landlord, and the District, as tenant.

**“Option Payments”** means the payments made by the District to the Authority under the Lease in consideration of the option to purchase the Leased Premises granted to the District by the Authority in the Office Lease.

**“Optional Purchase Date”** means each date on which the Certificates would be subject to optional prepayment pursuant to Section 4.02 and therefore are subject to purchase at the option of the District pursuant to Article VI.

**“Optional Purchase Price”** means, with respect to the purchase of Certificates to be purchased pursuant to Article VI on any Optional Purchase Date, the principal amount of the Certificates to be purchased on such Optional Purchase Date, plus accrued interest to such Optional Purchase Date, plus an amount equal to the premium, if any, that would be payable upon the prepayment, at the option of the District exercised on such Optional Purchase Date, of the Certificates to be purchased.

**“Outstanding”** when used as of any particular time with reference to Certificates, means (subject to the provisions of Section 11.02 and 7.05(e) hereof) all Certificates except:

- (a) Certificates previously canceled by the Trustee or delivered to the Trustee for cancellation;

(b) Certificates paid or deemed to have been paid within the meaning of Section 12.01 hereof; and

(c) Certificates in lieu of or in substitution for which other Certificates shall have been executed and delivered by the Trustee pursuant to Section 2.09 hereof;

provided, however, that, notwithstanding the foregoing, Provider Certificates shall remain Outstanding until the Credit and/or Liquidity Provider is paid all amounts due on such Certificates.

**“Owner”** means any person who shall be the registered owner of any Outstanding Certificate as indicated in the Registration Books of the Trustee required to be maintained pursuant to Section 2.07 hereof.

**“Participants”** means those broker-dealers, Credit and/or Liquidity Providers and other financial institutions from time to time for which the Depository holds Book-Entry Certificates as securities depository.

**“Permitted Investments”** means any of the following to the extent then permitted by the general laws of the State of California applicable to investments by local agencies:

A. The following obligations for all purposes:

(1) Cash (insured at all times by the Federal Deposit Insurance Corporation),

(2) Obligations of, or obligations fully and unconditionally guaranteed as to the timely payment of principal and interest by, the United States of America or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the United States of America including:

- U.S. treasury obligations
- All direct or fully guaranteed obligations
- Farmers Home Administration
- General Services Administration
- Guaranteed Title XI financing
- Government National Mortgage Association (GNMA)
- State and Local Government Series

(3) Obligations described in clause B(7) below.

B. The following obligations for all purposes other than defeasance investments in refunding escrow accounts:

(1) Obligations of any of the following federal agencies which obligations represent the full faith and credit of the United States of America, including:

- Export-Import Bank
- Rural Economic Community Development Administration

- U.S. Maritime Administration
- Small Business Administration
- U.S. Department of Housing & Urban Development (PHAs)
- Federal Housing Administration
- Federal Financing Bank

(2) Direct obligations of any of the following federal agencies which obligations are not fully guaranteed by the full faith and credit of the United States of America:

- Mortgage-backed securities and senior debt obligations issued by the Federal National Mortgage Association (FNMA or Fannie Mae)
- Senior debt obligations or participation certificates issued by the Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac)
- Obligations of the Resolution Funding Corporation (REFCORP)
- Senior debt obligations of the Federal Home Loan Bank System
- Senior debt obligations of other Government Sponsored Agencies approved by the Credit and/or Liquidity Provider

(3) U.S. dollar denominated deposit accounts including trust funds, trust accounts, time deposits, interest bearing deposits, overnight banking deposits, interest bearing money market accounts, demand deposits, certificates of deposit (including those placed by a third party pursuant to an agreement between the District and the Trustee), federal funds and bankers' acceptances with domestic commercial banks (including the Trustee and its affiliates) which have a rating on their short term certificates of deposit on the date of purchase of "P-1" by Moody's and "A-1" or "A-1+" by S&P and maturing not more than 360 calendar days after the date of purchase, or which are fully FDIC-insured. (Ratings on holding companies are not considered as the rating of the bank);

(4) Commercial paper which is rated at the time of purchase in the single highest classification, "P-1" by Moody's and "A-1+" by S&P and which matures not more than 270 calendar days after the date of purchase;

(5) Investments in a money market mutual fund rated "AAAm" or "AAAm-G" or better by S&P or the highest rating category by Moody's, including funds for which the Trustee and its affiliates provide investment advisory or other management services, including as investment manager, administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to this Trust Agreement, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Trust Agreement may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee;

(6) repurchase and reverse repurchase agreements collateralized with securities described in clause A.(2) of this definition, including those of the Trustee or any of its affiliates;

(7) The investment pool maintained by San Mateo County or any successor California state or county treasury pool approved by the District's governing board;

(8) Pre-refunded municipal obligations defined as follows: any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and

(A) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of Moody's or S&P or any successors thereto; or

(B) (i) which are fully secured as to principal and interest and prepayment premium, if any, by an escrow consisting only of cash or obligations described in paragraph A(2) above, which escrow may be applied only to the payment of such principal of and interest and prepayment premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified prepayment date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and prepayment premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate;

(9) Municipal obligations rated at the time of purchase in the single highest long-term classification, "Aaa" by Moody's or "AAA" by S&P, or rated at the time of purchase in the single highest short-term classification, "P-1" by Moody's or "A-1+" by S&P, or general obligations of States with a long-term rating at the time of purchase of "A2" or higher by Moody's or "A" or higher by S&P, or State general obligations rated at the time of purchase in the single highest short-term classification, "P-1" by Moody's or "A-1+" by S&P;

(10) Investment Agreements approved in writing by the Purchaser or any Credit and/or Liquidity Provider (supported by appropriate opinions of counsel);

(11) Deposits with the Local Agency Investment Fund (LAIF) of the State, as may otherwise be permitted by law; and

(12) Other forms of investments (including repurchase agreements) approved in writing by the Purchaser or any Credit and/or Liquidity Provider.

The value of the above investments shall be determined as follows:

For the purpose of determining the amount in any fund, all Permitted Investments credited to such fund shall be valued at fair market value. The Trustee shall be entitled to use and rely conclusively and without liability upon any generally

recognized pricing information service (including brokers and dealers in securities) available to it in determining the fair market value.

**“Person”** means an individual, corporation, firm, association, partnership, limited liability company, trust, or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

**“Prepayment Account”** means the account by that name established within the Certificate Fund in accordance with Section 7.05(d) hereof.

**“Principal Account”** means the account by that name established within the Certificate Fund in accordance with Section 7.05(c) hereof.

**“Principal Office”** means the Trustee’s corporate trust office in San Francisco, California, or such other or additional offices as may be specified by the Trustee in writing to the District, except that with respect to presentation of Certificates for payment or for registration of transfer and exchange, such term shall mean the designated corporate trust operations or agency office.

**“Principal Payment Date”** means the date on which the principal evidenced by the Certificates becomes due and payable, which shall be January 1 of the 30<sup>th</sup> Certificate Year unless earlier prepaid.

**“Provider Certificates”** means any Adjustable Rate Certificates registered in the name of a Credit and/or Liquidity Provider or, as notified in writing by such Credit and/or Liquidity Provider to the Trustee, its nominee pursuant to Section 5.11 hereof.

**“Provider Rate”** means the rate of interest applicable to the interest evidenced by Provider Certificates determined pursuant to an applicable Credit and/or Liquidity Facility, not to exceed the Maximum Rate.

**“Purchase Contract”** means the Purchase Contract, dated September \_\_\_\_, 2013, by and among the Purchaser, the Authority and the District relating to the purchase of the Certificates.

**“Purchase Date”** means (a) with respect to any Adjustable Rate Certificate in the Daily Rate Mode, any Business Day, (b) with respect to any Adjustable Rate Certificate in the Weekly Rate Mode, any Business Day at least seven days after receipt by the Trustee of irrevocable written notice, (c) with respect to any Adjustable Rate Certificate in a Commercial Paper Mode or Term Mode, the first day of the next succeeding Adjustment Period, (d) with respect to any Adjustable Rate Certificate in the Index Rate Mode, the first day of the next succeeding Index Rate Period, and (e) with respect to any Adjustable Rate Certificate, any Conversion Date. In instances of Consensual Rate Determinations in connection with phrases (d) and (e), there shall be no purchase on such Purchase Date.

**“Purchase Fund”** means the fund by that name established and held by the Trustee pursuant to Section 5.08 hereof.

**“Purchase Price”** means (a) with respect to any Adjustable Rate Certificates to be purchased on any Purchase Date, an amount equal to 100% of the principal amount thereof, plus, if the Purchase Date is not an Interest Payment Date, accrued interest, if any, to such Purchase Date; provided, however, that if such Purchase Date is after a Record Date and on or prior to the next succeeding Interest Payment Date, such Purchase Price shall not include accrued interest, which shall be paid to the Owner as of the applicable Record Date.

**“Purchaser”** means the Bay Area Headquarters Authority, as initial purchaser of the Certificates pursuant to the Purchase Contract and for so long as it is the Beneficial Owner of all of the Outstanding Certificates.

**“Rate”** means, with respect to any Certificate, the interest rate applicable to such Certificate as provided in this Trust Agreement.

**“Rate Determination Date”** means, with respect to any Adjusted Interest Rate for any Adjustment Period, the date on which such Adjusted Interest Rate shall be determined, which (a) in the case of the Daily Rate Mode shall be each Business Day, (b) in the case of the Weekly Rate Mode, shall be each Wednesday by 10:00 a.m. or, if Wednesday is not a Business Day, the next succeeding day, or if such day is not a Business Day, then the Business Day next preceding such Wednesday, (c) in the case of the Commercial Paper Rate Mode, shall be not later than 12:30 p.m. on the first day of each Commercial Paper Rate Period, (d) in the case of the Index Rate Mode, shall be the Index Rate Determination Date, and (e) in the case of the Term Rate Mode (other than during the Escrow Period) and the Fixed Rate Mode, shall be a date determined through a Consensual Rate Determination or, in the absence thereof, by the Remarketing Agent which shall be at least one Business Day but no more than ten Business Days prior to the first day of such Adjustment Period.

**“Rate Period”** means any Daily Rate Period, Weekly Rate Period, Commercial Paper Rate Period, Index Rate Period, Term Rate Period or Fixed Rate Period.

**“Rating Agencies”** or **“Rating Agency”** means one or all of Moody’s, Fitch or S&P or, in the event that Moody’s, Fitch or S&P no longer maintains a rating on the Certificates, any other nationally recognized bond rating agency acceptable to the District, but, in each instance, only so long as Moody’s, Fitch or S&P or such other nationally recognized rating agency then maintains a rating on the Certificates.

**“Record Date”** means (a) with respect to Adjustable Rate Certificates in the Daily Rate Mode, the Weekly Rate Mode, Commercial Paper Rate Mode, or Index Rate Mode, the last day of the calendar month preceding each Interest Payment Date, (b) with respect to Adjustable Rate Certificates in the Term Rate Mode or Fixed Rate Certificates, the 15th day of the calendar month preceding each Interest Payment Date, whether or not such day is a Business Day, and (c) any date established by the Trustee pursuant to Section 2.03(b) hereof as a Record Date for the payment of defaulted interest on the Certificates, if any.

**“Registration Books”** means the records maintained by the Trustee for the registration of ownership and registration of transfer of the Certificates pursuant to Section 2.07 hereof.

**“Remarketing Agent”** means a financial institution meeting the requirements of Section 10.06 hereof engaged by the District to perform the duties of a remarketing agent hereunder.

**“Remarketing Agreement”** means a Remarketing Agreement by and between the District and a Remarketing Agent, as originally executed and as it may from time to time be amended in accordance with the provisions thereof, or any similar agreement between the District and any successor Remarketing Agent.

**“Remarketing Proceeds Account”** means the account by that name within the Purchase Fund established and held by the Trustee pursuant to Section 5.08 hereof.

**“Rental Payments”** means, collectively, the Base Rental and the Additional Rental.

**“Rental Period”** means the period from each January 1 to and including the following December 31, during the term of the Lease, except for the first Rental Period which will be from the Acquisition Date to and including the next following December 31.

**“Rental Phase”** means the period commencing on the Acquisition Date and ending at the end of the Lease Term, as defined in Section 2.1 of the Lease, during which Base Rental payments under the Lease shall be made by the District in consideration of the use and occupancy of the Leased Premises.

**“S&P”** means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the State of New York, its successors and assigns.

**“Semi-Annual Interest Payment Date”** means each January 1 and July 1.

**“SIFMA Municipal Swap Index”** means on any date, a rate determined on the basis of the seven-day high grade market index of tax-exempt variable rate demand obligations, as produced by Municipal Market Data and published or made available by the Securities Industry and Financial Markets Association (“SIFMA”) or any person acting in cooperation with or under the sponsorship of SIFMA and acceptable to the District and effective from such date.

**“Site Lease”** means the Site and Facilities Lease (BAAQMD Office Project), dated as of the date hereof, between the District and the Authority with respect to the Leased Premises, including any amendments or supplements thereto.

**“Special Counsel”** means a firm of nationally recognized bond counsel selected by the District.

**“State”** means the State of California.

**“Subsequent Escrow Period”** shall have the meaning given to that term in Section 2.12.

**“Substitution Date”** means the date upon which an alternate Credit and/or Liquidity Facility is substituted for any Credit and/or Liquidity Facility then in effect.

“**Tender Deadline**” means (a) during the Daily Rate Mode, 10:30 A.M. on any Business Day, and (b) during the Weekly Rate Mode, 4:00 P.M. on the Business Day five (5) Business Days prior to the Purchase Date stated in the applicable Tender Notice.

“**Tender Notice**” means, with respect to Adjustable Rate Certificates in the Daily Rate Mode or the Weekly Rate Mode a written notice or, with respect to Adjustable Rate Certificates in the Daily Rate Mode, telephonic notice, immediately confirmed in writing that (a) states the bond number, the principal amount of such Adjustable Rate Certificate and the principal amount of such Adjustable Rate Certificate to be purchased pursuant to Section 5.01 hereof, (b) states the Purchase Date on which such Adjustable Rate Certificate is to be purchased, and (c) irrevocably demands such purchase.

“**Term Rate**” means the rate applied to the interest component of Base Rental during a Term Rate Mode, which rate shall be determined in accordance with Section 3.01(a)(iv) hereof.

“**Term Rate Certificate**” means a Certificate the interest component of which is determined at the Term Rate.

“**Term Rate Computation Date**” means any Business Day during the period from and including the date of receipt of a Term Rate Continuation Notice or a Conversion Notice relating to a Conversion to a Term Rate for the Certificates to and including the Business Day next preceding the proposed Term Rate Conversion Date.

“**Term Rate Continuation Notice**” shall have the meaning given such term in Section 3.01(a)(iv)(D).

“**Term Rate Conversion Date**” means: (i) the Conversion Date on which the interest rate on any Certificates shall be converted to a Term Rate; and (ii) the date on which a new Term Rate Period and Term Rate are to be established (or, with respect to notices, time periods and requirements in connection with the proceedings for each such Conversion, the day on which it is proposed that such Conversion occur).

“**Term Rate Mode**” means the Adjustable Rate Mode in which the duration of each Adjustment Period is determined in accordance with clause (e) of the definition of Adjustment Period.

“**Term Rate Period**” means any period during which the Certificates bear interest at a Term Rate.

“**Three-Month LIBOR Rate**” means the rate for deposits in U.S. dollars with a three-month maturity that appears on Reuters Screen LIBOR01 Page (or such other page as may replace that page on that service, or such other service as may be nominated by the British Bankers Association, for the purpose of displaying London interbank offered rates for U.S. dollar deposits) as of 11:00 a.m., London time, on the Index Rate Determination Date, except that, if such rate does not appear on such page on the Index Rate Determination Date, the Three Month LIBOR Rate means a rate determined on the basis of the rates at which deposits in U.S. dollars for a three-month maturity and in a principal amount of at least U.S. \$1,000,000 are offered at approximately 11:00 a.m., London time, on the Index Rate Determination Date, to prime banks



in the London interbank market by three major banks in the London interbank market (herein referred to as the “Reference Banks”) selected by the District or its designated agent. The District or its agent is to request the principal London office of each of such Reference Banks to provide a quotation of its rate. If at least two such quotations are provided, the Three Month LIBOR Rate will be the arithmetic mean of such quotations. If fewer than two quotations are provided, the Three Month LIBOR Rate will be the arithmetic mean of the rates quoted by three (if three quotations are not provided, two or one, as applicable) major banks in New York City, selected by the District or its designated agent, at approximately 11:00 a.m., New York City time, on the Index Rate Determination Date for loans in U.S. dollars to leading European banks in a principal amount of at least U.S. \$1,000,000 having a three-month maturity. If none of the banks in New York City selected by the District or its designated agent is then quoting rates for such loans, then the Three Month LIBOR Rate for the ensuing interest period will mean the Three Month LIBOR Rate then in effect in the immediately preceding Index Rate Adjustment Period.

“**Treasury Rate**” means the interest rate applicable to 13-week United States Treasury bills determined by the Remarketing Agent on the basis of the average per annum discount rate at which such 13-week Treasury bills shall have been sold at the most recent Treasury auction.

“**Trust Agreement**” means this Trust Agreement (BAAQMD Office Project), by and among the Trustee, the Authority and the District, as originally executed and as it may from time to time be amended or supplemented in accordance with the provisions hereof.

“**Trustee**” means The Bank of New York Mellon Trust Company, N.A., a national banking association duly organized and existing under and by virtue of the laws of the United States of America, or any other bank or trust company which may at any time be substituted in its place as provided in Section 10.02 hereof.

“**Weekly Put Certificates**” shall have the meaning given to that term in Section 5.06(b)(i).

“**Weekly Rate**” means the rate applied to the interest component of Base Rental during a Weekly Rate Mode, which rate shall be determined in accordance with Section 3.01(a)(ii) hereof.

“**Weekly Rate Certificate**” means a Certificate the interest component of which is determined at the Weekly Rate.

“**Weekly Rate Index**” means, on any Business Day, the SIFMA Municipal Swap Index or, if the SIFMA Municipal Swap Index is no longer published, an index or rate agreed upon by the District and the Remarketing Agent; provided, however, that if the Remarketing Agent advises the Trustee and the District that the use of such index would not result or no longer results in a market rate of interest on the Certificates, “Weekly Rate Index” shall mean an index agreed to by the District and the Remarketing Agent that would result in a market rate of interest on the Certificates, which Weekly Rate Index shall in no event exceed the Cap Rate.

“**Weekly Rate Mode**” means the Adjustable Rate Mode in which the duration of each Adjustment Period is determined in accordance with clause (b) of the definition of Adjustment Period.

“**Weekly Rate Period**” means each period during which the Certificates bear interest at Weekly Rates.

“**Written Request of the District**” means an instrument in writing signed by an Authorized District Representative.

**Section 1.02. Equal Security.** In consideration of the acceptance of the Certificates by the Owners, this Trust Agreement shall be deemed to be and shall constitute a contract between the Trustee and the Owners to secure the full and final payment of the interest and principal evidenced by the Certificates which may be executed and delivered hereunder and all amounts owing to any Credit and/or Liquidity Provider, subject to each of the agreements, conditions, covenants and terms contained herein; and all agreements, conditions, covenants and terms contained herein required to be observed or performed by or on behalf of the Trustee shall be for the equal and proportionate benefit, protection and security of all Owners without distinction, preference or priority as to security or otherwise of any Certificates over any other Certificates by reason of the number or date thereof or the time of execution or delivery thereof or for any cause whatsoever, except as expressly provided herein or therein.

## ARTICLE II

### TERMS AND CONDITIONS OF CERTIFICATES

**Section 2.01. Preparation and Delivery of Certificates.** The Trustee is hereby authorized and directed to prepare the Certificates and, upon the Written Request of the District, shall execute the Certificates in the aggregate principal amount of \$\_\_\_\_\_ evidencing the aggregate principal components of the Base Rental and each evidencing a direct, fractional undivided interest in the Base Rental and the Option Payments. The Certificates shall be numbered, with or without prefixes, as directed by the District. The Trustee is hereby authorized to deliver the Certificates to the Purchaser pursuant to the Purchase Contract upon receipt of a Written Request of the District and upon receipt of the proceeds of sale thereof.

**Section 2.02. The Certificates.** The Certificates shall be designated “Bay Area Air Quality Management District Certificates of Participation (BAAQMD Office Project),” shall be prepared in the form of fully registered Certificates, without coupons, in Authorized Denominations and shall be payable in lawful money of the United States of America. The Certificates shall be dated as of the Delivery Date, the principal evidenced by the Certificates, shall become due and payable (subject to prior prepayment as set forth in Sections 4.01, 4.02 and 4.03 herein) on the Principal Payment Date and shall initially be in the Term Rate Mode. The initial Term Rate shall be \_\_\_%. The initial Term Rate Period (which shall also be the Initial Escrow Period under Section 2.12) shall end on \_\_\_\_\_, 20\_\_.

**Section 2.03. Terms of Certificates Generally.** (a) The Certificates shall evidence interest at the rates determined as set forth herein, payable on the Interest Payment Dates. Except as otherwise provided in the Letter of Representations, payments of interest evidenced by the Certificates shall be made to the Owners thereof (as determined at the close of business on the Record Date next preceding the related Interest Payment Date) by check of the Trustee mailed to the address of each such Owner as it appears on the Registration Books maintained by

the Trustee pursuant to Section 2.07 hereof, or to such other address as may be furnished in writing to the Trustee by such Owner, except that in the case of an Owner of Certificates evidencing \$1,000,000 or more in aggregate principal amount, upon the written request of such Owner to the Trustee (which request shall remain in effect until revoked or revised by such Owner by an instrument in writing delivered to the Trustee), received at least ten days prior to a Record Date, specifying the account or accounts to which such payment shall be made, payment of interest evidenced by such Certificates shall be made by wire transfer of immediately available funds on the following Interest Payment Date. Payment of principal and prepayment premium, if any, evidenced by the Certificates, on their stated Principal Payment Dates or on prepayment in whole or in part prior thereto, shall be made only upon presentation and surrender of the Certificates at the Principal Office of the Trustee. The Trustee shall pay interest in respect of Provider Certificates in the manner set forth in any Credit and/or Liquidity Facility.

(b) Each Certificate in the Daily Rate Mode, the Weekly Rate Mode or the Index Rate Mode shall evidence interest from the first day of the calendar month in which such Certificate is authenticated, unless such date of authentication is prior to the initial Record Date for such Certificate, in which event any such Certificate shall bear interest from the Delivery Date, until the entire principal evidenced by such Certificate is paid. Each Certificate in the Commercial Paper Rate Mode, the Term Rate Mode or the Fixed Rate Mode shall evidence interest from the Interest Payment Date immediately preceding the date of authentication thereof, unless such date of authentication is after a Record Date and on or before the next succeeding Interest Payment Date, in which event any such Certificate shall evidence interest from and including such Interest Payment Date, or unless such date of authentication is prior to the initial Record Date, in which event any such Certificate shall evidence interest from the Delivery Date, until the entire principal evidenced by such Certificate is paid. Interest evidenced by any Certificate which is not punctually paid or duly provided for on any Interest Payment Date shall be payable to the Person in whose name the ownership of such Certificate is registered on the Registration Books at the close of business on a special Record Date to be established by the Trustee for the payment of such defaulted interest to be fixed by the Trustee, notice of which shall be given to such Owner not less than ten days prior to such special Record Date.

(c) The interest evidenced by the Certificates shall be payable on each Interest Payment Date to and including the Principal Payment Date or prepayment prior thereto, and shall represent the sum of the Option Payments or the portions of the Base Rental designated as interest components coming due on such Interest Payment Date. The principal evidenced by the Certificates shall be payable on the Principal Payment Date and Mandatory Sinking Account Payment Dates in each year and shall represent the sum of the portions of the Base Rental designated as principal components coming due on such Principal Payment Date and Mandatory Sinking Account Payment Dates.

(d) Interest evidenced by Provider Certificates and Certificates in the Daily Rate Mode, the Weekly Rate Mode, the Commercial Paper Rate Mode or the Index Rate Mode, or in the Term Rate Mode for a Term Rate Period of less than 180 days, shall be calculated on the basis of a 365/366-day year for the actual number of days elapsed. Interest evidenced by Certificates in the Term Rate Mode for a Term Rate Period equal to or greater than 180 days or the Fixed Rate Mode shall be calculated on the basis of a 360-day year composed of twelve 30-day months. For Certificates in the Daily Rate Mode, the Weekly Rate Mode or the Index Rate

Mode, payment shall be made on each Interest Payment Date for unpaid interest accrued from and including the first day of the preceding calendar month, through and including the last day of the preceding calendar month, except that payment shall be made on the initial Interest Payment Date for unpaid interest accrued from and including the Delivery Date. For Certificates in the Commercial Paper Rate Mode, payment shall be made on each Interest Payment Date for unpaid interest accrued from and including the date the Commercial Paper Rate Period commenced through and including the last day of the Commercial Paper Rate Period. Payment of interest on Provider Certificates shall be made at the times set forth in the Credit and/or Liquidity Facility. For Certificates in the Term Rate Mode or the Fixed Rate Mode, payment shall be made on each Interest Payment Date for unpaid interest accrued from and including the immediately preceding Interest Payment Date to but not including such Interest Payment Date. Notwithstanding any provision of this Trust Agreement to the contrary, at no time shall the rate of interest applicable to the interest evidenced by any Certificate (except Provider Certificates) exceed the Cap Rate.

(e) Certificates in an Adjustable Rate Mode may be changed to any other Mode at the times and in the manner hereinafter provided. All Certificates must be in the same Mode. Upon such Change in Mode, such Certificates shall cease to evidence interest at the rate then in effect and shall evidence interest at the rate as provided in the Conversion Order. Subsequent to such Change in Mode (unless such Change in Mode was to a Fixed Rate Mode), such Adjustable Rate Certificates may again be changed to a different Mode at the times and in the manner hereinafter provided. A Fixed Rate Mode shall be in effect until the Principal Payment Date of the Certificates, or prepayment prior thereto, and Certificates in a Fixed Rate Mode may not be changed to any other Mode.

(f) The determination of each Adjusted Interest Rate by a Consensual Rate Determination or, in the absence thereof, by a Remarketing Agent, if in accordance with the provisions hereof, shall be conclusive and binding upon the District, any Remarketing Agent, the Trustee, any Credit and/or Liquidity Provider and the Owners.

**Section 2.04. Form of Certificates.** The Certificates and the assignment to appear thereon shall be in substantially the form of Exhibit A hereto, with necessary or appropriate insertions, omissions and variations as permitted or required hereby.

**Section 2.05. Execution of Certificates and Replacement Certificates.** The Certificates shall be executed by the Trustee by the manual signature of an authorized signatory of the Trustee. The Trustee shall deliver replacement Certificates in the manner and as contemplated by this Article. Such replacement Certificates shall be executed as herein provided and shall be in Authorized Denominations. In no event shall the Certificates be deemed a debt, liability or obligation of the Trustee.

**Section 2.06. Transfer and Payment of Certificates; Exchange of Certificates.** Each Certificate is transferable by the Owner thereof, in person or by his attorney duly authorized in writing, at the Principal Office of the Trustee on the Registration Books maintained by the Trustee pursuant to Section 2.07 hereof, upon surrender of such Certificate for cancellation accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Trustee. The Trustee may treat the Owner of any Certificate as the absolute owner of such Certificate for all purposes, whether or not the principal or interest evidenced by

such Certificate shall be overdue, and the Trustee shall not be affected by any knowledge or notice to the contrary; and payment of the interest and principal evidenced by such Certificate shall be made only to such Owner, which payments shall be valid and effectual to satisfy and discharge the liability evidenced by such Certificate to the extent of the sum or sums so paid.

Whenever any Certificate shall be surrendered for transfer, the Trustee shall execute and deliver a new Certificate or Certificates evidencing principal in the same aggregate amount and having the same stated Principal Payment Date. The Trustee shall require the payment by any Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

Each Certificate may be exchanged at the Principal Office of the Trustee for Certificates evidencing principal in a like aggregate principal amount having the same stated Principal Payment Date in such Authorized Denominations as the Owner thereof may request. The Trustee shall require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

The Trustee shall not be required to transfer or exchange any Certificate during the period commencing on the date five days before the date of selection of Certificates for prepayment and ending on the date of mailing notice of such prepayment, nor shall the Trustee be required to transfer or exchange any Certificate or portion thereof selected for prepayment from and after the date of mailing the notice of prepayment thereof; notwithstanding the foregoing, any optional tender pursuant to Section 5.01 hereof shall be honored pursuant to Section 5.01 hereof.

**Section 2.07. Certificate Registration Books.** The Trustee shall keep at its Principal Office sufficient books for the registration and transfer of the Certificates, which books shall be available for inspection and copying by the Authority, the Trustee, the District and any Credit and/or Liquidity Provider (or its designated agent) at reasonable hours and under reasonable conditions; and upon presentation for such purpose the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer the Certificates on such books as hereinabove provided. The Trustee shall, upon written request, make copies of such books available to any Owner or his agent duly authorized in writing.

**Section 2.08. Reserved.**

**Section 2.09. Certificates Mutilated, Lost, Destroyed or Stolen.** If any Certificate shall become mutilated, the Trustee, at the expense of the Owner thereof, shall execute and deliver a new Certificate evidencing a like principal amount and having the same stated Principal Payment Date and number in exchange and substitution for the Certificate so mutilated, but only upon surrender to the Trustee of the Certificate so mutilated. Every mutilated Certificate so surrendered to the Trustee shall be canceled by it. If any Certificate shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee, and if such evidence is satisfactory to the Trustee and indemnity satisfactory to the Trustee shall be given, the Trustee, at the expense of the Owner thereof, shall execute and deliver a new Certificate evidencing a like principal amount and having the same stated Principal Payment Date, numbered as the Trustee shall determine, in lieu of and in substitution for the Certificate so lost, destroyed or stolen. The Trustee may require payment of a sum not exceeding the actual cost of

preparing each new Certificate executed and delivered by it under this Section and of the expenses which may be incurred by it under this Section. Any Certificate executed and delivered under the provisions of this Section in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits hereof with all other Certificates executed and delivered hereunder, and the Trustee shall not be required to treat both the original Certificate and any replacement Certificate as being Outstanding for the purpose of determining the amount of Certificates which may be executed and delivered hereunder or for the purpose of determining any percentage of Certificates Outstanding hereunder, but both the original and replacement Certificate shall be treated as one and the same. Notwithstanding any other provision of this Section, in lieu of executing and delivering a new Certificate for a Certificate which has been lost, destroyed or stolen and which evidences principal that is then payable, the Trustee may make payment of such Certificate to the Owner thereof if so instructed by the District.

**Section 2.10. Cooperation by the District.** The District shall cooperate with the Trustee to cause the necessary arrangements to be made and to be thereafter continued whereby the Certificates shall be made available for exchange, registration and transfer at the Principal Office of the Trustee.

**Section 2.11. Book-Entry System.** (a) Prior to the execution and delivery of the Certificates, the District may provide that such Certificates shall be initially executed and delivered as Book-Entry Certificates, and in such event, the Certificates for each stated Principal Payment Date shall be in the form of a separate single fully registered Certificate (which may be typewritten). Upon initial execution and delivery, the ownership of each such Certificate shall be registered in the Registration Books maintained by the Trustee in the name of the Nominee, as nominee of the Depository. Payment of principal or interest evidenced by any Book-Entry Certificate registered in the name of the Nominee shall be made on the applicable Interest Payment Date by wire transfer of New York clearing house or equivalent next day funds or by wire transfer of same day funds to the account of the Nominee. Such payments shall be made to the Nominee at the address which is, on the Record Date, shown for the Nominee in the Registration Books maintained by the Trustee.

(b) With respect to Book-Entry Certificates, the District, the Authority and the Trustee shall have no responsibility or obligation to any Participant or to any person on behalf of which such a Participant holds an interest in such Book-Entry Certificates. Without limiting the immediately preceding sentence, the District, the Authority and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Participant with respect to any ownership interest in Book-Entry Certificates, (ii) the delivery to any Participant or any other person, other than an Owner as shown in the Registration Books maintained by the Trustee, of any notice with respect to Book-Entry Certificates, including any notice of prepayment, (iii) the selection by the Depository and its Participants of the beneficial interests in Book-Entry Certificates to be prepaid in the event Certificates are prepaid in part, (iv) the payment to any Participant or any other person, other than an Owner as shown in the Registration Books maintained by the Trustee, of any amount with respect to principal, premium, if any, or interest evidenced by Book-Entry Certificates, or (v) any consent given or other action taken by the Depository as Owner.

(c) The District, the Authority and the Trustee may treat and consider the person in whose name each Book-Entry Certificate is registered in the Registration Books maintained by the Trustee as the absolute Owner of such Book-Entry Certificate for the purpose of payment of principal, prepayment premium, if any, and interest evidenced by such Certificate, for the purpose of selecting any Certificates, or portions thereof, to be prepaid, for the purpose of giving notices of prepayment and other matters with respect to such Certificate, for the purpose of registering transfers with respect to such Certificate, for the purpose of obtaining any consent or other action to be taken by Owners and for all other purposes whatsoever, and the District, the Authority and the Trustee shall not be affected by any notice to the contrary.

(d) In the event of a prepayment of all or a portion of a Certificate, the Depository, in its discretion, (i) may request the Trustee to execute and deliver a new Certificate, or (ii) if DTC is the sole Owner of such Certificate, shall make an appropriate notation on the Certificate indicating the date and amounts of the reduction in principal evidenced thereby resulting from such prepayment, except in the case of final payment, in which case such Certificate must be presented to the Trustee prior to payment.

(e) The Trustee shall pay all principal, premium, if any, and interest evidenced by the Certificates only to or “upon the order of” (as that term is used in the Uniform Commercial Code as adopted in the State of California) the respective Owner, as shown in the Registration Books maintained by the Trustee, or his respective attorney duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the obligations with respect to payment of principal, premium, if any, and interest evidenced by the Certificates to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Registration Books maintained by the Trustee, shall receive a Certificate evidencing principal, premium, if any, and interest evidenced by the Certificates. Upon delivery by the Depository to the Owners, the Trustee and the District of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, and subject to the provisions herein with respect to Record Dates, the word Nominee in this Trust Agreement shall refer to such nominee of the Depository.

(f) In order to qualify the Book-Entry Certificates for the Depository’s book-entry system, the District shall execute and deliver to the Depository a Letter of Representations. The execution and delivery of a Letter of Representations shall not in any way impose upon the Authority, the District or the Trustee any obligation whatsoever with respect to persons having interests in such Book-Entry Certificates other than the Owners, as shown on the Registration Books maintained by the Trustee. Such Letter of Representations may provide the time, form, content and manner of transmission, of notices to the Depository. In addition to the execution and delivery of a Letter of Representations by the District, the District, the Authority and the Trustee shall take such other actions, not inconsistent with this Trust Agreement, as are reasonably necessary to qualify Book-Entry Certificates for the Depository’s book-entry program.

(g) In the event the District determines that it is in the best interests of the Beneficial Owners that they are able to obtain certificated Certificates and that such Certificates should therefore be made available and notifies the Depository and the Trustee of such determination, the Depository will notify the Participants of the availability through the Depository of

certificated Certificates. In such event, the Trustee shall transfer and exchange certificated Certificates as requested by the Depository and any other Owners in appropriate amounts. In the event (i) the Depository determines not to continue to act as securities depository for Book-Entry Certificates, or (ii) the Depository shall no longer so act and gives notice to the Trustee of such determination, then the District shall discontinue the Book-Entry system with the Depository. If the District determines to replace the Depository with another qualified securities depository, the District shall prepare or direct the preparation of a new single, separate, fully registered Certificate for each stated Principal Payment Date of such Book-Entry Certificates, registered in the name of such successor or substitute qualified securities depository or its nominee. If the District fails to identify another qualified securities depository to replace the Depository, then the Certificates shall no longer be restricted to being registered in the Registration Books maintained by the Trustee in the name of the Nominee, but shall be registered in whatever name or names the Owners transferring or exchanging such Certificates shall designate, in accordance with the provisions of Sections 2.06 and 2.09 hereof. Whenever the Depository requests the District to do so, the District will cooperate with the Depository in taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the Book-Entry Certificates to any Participant having Book-Entry Certificates credited to its account with the Depository, and (ii) to arrange for another securities depository to maintain custody of certificates evidencing the Book-Entry Certificates.

(h) Notwithstanding any other provision of this Trust Agreement to the contrary, if DTC is the sole Owner of the Certificates, so long as any Book-Entry Certificate is registered in the name of the Nominee, all payments of principal, premium, if any, and interest evidenced by such Certificate and all notices with respect to such Certificate shall be made and given, respectively, as provided in the Letter of Representations or as otherwise instructed by the Depository.

(i) In connection with any notice or other communication to be provided to Owners pursuant to this Trust Agreement by the District, the Authority or the Trustee, with respect to any consent or other action to be taken by Owners, the Trustee shall establish a record date for such consent or other action and give the Depository notice of such record date not less than 15 calendar days in advance of such record date to the extent possible. Notice to the Depository shall be given only when DTC is the sole Owner of the Certificates.

**Section 2.12. Escrow Phase Provisions.** The Escrow Phase shall consist of one or more Term Rate Periods, the first of which shall commence on the Delivery Date and run to but not including \_\_\_\_\_, 20\_\_ (the “**Initial Escrow Period**”). The Term Rate for the Initial Escrow Period shall be as set forth in Section 2.02. If not later than five business days prior to the last day of the Initial Escrow Period, the Acquisition Date has not occurred and is not reasonably expected by the District to occur within the next thirty (30) days, the District shall send a Term Rate Continuation Notice to the Trustee and the Purchaser setting forth a Subsequent Escrow Period based on the District’s reasonable expectation of when the Acquisition Date will occur (the “**Subsequent Escrow Period**” and, together with the Initial Escrow Period, each an “**Escrow Period**”). The Term Rate for the Subsequent Escrow Period shall be determined by the District and the Purchaser based on the anticipated yield on the investments held in the Escrow Account within the Acquisition Fund during the Subsequent Escrow Period. The District shall continue to establish Subsequent Escrow Periods and



determine the Term Rate with the Purchaser for each such Subsequent Escrow Period based on the anticipated yield on the Escrow Account investments for such Escrow Period until the earlier of the Acquisition Date or the occurrence of the Extraordinary Prepayment Event. Amounts held in the Escrow Account shall be invested solely in instruments described in parts A and B(1) of the definition of Permitted Investments with maturity dates on or before the last day of the current Escrow Period. Funds that cannot be so invested shall be held in cash. Upon the Acquisition Date the Escrow Phase shall end and the Rental Phase shall automatically begin. At such time, the Certificates shall automatically convert to an Index Rate Period of a five (5) year duration with an Applicable Spread of 120 basis points or 1.20% per annum. During the Escrow Phase there shall be no tenders by the Purchaser pursuant to Section 5.01 or Section 5.02, nor shall the Purchaser transfer its interest in the Certificates. Notwithstanding anything to the contrary in this Trust Agreement, during the Escrow Phase the Certificates shall be governed exclusively by this Section 2.12.

### **ARTICLE III**

#### **INTEREST RATES**

**Section 3.01. Interest Rates on Certificates.** Except for Provider Certificates, which shall bear interest at the rate or rates (but not in excess of the Maximum Interest Rate), and be payable at the times, specified in the applicable Credit and/or Liquidity Facility, if any, until converted to a Fixed Rate, Certificates shall bear interest at an Adjustable Rate determined as provided herein.

The interest rates on each Certificate will be determined as provided in this Section 3.01; provided, that no Rate as so determined shall exceed the Cap Rate in effect on the date of determination thereof. The effective Rate on any Certificate for which the Adjusted Interest Rate determined hereby would be in excess of the Cap Rate shall be the Cap Rate.

At any one time, all Certificates shall be in the same Mode and (except Certificates which are Provider Certificates, Certificates during a Commercial Paper Rate Period and Certificates of different maturities bearing interest at a Fixed Rate) shall bear interest at the same Rate. Upon issuance, the Certificates shall bear interest at a Term Rate.

#### **Section 3.01(a) Interest Rate Determination Method.**

3.01(a)(i) Daily Rate. Upon a successful Conversion of the Certificates to bear interest at the Daily Rate pursuant to Section 3.01(b) and until such Certificates are successfully converted to another Mode pursuant to said Section 3.01(b) (subject, however, to the provisions of Section 3.01(b)(ix)), such Certificates shall bear interest at a Daily Rate. During each Daily Rate Period for Certificates, the Remarketing Agent shall set a Daily Rate for such Certificates by 9:30 a.m., New York City time, on each Business Day which Daily Rate shall be the rate of interest which, if borne by such Certificates in the Daily Rate Mode, would, in the judgment of the Remarketing Agent, having due regard for the prevailing financial market conditions for securities which are of the same general nature as such Certificates or securities which are competitive as to credit and maturity (or period for tender) with the credit and maturity (or period for tender) of such Certificates for which the

Daily Rate is to be determined, be the lowest interest rate which would enable such Remarketing Agent to place such Certificates at a price of par (plus accrued interest, if any) on such Business Day. The Daily Rate for any non-Business Day will be the rate for the last Business Day on which a Daily Rate was set.

3.01(a)(ii) Weekly Rate. Upon a successful Conversion of the Certificates to bear interest at the Weekly Rate pursuant to Section 3.01(b), and until such Certificates are successfully converted to another Mode pursuant to said Section 3.01(b) (subject, however, to the provisions of Section 3.01(b)(ix)), such Certificates shall bear interest at a Weekly Rate. During each Weekly Rate Period, the Remarketing Agent shall set a Weekly Rate for such Certificates by 5:00 p.m., New York City time, on each Wednesday (or the immediately succeeding Business Day, if such Wednesday is not a Business Day) for the next Calendar Week; provided, that, the Weekly Rate for the first Calendar Week (or portion thereof) following a Conversion Date resulting in a change in the Mode to a Weekly Rate shall be set by such Remarketing Agent on the Business Day immediately preceding such Conversion Date. Each Weekly Rate shall be the rate of interest which, if borne by such Certificates in the Weekly Rate Mode, would, in the judgment of the Remarketing Agent, having due regard for the prevailing financial market conditions for securities which are of the same general nature as such Certificates for which the Weekly Rate is to be determined, or securities which are competitive as to credit and maturity (or period for tender) with the credit and maturity (or period for tender) of the Certificates for which the Weekly Rate is to be determined, be the lowest interest rate which would enable the Remarketing Agent to place such Certificates at a price of par (plus accrued interest, if any) on the first day of such Weekly Rate Adjustment Period.

3.01(a)(iii) Commercial Paper Rate. Upon a successful Conversion of the Certificates to bear interest at the Commercial Paper Rate pursuant to Section 3.01(b), and until such Certificates are successfully converted to another Mode pursuant to said Section 3.01(b) (subject, however, to the provisions of Section 3.01(b)(ix)), such Certificates shall bear interest at the Commercial Paper Rate or Rates applicable to such Certificates. The Remarketing Agent shall select the Commercial Paper Rate Period or Periods for each of the Certificates on a Business Day selected by the Remarketing Agent not more than five (5) Business Days prior to the first day of such Commercial Paper Rate Period and not later than 12:30 p.m., New York City time, on the first day of such Commercial Paper Rate Period. Each Commercial Paper Rate Period shall be a period of not less than one (1) nor more than 270 days determined by the Remarketing Agent with the intention of yielding the lowest overall interest expense on the Certificates, taking into account (A) all other Commercial Paper Rate Periods for all the Certificates bearing interest at a Commercial Paper Rate, (B) general economic and market conditions relevant to such Certificates and (C) such other facts, circumstances and conditions as such Remarketing Agent determines to be relevant. Notwithstanding the foregoing, no Commercial Paper Rate Period for any Certificate shall be selected with an expiration date later than the fifth (5th) Business Day prior to the expiration date of any Credit and/or Liquidity Facility, as the same is then in effect, with respect to such Certificate. The last day of each Commercial Paper Rate Period shall be a day immediately preceding a Business Day. If the Mode with respect to the Certificates is being converted from a Commercial Paper Rate to a new Mode, after receipt of the Conversion Notice delivered pursuant to Section 3.01(b), the Remarketing Agent shall determine the

Commercial Paper Rate Periods with respect to such Certificates in such manner that, as soon as possible, all Commercial Paper Rate Periods with respect to the Certificates shall end on the same date, which date shall be the last day of the then-current Commercial Paper Rate Periods and, upon the establishment of such Commercial Paper Rate Periods, the day next succeeding the last day of all such Commercial Paper Rate Periods shall be the Conversion Date for the new Mode. The Remarketing Agent, promptly upon the determination of the last day of such Commercial Paper Rate Periods prior to Conversion to a new Mode, shall give written notice of such last day and such Conversion Date to the Authority, the Trustee and the applicable Credit Provider.

The Remarketing Agent shall set a Commercial Paper Rate for each Certificate bearing interest at the Commercial Paper Rate not later than 12:30 p.m., New York City time, on the first day of each Commercial Paper Rate Period for the Certificates. The Commercial Paper Rate applicable to each Certificate will be the rate determined by the Remarketing Agent to be the lowest interest rate which would be necessary for such Remarketing Agent to place such Certificate on the first day of the applicable Commercial Paper Rate Period at a price of par.

No Commercial Paper Rate or Commercial Paper Rate Period shall be established that would require an interest payment that exceeds the amount available under the applicable Credit and/or Liquidity Facility to pay the interest component of the Purchase Price of such Certificates.

3.01(a)(iv) Term Rate.

3.01(a)(iv)(A) Generally. Upon delivery of the Certificates and upon a successful Conversion of the Certificates to bear interest at the Term Rate from another Mode pursuant to Section 3.01(b) or the establishment of a new Term Rate Period and a new Term Rate for Certificates then bearing interest at a Term Rate, and until such Certificates are successfully converted to another Mode pursuant to Section 3.01(b) or Section 3.01(a)(iv)(F), such Certificates shall bear interest at a Term Rate. The initial Term Rate Period shall commence on the Delivery Date and thereafter each Term Rate Period shall commence on the Term Rate Conversion Date or the Term Rate continuation date and end on a day that precedes a Business Day selected by the District that is a minimum of 180 days after the Term Rate Conversion Date, but in no event later than the maturity date of the Certificates. Notwithstanding the foregoing, during the Escrow Phase a Term Rate Period may be less than 180 days. Upon such selection, such Business Day will be an Interest Payment Date for such Certificates. The duration of the Term Rate Period and the Cap Rate to be applicable to the Certificates should insufficient funds be available for their purchase at the end of such Term Rate Period, shall be as specified in the Conversion Order given with respect to the Conversion of any Adjustable Rate Certificates to such Term Rate Period pursuant to Section 3.01(b)(i)(D) or with respect to any new Term Rate and Term Rate Period for Certificates then bearing interest at a Term Rate pursuant to Section 3.01(a)(iv)(B). The Certificates shall initially bear interest in the Term Rate Mode for the Initial Escrow Period at the Term Rate and for the Term Rate Period set forth in Section 2.02. The Term Rate and the Term Rate Period for any Subsequent Escrow Period shall be determined by agreement between the

District and the Purchaser. Following the Acquisition Date, any Term Rate and Term Rate Period shall be determined by agreement between the District and the Purchaser or, if the Purchaser no longer owns all of the Outstanding Certificates, among the District and the Beneficial Owners so long as the number of Beneficial Owners does not exceed five. If the District and the Purchaser or the Beneficial Owners cannot agree, or if the number of Beneficial Owners exceeds five, the District shall appoint a Remarketing Agent pursuant to Section 10.06 hereof and the Remarketing Agent will establish the Term Rate Period and set the Term Rate for the Certificates by 5:00 p.m., New York City time, on the applicable Term Rate Computation Date. The Remarketing Agent shall, to the best of its ability, establish a Term Rate Period of a length such that the Term Rate will not exceed the Cap Rate to be in effect during the Term Rate Period. Except as otherwise agreed by the District and the Purchaser in a Consensual Rate Determination, each Term Rate shall be the rate of interest that, if borne by such Certificates in such Term Rate Period, would, in the judgment of the Remarketing Agent, having due regard for the prevailing financial market conditions for securities that are of the same general nature as the Certificates, or securities that are competitive as to credit and maturity (or period for tender) with the credit and maturity (or period for tender) of the Certificates, be the lowest interest rate that would enable such Remarketing Agent to place such Certificates at a price of par on the first day of such Term Rate Period. Notwithstanding the foregoing, during the Escrow Phase the Term Rate and the Term Rate Period shall be as agreed by the District and the Purchaser in a Consensual Rate Determination. Notwithstanding anything to the contrary herein, the Term Rate shall not exceed the Cap Rate. Subject to Section 5.10, if the foregoing results in a Term Rate in excess of the Cap Rate, the Adjusted Interest Rate for such Adjustment Period shall be the Cap Rate.

3.01(a)(iv)(B) Term Rate Continuation. As of the day following the last day of a Term Rate Period for any Certificates, unless the District has given a Conversion Notice with respect to the Conversion of such Certificates to another Mode pursuant to Section 3.01(b), the District may establish a new Term Rate Period and Term Rate for such Certificates with such right to be exercised by delivery of a written notice of an Authorized Representative (a "Term Rate Continuation Notice") to the Trustee, any Remarketing Agent and any Credit and/or Liquidity Provider for such Certificates no less than twenty (20) days prior to the effective date of the new Term Rate Period. The Authorized District Representative shall also deliver a Conversion Order to the Trustee no later than two Business Days prior to the effective date of the new Term Rate Period.

3.01(a)(iv)(C) Limitations. Any establishment of a new Term Rate and Term Rate Period for the Certificates pursuant to Section 3.01(a)(iv)(B) above must comply with the following:

- (1) the first day of such new Term Rate Period must be an Interest Payment Date on which the Certificates are subject to mandatory tender pursuant to the applicable provisions of Section 5.02;
- (2) the first day of such new Term Rate Period must be a Business Day;  
and

- (3) no new Term Rate shall become effective unless all such Outstanding Certificates are either retained by the Beneficial Owners in the case of a Consensual Rate Determination, or are successfully remarketed for the new Term Rate Period at the new Term Rate on the first day of the new Term Rate Period.

3.01(a)(iv)(D) Contents of Term Rate Continuation Notice. The District's Term Rate Continuation Notice must specify: (i) the proposed Term Rate Period; (ii) whether any Credit and/or Liquidity Facility then in effect will remain in effect; (iii) whether a new Credit and/or Liquidity Facility will be in effect after the effective date of the new Term Rate Period and Term Rate; and (iv) the expected ratings, if any, on the Certificates following the establishment of a new Term Rate Period and Term Rate.

3.01(a)(iv)(E) Notice to Owners. Upon receipt of a Term Rate Continuation Notice from an Authorized District Representative, and if the Trustee has not received a Consensual Rate Determination Notice from an Authorized District Representative pursuant to Section 3.02, as soon as possible, but in any event not less than fifteen (15) days prior to the first day of the proposed Term Rate Period, the Trustee shall give notice by first-class mail to the Owners of the affected Certificates, which notice shall state in substance:

- (1) that a new Term Rate Period and Term Rate is to be established for such Certificates on the applicable Term Rate Conversion Date if the conditions specified in this Trust Agreement (and generally described in such notice) are satisfied on or before such date;
- (2) the first day of the new Term Rate Period;
- (3) that a new Term Rate Period and Term Rate for such Certificates shall not be established unless all such Certificates are either retained by the Beneficial Owners in the case of a Consensual Rate Determination or are successfully remarketed for the new Term Rate Period and at the new Term Rate on the first day thereof;
- (5) the CUSIP numbers or other identification information of such Certificates;
- (6) that all affected Certificates are subject to mandatory tender for purchase on the first day of the new Term Rate Period (whether or not the proposed new Term Rate Period becomes effective on such date) at the Purchase Price; and
- (7) that, to the extent that there shall be on deposit with the Trustee on the first day of the new Term Rate Period an amount of money sufficient to pay the Purchase Price thereof, all such Certificates not delivered to the Trustee on or prior to such date shall be deemed to have been properly tendered for purchase and shall cease to constitute or represent a right on behalf of the Owner thereof to the payment of

principal thereof or interest thereon and shall represent and constitute only the right to payment of the Purchase Price on deposit with the Trustee, without interest accruing thereon after such date.

3.01(a)(iv)(F) End of Term Rate. In the event the District has not given a Consensual Rate Determination Notice, a Term Rate Continuation Notice or a Conversion Notice with respect to Certificates bearing interest at a Term Rate at the time required by Section 3.02, Section 3.01(a)(iv)(B) or Section 3.01(b), as applicable, or if the conditions to the effectiveness of a new Term Rate Period and New Term Rate set forth in Section 3.01(a)(iv)(C) or the conditions to Conversion to another Rate Period are not satisfied, including as a result of the Remarketing Agent failing to establish a Term Rate as herein provided, then on the day following the last day of the current Term Rate Period, a Weekly Rate Period shall automatically commence for the Certificates; provided that, notwithstanding anything to the contrary in the Indenture, unless a Credit and/or Liquidity Facility is in effect and a Remarketing Agent has been appointed with respect to the Certificates, the Certificates shall not be subject to optional tender pursuant to Section 5.01 and the Certificates shall bear interest at a rate of interest equal to the Cap Rate and be subject to the provisions of Section 5.10.

3.01(a)(iv)(G) Sale at Premium or Discount. The District and the Purchaser or the District and the Beneficial Owners may agree to a Term Rate that produces a premium, which such premium shall be transferred to the District by the Purchaser or the Beneficial Owners on the first day of the Term Rate Period and applied to the costs of the Conversion to or continuation of a Term Rate Period, with any excess deposited by the District in the Certificate Fund. Alternatively, in the absence of a Consensual Rate Determination and notwithstanding the provisions of Section 3.01(a)(iv)(A), the Term Rate may be the rate of interest per annum determined by the Remarketing Agent in its reasonable business judgment to be the interest rate which, if borne by the Certificates, would enable the Remarketing Agent to sell such Certificates at a price (without regard to accrued interest) which will result in the lowest net interest cost for the Certificates, after taking into account any premium or discount at which such Certificates are sold by the Remarketing Agent, provided that:

- (1) the Remarketing Agent certifies to the Trustee and the District that in its reasonable business judgment it believes that the sale of the Certificates at the interest rate and premium or discount specified by the Remarketing Agent is intended to result in the lowest net interest cost for such Certificates on the Term Rate Conversion Date;
- (2) the District consents in writing to the sale of the Certificates by the Remarketing Agent at such premium or discount;
- (3) in the case of Certificates to be sold at a discount, either (a) a Credit and/or Liquidity Facility is in effect with respect to such Certificates and provides for the purchase of such Certificates at par, or (b) the District agrees to transfer to the Trustee on the Term Rate Conversion

Date an amount equal to such discount in immediately available funds for deposit in the Purchase Fund; and

- (4) in the case of Certificates to be sold at a premium, the Remarketing Agent shall transfer to the Trustee from the remarketing proceeds an amount equal to such premium to pay the specific costs of Conversion, which amount shall either be used to pay costs associated with the Conversion or deposited in the Certificate Fund as specified by the District.

3.01(a)(v) Fixed Rate.

3.01(a)(v)(A) The Mode for the Certificates may be converted from any Adjustable Rate to a Fixed Rate in accordance with the provisions of Section 3.01(b). After such Conversion, the Certificates shall bear interest at the Fixed Rate. The interest rate to be borne by the Certificates of each maturity from the Fixed Rate Conversion Date shall be the rate determined by agreement between the District and the Purchaser or, if the Purchaser no longer owns all of the Outstanding Certificates, among the District and the Beneficial Owners so long as the number of Beneficial Owners does not exceed 5. If the District and the Purchaser or the Beneficial Owners cannot agree, or if the number of Beneficial Owners exceeds five, the District shall appoint a Remarketing Agent pursuant to Section 10.06 hereof and the interest rate to be borne by the Certificates of each maturity from the Fixed Rate Conversion Date shall be determined by the Remarketing Agent on the Fixed Rate Computation Date to be the rate which, if borne by the Certificates, would, in the judgment of the Remarketing Agent having due regard for prevailing market conditions for securities which are comparable to the Certificates, be the lowest interest rate which would enable such Remarketing Agent to place the Certificates of such maturity for which the Fixed Rate is to be determined at a price of par on the Fixed Rate Conversion Date. Under no circumstances may the Fixed Rate exceed the Cap Rate.

3.01(a)(v)(B) (i) In determining the Fixed Rate for any Certificate, (a) the District and the Purchaser or the Beneficial Owners, or (b) Remarketing Agent, subject to the approval of an Authorized District Representative, may also determine on or before the Business Day next preceding the determination of the Fixed Rate for such Certificates, redemption dates and redemption premiums, if any, to be paid upon the optional redemption of such Certificates which differ from such redemption dates and premiums as are set forth in Section 4.02(d) hereof, such redemption dates and redemption premiums, if any, to be agreed upon by the District and the Purchaser or the Beneficial Owners as part of a Consensual Rate Determination, or, in the best judgment of the Remarketing Agent, consistent with then current marketing conditions; and (ii) (a) the District and the Purchaser or the Beneficial Owners, or (b) Remarketing Agent, subject to the approval of an Authorized District Representative, may also determine, on or before the Business Day next preceding the determination of the Fixed Rate for such Certificates, a new maturity date for any portion of such Certificate; provided, however, that such new maturity date shall be a January 1 prior to the original maturity date; and provided further that such Certificate shall continue to be subject to mandatory

redemption from Mandatory Sinking Account Payments established for such Certificate unless, on any Mandatory Sinking Account Payment Date for such Certificate, such Mandatory Sinking Account Payment is applied to the payment of that portion of such Certificate which now matures on such Mandatory Sinking Account Payment Date.

3.01(a)(v)(C) Sale at Premium or Discount. The District and the Purchaser or the District and the Beneficial Owners may agree to a Fixed Rate that provides a premium, which such premium shall be transferred to the District by the Purchaser or Beneficial Owners on the first day of the Fixed Rate Period and applied to the costs of Conversion to a Fixed Rate Period, with any excess deposited by the District in the Certificate Fund. Alternatively, in the absence of a Consensual Rate Determination and notwithstanding the provisions of Section 3.01(a)(v)(A), the Fixed Rate may be the rate of interest per annum determined by the Remarketing Agent in its reasonable business judgment to be the interest rate which, if borne by the Certificates, would enable the Remarketing Agent to sell such Certificates at a price (without regard to accrued interest) which will result in the lowest net interest cost for the Certificates, after taking into account any premium or discount at which such Certificates are sold by the Remarketing Agent, provided that:

- (1) the Remarketing Agent certifies to the Trustee and the District that in its reasonable business judgment it believes that the sale of the Certificates at the interest rate and premium or discount specified by the Remarketing Agent is intended to result in the lowest net interest cost for such Certificates on the Fixed Rate Conversion Date;
- (2) the District consents in writing to the sale of the Certificates by the Remarketing Agent at such premium or discount;
- (3) in the case of Certificates to be sold at a discount, either (a) a Credit and/or Liquidity Facility is in effect with respect to such Certificates and provides for the purchase of such Certificates at par, or (b) the District agrees to transfer to the Trustee on the Fixed Rate Conversion Date an amount equal to such discount in immediately available funds for deposit in the Purchase Fund; and
- (4) in the case of Certificates to be sold at a premium, the Remarketing Agent shall transfer to the Trustee from remarketing proceeds an amount equal to such premium to pay the specific costs of Conversion, which amount shall either be used to pay costs associated with the Conversion or deposited in the Certificate Fund as specified by the District.

3.01(a)(vi) Index Rate.

3.01(a)(vi)(A) Upon the automatic Conversion of the Certificates to the Index Rate Mode for the Initial Index Rate Period on the Acquisition Date, upon a successful Conversion of the Certificates to an Index Rate Mode pursuant to Section 3.01(b), or



upon the continuation of the Certificates in an Index Rate Mode, and until the Certificates are successfully converted to another Mode pursuant to Section 3.01(b), the Certificates shall bear interest at the Index Rate as determined by the Index Agent, not to exceed the Cap Rate. Except as may be otherwise specified in a Conversion Order, the initial Index Rate for each Index Rate Period with respect to a Certificate shall apply to the period commencing on the first day of such Index Rate Period and ending on the immediately succeeding Wednesday and thereafter, each Index Rate shall apply to the period commencing on and including Thursday of each Calendar Week (whether or not a Business Day) to and including the following Wednesday. The duration of the Index Rate Period, the Cap Rate (which shall be determined pursuant to the definition of Cap Rate herein) to be applicable to the Certificates, including in the event insufficient funds are available for their purchase at the end of such Index Rate Period, the next Purchase Date, the Index Rate Index, the frequency with which the Index Rate will be recalculated, the Interest Payment Dates applicable to the Certificates and any alternative Index Rate Determination shall be as specified in the Conversion Order given with respect to the Conversion of the Certificates to the Index Rate Period pursuant to Section 3.01(b)(i)(D) or with respect to any new Index Rate and Index Rate Period for Certificates then bearing interest at an Index Rate pursuant to 3.01(a)(vi)(D). Notwithstanding anything to the contrary herein and except as otherwise agreed by the District and the Purchaser, for the Initial Index Rate Period: the last day of such Index Rate Period shall be the last day of the fifth Certificate Year following the Acquisition Date; the Cap Rate shall be 3.20% per annum; the first Purchase Date shall be the first Business Day following the last day of the Initial Index Rate Period; the Index Rate Index shall be 100% of the SIFMA Municipal Swap Index; the Index Rate shall be recalculated on each Wednesday; and the Interest Payment Dates shall be the first Business Day of each month.

3.01(a)(vi)(B) Determination of Applicable Spread. The Index Rate for the Certificates shall be based on the Index Rate Index, which shall be designated by the District not less than five Business Days prior to the Conversion Date or Purchase Date. The Index Rate Index for the Initial Index Rate Period shall be 100% of the SIFMA Municipal Swap Index. The Applicable Spread to be used in calculating the Index Rate shall be determined on or before the Index Rate Determination Date preceding the Conversion Date or Purchase Date. The "Applicable Spread" for the Initial Index Rate Period shall be 120 basis points or 1.20% per annum. Thereafter, the Applicable Spread shall be determined by agreement between the District and the Purchaser or, if the Purchaser no longer owns all of the Outstanding Certificates, among the District and the Beneficial Owners so long as the number of Beneficial Owners does not exceed five. If the District and the Purchaser or the Beneficial Owners cannot agree, or if the number of Beneficial Owners exceeds five, the District shall appoint a Remarketing Agent pursuant to Section 10.06 hereof and the Applicable Spread shall be the amount that, when added to or subtracted from the Index Rate Index, will result in the minimum Index Rate (not to exceed the Cap Rate) that, in the judgment of the Remarketing Agent under then-existing market conditions, will result in the remarketing of the Certificates on their Conversion Date or Purchase Date at a price equal to 100% of the principal amount thereof. The District, if the Applicable Spread is determined by Agreement among the District and the Purchaser or the Beneficial Owners, or, in the absence of such agreement, the Remarketing Agent shall provide notice by Electronic Means to the Index Agent, the

Trustee (if the Trustee is not also the Index Agent) and the District of the Applicable Spread. If the Beneficial Owners do not agree to hold their Certificates at an Index Rate calculated on the basis of the Applicable Spread determined as above, the Remarketing Agent shall offer for sale and use its best efforts to sell the Certificates on the Conversion Date at a price equal to 100% of the principal amount thereof, as provided herein and in the applicable Remarketing Agreement.

3.01(a)(vi)(C) Calculation of Index Rate. The Index Rate for the Index Certificates shall be calculated on each Index Rate Determination Date (preceding the date on which such Index Rate is to become effective) by the Index Agent and shall be equal to: (A) the Index Rate Index on the Index Rate Determination Date, as determined by the Index Agent, plus (B) the Applicable Spread that was determined pursuant to the preceding paragraph, and such Index Rate shall be rounded to the nearest one hundred thousandth of one percent (0.00001%). The initial Index Rate (as calculated from time to time pursuant to the Conversion Order) shall apply to the period commencing on the Conversion Date through and including the next succeeding Wednesday (whether or not a Business Day); and thereafter, each Index Rate shall apply to each Calendar Week commencing on and including Thursday (whether or not a Business Day) through and including the next succeeding Wednesday (whether or not a Business Day). The Index Agent shall furnish such Index Rate to the Trustee (if the Trustee is not also the Index Agent) and the District by Electronic Means no later than the Business Day next succeeding each Index Rate Determination Date. Upon the request of an Owner, the Trustee shall confirm by Electronic Means the Index Rate then in effect. In lieu of the notifications provided in the preceding sentences, the Trustee may make such information available by readily accessible Electronic Means.

The Trustee shall, no later than the third Business Day preceding each Interest Payment Date, notify the District in writing of the total amount of interest payable with respect to the Certificates on such Interest Payment Date.

The determinations of the initial Index Rate and all subsequent Index Rates shall be conclusive and binding upon the District, the Trustee, any Credit and/or Liquidity Provider, the Remarketing Agent, the Index Agent and the Owners.

Notwithstanding anything to the contrary herein, the Index Rate shall not exceed the Cap Rate. Subject to Section 5.10, if the foregoing results in an Index Rate in excess of the Cap Rate, the Adjusted Interest Rate for such Adjustment Period shall be the Cap Rate.

3.01(a)(vi)(D) Index Rate Continuation. On any date the Certificates in an Index Period are subject to optional redemption, or as of the Purchase Date of the Certificates in an Index Rate Period, unless the District has given a Conversion Notice with respect to the Conversion of the Certificates to another Mode pursuant to Section 3.01(b), the District may establish a new Index Rate Period for the Certificates with such right to be exercised by delivery of a written notice of an Authorized District Representative (an "Index Rate Continuation Notice") to the Trustee, the Index Agent (if the Trustee is not the Index Agent), and the Remarketing Agent (if any) no less than

twenty (20) days prior to the effective date of the new Index Rate Period. The Index Rate Continuation Notice must contain the information required by Sections 3.01(b)(i)(B)(2) and 3.01(b)(iii)(A). The Authorized District Representative shall also deliver a Conversion Order to the Trustee no later than five (5) Business Days prior to the effective date of the new Index Rate Period.

The first day of such new Index Rate Period shall be a Purchase Date on which the Certificates are subject to optional redemption or to mandatory tender pursuant to the applicable provisions of Section 5.02. Each such Certificate shall be subject to mandatory tender on the first day of such new Index Rate Period pursuant to the applicable provisions of Section 5.02 for purchase at its Purchase Price; provided that if an Authorized District Representative has filed a Consensual Rate Determination Notice, the Certificates shall not be subject to mandatory tender but will continue to be held by the Beneficial Owners for the immediately following Index Rate Period. No new Index Rate Period shall become effective unless, in the absence of a Consensual Rate Determination, all Outstanding Certificates are successfully remarketed in the new Index Rate Period at the new Index Rate on the first day of the new Index Rate Period.

3.01(a)(vi)(E) Notice to Owners. Upon receipt of an Index Rate Continuation Notice from an Authorized District Representative, as soon as possible, but in any event not less than fifteen (15) days prior to the first day of the proposed Index Rate Period, the Trustee shall give notice by first-class mail to the Owners of the affected Certificates, the Index Agent (if the Trustee is not the Index Agent) and the Remarketing Agent, if any, which notice shall (1) state in substance that a new Index Rate Period is to be established for the Certificates on the applicable Index Rate Conversion Date if the conditions specified in this Trust Agreement (and generally described in such notice) are satisfied on or before such date, (2) state that a new Index Rate Period shall not be established unless, in the absence of a Consensual Rate Determination, all the Certificates are successfully remarketed in the new Index Rate Period and at the new Index Rate on the first day thereof, and (3) contain the additional information required by Sections 3.01(b)(i)(B)(2) and Section 3.01(b)(iii).

3.01(a)(vi)(F) End of Index Rate. In the event the District has not given a Consensual Rate Determination Notice, an Index Rate Continuation Notice or a Conversion Notice with respect to Certificates bearing interest at an Index Rate at the time required by Section 3.02, Section 3.01(a)(vi)(D) or Section 3.01(b), as applicable, or if the conditions to the effectiveness of a new Index Rate Period and new Index Rate set forth in Section 3.01(a)(vi)(D) or the conditions to Conversion to another Rate Period are not satisfied, then on the day following the last day of the current Index Rate Period, a Weekly Rate Period shall automatically commence for the Certificates; provided that, notwithstanding anything to the contrary in this Trust Agreement, unless a Credit and/or Liquidity Facility is in effect and a Remarketing Agent has been appointed with respect to the Certificates, the Certificates shall not be subject to optional tender pursuant to Section 5.01 and the Certificates shall bear interest at a rate of interest equal to the Cap Rate and be subject to the provisions of Section 5.10.

3.01(a)(vii) Failure to Determine Rate for Certain Adjustment Periods.

3.01(a)(vii)(A) If, for any reason, the Daily Rate or the Weekly Rate on any Certificate is not established as provided herein by the Remarketing Agent pursuant to Sections 3.01(a)(i) or (ii) or no Remarketing Agent shall be serving as such hereunder for such Certificates or any Rate so established is held to be invalid or unenforceable with respect to any Adjustment Period, then an interest rate for such Adjustment Period equal to 100% of the applicable Index on the date such Daily Rate or Weekly Rate was (or would have been) determined as provided above shall be established automatically; provided that if such Rate so determined would be in excess of the Cap Rate, the Adjusted Interest Rate for such Adjustment Period shall be the Cap Rate.

3.01(a)(vii)(B) If, for any reason, the Remarketing Agent fails to set the length of any Commercial Paper Rate Period or to establish any Commercial Paper Rate for any Certificate or no Remarketing Agent shall be serving as such hereunder for such Certificates or a court holds any Commercial Paper Rate Period or Commercial Paper Rate for any Certificate to be invalid or unenforceable, a Commercial Paper Rate Period for such Certificate lasting through the next day immediately succeeding a Business Day (or until the earlier stated maturity thereof) and an interest rate applicable to such Certificate equal to 100% of the Daily Rate Index shall be established automatically; provided that if such Rate so determined would be in excess of the Cap Rate, the Adjusted Interest Rate for such Adjustment Period shall be the Cap Rate.

3.01(a)(viii) Notice of Rates. In a timely fashion following the determination of any Rate, the District or the Remarketing Agent (if any) establishing such Rate shall give written notice or notice by Electronic Means thereof to the District and the Trustee. Such notice shall also include details as to the principal amount of the Certificates and the Mode at the time applicable. Promptly upon receipt of notice from the District or the Remarketing Agent (if any) of any Fixed Rate, the Trustee shall give the Owner of each Certificate being converted to a Fixed Rate notice of the Fixed Rate.

3.01(a)(ix) Absence of Remarketing Agent; Binding Determination. If no Remarketing Agent shall be serving hereunder with respect to the Certificates, and the District and the Purchaser or the District and the Beneficial Owners have not agreed on a Consensual Rate Determination, the determination of the applicable Index shall be made by the Trustee at the direction of the District. In no event shall the Trustee have any of the discretion, or exercise any judgments, attributable to the Remarketing Agent hereunder. The determination of any Rate or Index by a Remarketing Agent or, as aforesaid, the Trustee, at the direction of the District, with respect to any Certificate, shall be conclusive and binding upon the District, the Trustee, any Remarketing Agent, any Credit and/or Liquidity Provider for such Certificate and the Owner of such Certificate.

3.01(a)(x) No Liability. In determining the interest rate that any Certificate shall bear as provided in this Section 3.01, neither the Remarketing Agent (if any) nor the Trustee shall have any liability to the District or the Owner of such Certificate, except for its gross negligence or willful misconduct.

**Section 3.01(b) Conversion of Interest Rate Determination Method.**

3.01(b)(i)(A) Right of Conversion. The Mode for the Certificates is subject to Conversion from time to time by the District, with such right to be exercised by delivery of a written notice of an Authorized District Representative (such notice being the “Conversion Notice”) to the Notice Parties as follows:

3.01(b)(i)(A)(1) at least one (1) Business Day prior to the fifteenth (15th) day preceding the effective date of such proposed Conversion, in the event of a Conversion to a Daily Rate, Weekly Rate, Commercial Paper Rate, or Index Rate; and

3.01(b)(i)(A)(2) at least two (2) Business Days prior to the fifteenth (15th) day preceding the effective date of such proposed Conversion, in the event of a Conversion to a Term Rate or a Fixed Rate.

Each Authorized District Representative is hereby authorized to execute and deliver a Conversion Notice to change the Mode at such times or times as the officer executing the Conversion Notice determines to be in the best interests of the District, such determination to be conclusively evidenced by such execution.

The Conversion Notice must be accompanied by a notice of any new Credit and/or Liquidity Provider and any new Credit and/or Liquidity Facility, if at the same time as such Certificates are being converted there will be a new Credit and/or Liquidity Provider or Credit and/or Liquidity Facility with respect to such Certificates.

3.01(b)(i)(B) Conversion to Index Rate Period. The following provisions shall apply to the Conversion of the Certificates to an Index Rate Period:

3.01(b)(i)(B)(1) On or prior to the fifth Business Day preceding the Conversion of the Certificates to the Index Rate Period, the District and the Purchaser or the District and the Beneficial Owners shall agree on or, in the absence of such agreement, the District, in consultation with the Remarketing Agent, may determine: (a) the duration of the Index Rate Period, (b) the optional redemption provisions applicable to the Certificates during such Index Rate Period, if any, (c) the Cap Rate to be applicable to the Certificates should insufficient funds be available to purchase such certificates at the end of such Index Rate Period, (d) the proposed next Purchase Date, if any, (e) the Index Rate Index, (f) the frequency with which the Index Rate shall be recalculated, (g) the Interest Payment Dates applicable to the Certificates while bearing interest in an Index Rate Period, and (h) alternative Index Rate Determination Dates, if any. The District shall provide notice to the Trustee of all such determinations in the Conversion Order delivered pursuant to Section 3.01(b)(i)(D).

3.01(b)(i)(B)(2) The Trustee shall give notice by first-class mail of a proposed conversion of the Certificates to the Index Rate Period to the Owners of the Certificates, as provided in Section 3.01(b)(iv). Such notice shall state for the

Certificates: (A) that the interest rate thereon shall be converted to the Index Rate; (B) the proposed Conversion Date; and (C) that, in the absence of a Consensual Rate Determination Notice, the Certificates are subject to mandatory tender for purchase on the proposed Conversion Date and setting forth the Purchase Price and the place of delivery for the purchase of the Certificates.

3.01(b)(i)(C) Conversion from Index Rate Period. Notwithstanding anything herein to the contrary, the District may, on any Redemption Date for a Certificates, convert said Certificates to another Interest Rate Determination Method. The District shall provide the Trustee, the Index Agent (if the Index Agent is not the Trustee) and the Remarketing Agent, if any, with a written Conversion Notice at least twenty (20) days prior to the Conversion Date. Each Conversion Notice delivered pursuant to this section shall contain the information required by 3.01(b)(iii) and the proposed Purchase Date. Such Certificates in an Index Mode shall be subject to mandatory tender pursuant to the applicable provisions of Section 5.02 at the Purchase Price; provided that if an Authorized District Representative has filed a Consensual Rate Determination Notice, the Certificates shall not be subject to mandatory tender but will continue to be held by the Purchaser or the Beneficial Owners for the immediately following Rate Period.

3.01(b)(i)(D) In connection with any Conversion of the Certificates to a Term Rate or an Index Rate, the Authorized District Representative shall also deliver a Conversion Order to the Trustee specifying the information required by Section 3.01(b)(iii)(B).

3.01(b)(ii) Limitations. Any Conversion pursuant to this Section 3.01(b) must comply with the following:

3.01(b)(ii)(A) the Conversion Date must be a date on which such Certificates are subject to mandatory tender, in the absence of a Consensual Rate Determination Notice, pursuant to the applicable provisions of Section 5.02;

3.01(b)(ii)(B) the Conversion Date must be a Business Day and, if the Conversion is from the Commercial Paper Rate, shall be a date determined in accordance with Section 3.01(a)(iii);

3.01(b)(ii)(C) a Credit and/or Liquidity Facility for such Certificates after a Conversion to an Adjustable Rate must cover (except for conversion to an Index Rate Period, a Term Rate Period or a Fixed Rate Period) principal plus accrued interest (computed at the Maximum Interest Rate then in effect on the basis of a 365-day year and actual days elapsed or a 360 day year of twelve 30-day months, as applicable) for the maximum number of days between Interest Payment Dates permitted under that Mode, plus such additional number of days, if any, as shall be required by each Rating Agency then rating the Certificates; provided that if the number of days of interest coverage provided by the Credit and/or Liquidity Facility is being changed from the number of days previously in place, the Trustee shall have also received a Rating Confirmation from each of the Rating Agencies then rating such Certificates;

3.01(b)(ii)(D) no Conversion shall become effective unless, in the absence of a Consensual Rate Determination, all affected Outstanding Certificates are successfully purchased or deemed purchased and remarketed in the new Mode on the Conversion Date; and

3.01(b)(ii)(E) upon Conversion of the Certificates to a Fixed Rate Period, an Index Rate Period or a Term Rate Period, an Authorized District Representative may provide in the Conversion Notice to any Credit and/or Liquidity Provider a request for termination of any Credit and/or Liquidity Facility then in effect with respect to such Certificates to be effective upon such Conversion to a Fixed Rate Period, an Index Rate Period or a Term Rate Period.

3.01(b)(ii)(F) upon Conversion of the Certificates to a Commercial Paper Rate Period, (i) the District must engage, at its expense, a commercial paper issuing and paying agent, reasonably acceptable to the Trustee, having access to the Depository's electronic money market issuing and payment system and otherwise eligible to serve as an issuing and paying agent under the Depository's policies and procedures for the issuance and payment of the Certificates in a Commercial Paper Rate Period, (ii) the District shall arrange for the execution and delivery to the Depository of such additional letter of representation, if any, as shall be required by the Depository to provide for the eligibility of the Certificates in the Commercial Paper Rate Period in the Depository's book entry system, (iii) the District shall take all other actions needed to comply with the requirements of the Depository applicable to the issuance and payment of the Certificates during the Commercial Paper Rate Period, (iv) the District shall arrange, or cause the Remarketing Agent to arrange for, the provision of any CUSIP numbers required, and (v) the District shall enter into any amendment of this Trust Agreement that is needed to comply with the Depository's or any Rating Agency's requirements concerning the issuance and payment of Certificates in the Commercial Paper Rate Period.

3.01(b)(iii) Contents of Conversion Notice and Conversion Order.

3.01(b)(iii)(A) The Conversion Notice must specify: (1) the proposed Conversion Date; (2) the new Mode to take effect; (3) whether any Credit and/or Liquidity Facility then in effect will remain in effect and, if applicable, the terms upon which the Owners of such Certificates shall have the option to tender such Certificates for purchase during the new Mode; (4) if a new Credit and/or Liquidity Facility will be in effect after the proposed Conversion Date, the form and terms of such Credit and/or Liquidity Facility; and (5) if the Conversion is to the Fixed Rate, the redemption dates and redemption prices applicable to such Fixed Rate Period.

3.01(b)(iii)(B) The Conversion Order delivered in connection with a Conversion to or continuation of a Term Rate must specify: (1) the duration of the Term Rate Period, (2) the optional redemption provisions applicable to the Certificates during such Term Rate Period, if any, and (3) the Cap Rate to be applicable to the Certificates should insufficient funds be available to purchase such certificates at the end of such Term Rate Period. The Conversion Order delivered in connection with a Conversion to or continuation of an Index Rate must specify: (1) the duration of the Index Rate Period,

(2) the optional redemption provisions applicable to the Certificates during such Index Rate Period, if any, (3) the Cap Rate to be applicable to the Certificates should insufficient funds be available to purchase such certificates at the end of such Index Rate Period, (4) the proposed next Purchase Date, if any, (5) the Index Rate Index, (6) the frequency with which the Index Rate shall be recalculated, (7) the proposed Interest Payment Dates applicable to the Certificates while bearing interest in an Index Rate Period, and (8) alternative Index Rate Determination Dates, if any.

3.01(b)(iv) Notice to Owners. Upon receipt of a Conversion Notice from an Authorized District Representative, as soon as possible, but in any event not less than fifteen (15) days prior to the proposed Conversion Date, the Trustee shall give notice by first-class mail to the Owners of Certificates (such notice being the “Notice of Change in Mode”), which notice shall state in substance:

3.01(b)(iv)(A) that the Mode for the Certificates shall be converted to the specified Adjustable Rate or the Fixed Rate, as the case may be, on the applicable Conversion Date if the conditions specified in this Trust Agreement (and generally described in such notice) are satisfied on or before such date;

3.01(b)(iv)(B) the applicable Conversion Date;

3.01(b)(iv)(C) that the Mode for such Certificates shall not be converted unless, in the absence of a Consensual Rate Determination Notice, all such Certificates are successfully purchased and remarketed in the new Mode on the Conversion Date;

3.01(b)(iv)(D) the CUSIP numbers or other identification information of such Certificates;

3.01(b)(iv)(E) that, in the absence of a Consensual Rate Determination Notice, all such Certificates are subject to mandatory tender for purchase on the Conversion Date at the Purchase Price (whether or not the proposed Conversion becomes effective on such date, unless converting from an Index Rate Period or a Term Rate Period not supported by a Credit and/or Liquidity Facility and the proposed Conversion does not occur, in which case the Certificates subject to mandatory tender will not be purchased);

3.01(b)(iv)(F) that, in the absence of a Consensual Rate Determination Notice, to the extent that there shall be on deposit with the Trustee on the applicable Conversion Date an amount of money sufficient to pay the Purchase Price thereof, all Certificates to be converted on the Conversion Date not delivered to the Trustee on or prior to the Conversion Date shall be deemed to have been properly tendered for purchase and shall cease to constitute or represent a right on behalf of the Owner thereof to the payment of principal thereof or interest thereon and shall represent and constitute only the right to payment of the Purchase Price on deposit with the Trustee, without interest accruing thereon after the Conversion Date; and

3.01(b)(iv)(G) such additional matters as are required by Section 3.01(b)(i)(B)(2), if applicable.



3.01(b)(v) Failed Remarketing. If, in the absence of a Consensual Rate Determination Notice, the Trustee receives written notice to the effect that the Remarketing Agent has not successfully remarketed all of the Outstanding Certificates to be converted to the new Mode on the Conversion Date, the Mode shall not be converted but such Certificates shall be deemed to have been tendered for purchase on the Conversion Date specified in the Conversion Notice (except if converting from an Index Rate Period or a Term Rate Period not supported by a Credit and/or Liquidity Facility) and shall be purchased on the Conversion Date specified in the Conversion Notice and, except as otherwise provided in Section 3.01(b)(iii), such Certificates shall continue to bear interest at the Mode in effect prior to the proposed Conversion Date specified in the Conversion Notice; provided, however, that notwithstanding anything to the contrary provided in this Section 3.01, the rate of interest on such Certificates shall be determined on the proposed Conversion Date and, if sufficient funds are not available for the purchase of the Certificates, the provisions of Section 5.10 shall apply. In such event, the District and the Owners of such Certificates that were to be converted to another Mode shall be restored (except as aforesaid with respect to the purchase of Certificates) to their former positions and rights hereunder with respect to such Certificates, and all rights of the District hereunder shall continue as if no such proceedings for the Conversion of the Mode on the Certificates had taken place.

The Trustee shall immediately notify by Electronic Means the Credit and/or Liquidity Provider and the Remarketing Agent, if any, for the Certificates of each such failed Conversion.

3.01(b)(vi) Notice Failure No Bar. Failure of an Owner of a Certificate to receive the notice described in Section 3.01(b)(iv), or any defect therein, shall not affect the validity of any Rate or any continuation of or change in the Mode for any of the Certificates or extend the period for tendering any of the Certificates for purchase, and the Trustee shall not be liable to any Owner of a Certificate by reason of the failure of such Owner to receive such notice or any defect therein.

3.01(b)(vii) No Conversion During Continuance of Event of Default. Unless otherwise agreed by the District and the Purchaser or the District and the Beneficial Owners, no Conversion shall occur under this Section 3.01(b) if at the time of such Conversion an Event of Default shall have occurred and be continuing. The Trustee and the Remarketing Agent may conclusively rely upon a certificate of an Authorized District Representative that no such default exists, which an Authorized District Representative shall deliver prior to such Conversion.

3.01(b)(viii) Notice to Remarketing Agent. The District may not elect a change in the Mode for the Certificates without written notice to the Remarketing Agent, if any.

3.01(b)(ix) Rescission of Election. Notwithstanding anything herein to the contrary, the District may rescind any Conversion Notice given pursuant to this Section 3.01(b) prior to the proposed Conversion Date set forth in the Conversion Notice by giving written notice thereof to the Trustee, any Credit and/or Liquidity Provider for such Certificates and the Remarketing Agent, if any, two or more Business Days prior to such proposed Conversion Date. If the Trustee receives notice of such rescission prior to the time

the Trustee has given notice to the Owners of the affected Certificates pursuant to Section 3.01(b)(iv), then the Conversion Notice previously delivered by the District shall be of no force and effect. If the Trustee receives notice from the District of rescission of the Conversion Notice after the Trustee has given notice to the Owners of the affected Certificates pursuant to Section 3.01(b)(iv), then such Certificates shall continue to be subject to mandatory tender for purchase on the Conversion Date specified in the Conversion Notice (unless such Certificates were in an Index Rate Mode or in a Term Rate Period not supported by a Credit and/or Liquidity Facility prior to such proposed Conversion Date) and, in the absence of a Consensual Rate Determination Notice, the Rate Period for such Certificates shall automatically adjust to, or continue as, a Weekly Rate Period on the Conversion Date specified in the Conversion Notice. If a Consensual Rate Determination Notice has been delivered to the Trustee, the terms set forth therein shall govern.

**Section 3.01(c) Conversion of Provider Certificates.** Notwithstanding anything to the contrary contained in this Trust Agreement, if all of the Outstanding Certificates are Provider Certificates, such Certificates may be converted to a Fixed Rate on such Conversion Date as shall be acceptable to the applicable Credit and/or Liquidity Provider, the Trustee, the Remarketing Agent and the District.

**Section 3.02. Consensual Rate Determination.** Whenever a determination herein is to be made by agreement of the District and the Purchaser or the Beneficial Owners (a “Consensual Rate Determination”), such agreement shall be evidenced by a writing substantially in the form of Exhibit B hereto (a “Consensual Rate Determination Notice”) signed by the District and the Purchaser or the Beneficial Owners and delivered to the Trustee by an Authorized District Representative not later than 20 days prior to the last day of the current Rate Period. Notwithstanding anything to the contrary herein, in the event a Consensual Rate Determination Notice is received by the Trustee, the Certificates shall not be subject to mandatory tender hereunder but shall continue to be held by the Beneficial Owners through the immediately following Rate Period.

## ARTICLE IV

### PREPAYMENT OF CERTIFICATES

**Section 4.01(a) Extraordinary Prepayment Upon Occurrence of Extraordinary Prepayment Event.** The Certificates are subject to prepayment in whole on any date prior to their stated Principal Payment Date upon the occurrence of an Extraordinary Prepayment Event at a prepayment price equal to amounts held in the Escrow Account within the Acquisition Fund and any amounts held in any other fund or account maintained under this Trust Agreement. Upon making such Extraordinary Prepayment, the obligations of the District hereunder shall be extinguished and the Lease and the Site Lease shall terminate.

**Section 4.01(b) Extraordinary Prepayment From Net Proceeds.** The Certificates (including Provider Certificates) are subject to prepayment on any date prior to their stated Principal Payment Date, in whole or in part, in Authorized Denominations, from and to the extent of any Net Proceeds received with respect to all or a portion of the Leased Premises and deposited by the Trustee in the Prepayment Account in accordance with the provisions hereof, at

a prepayment price equal to the principal evidenced thereby, plus accrued interest evidenced thereby to the date fixed for prepayment, without premium.

**Section 4.02. Optional Prepayment.** (a) Commercial Paper Rate Period. Certificates evidencing interest at the Commercial Paper Rate are subject to prepayment at the option of the District in whole or in part, from and to the extent of prepaid Base Rental under the Lease, on the day following the end of any Commercial Paper Rate Period at a redemption price equal to the principal amount evidenced thereby plus accrued interest evidenced thereby, if any, without premium.

(b) Daily Rate Period and Weekly Rate Period. Certificates evidencing interest at a Daily Rate or a Weekly Rate are subject to prepayment, at the option of the District, in whole or in part, from and to the extent of prepaid Base Rental under the Lease, in Authorized Denominations on any Business Day, at a redemption price equal to the principal amount evidenced thereby, plus accrued interest evidenced thereby, if any, without premium.

(c) Term Rate Period. Certificates evidencing interest at a Term Rate are subject to prepayment, at the option of the District, in whole or in part, from and to the extent of prepaid Base Rental under the Lease, in Authorized Denominations, on the day following the last day of any Term Rate Period and on any Interest Payment Date at a redemption price equal to the principal amount evidenced thereby, plus accrued interest evidenced thereby, if any, without premium.

(d) Fixed Rate Period. Certificates evidencing interest at a Fixed Rate are subject to prepayment, from and to the extent of prepaid Base Rental under the Lease, in whole or in part (and if in part, in such order of maturity and Mandatory Payment Sinking Account Dates as the District shall specify and within a maturity or Mandatory Sinking Account Payment Date by lot or by such other method as the Trustee determines to be fair and reasonable and in Authorized Denominations), at the option of the District, on any date, at such times and at such prepayment prices as follows:

(1) If, on the Fixed Rate Conversion Date, the remaining term of such Certificates being converted to a Fixed Rate is greater than eight years, then such Certificates will not be subject to optional prepayment until the first Interest Payment Date to follow the eighth (8th) anniversary of the conversion of such Certificates to a Fixed Rate. On and after such first Interest Payment Date, such Certificates will be subject to prepayment, in whole or in part, from and to the extent of prepaid Base Rental under the Lease, on any Business Day, at a prepayment price of 100% of the principal amount evidenced thereby, plus accrued interest evidenced thereby, if any, to the date of redemption.

(2) If, on the Fixed Rate Conversion Date, the remaining term of such Certificates is less than eight years, then such Certificates will not be subject to optional prepayment following Conversion.

(e) Index Rate Period. The Certificates evidencing interest at an Index Rate are subject to prepayment prior to their respective stated maturity dates, at the option of the

District, in whole or in part, from and to the extent of prepaid Base Rental under the Lease, in Authorized Denominations and in such amounts as may be specified by the District (i) on any Interest Payment Date and on the day following the last day of any Index Rate Period, at a prepayment price equal to the principal amount evidenced thereby, plus accrued and unpaid interest evidenced thereby, if any, without premium; and (ii) any day designated by the District in the Conversion Order relating to the current Index Rate Period, at a prepayment price equal to the principal amount thereof, plus accrued and unpaid interest, if any, with premium, if any, as designated by the Authority in the Conversion Order.

(f) Selection of Certificates for Optional Prepayment. The District shall designate which maturities of the Certificates are to be called for optional prepayment pursuant to Section 4.02, provided that Certificates that are Provider Certificates shall be prepaid prior to any other Certificates. If less than all Certificates maturing by their terms on any one date are to be prepaid at any one time, the Trustee shall select the Certificates of such maturity date to be prepaid by lot or by such other method as the Trustee determines to be fair and reasonable, provided that Certificates that are Provider Certificates shall be prepaid prior to any other Certificates. For purposes of such selection, Certificates of each maturity shall be deemed to be composed of multiples of minimum Authorized Denominations and any such multiple may be separately prepaid.

(g) Sufficient Funds Required for Optional Prepayment. Any optional prepayment of Certificates and notice thereof may be conditional and may be rescinded and cancelled pursuant to the provisions of Section 4.05 if for any reason on the date fixed for redemption moneys are not available in the Prepayment Fund or otherwise held in trust for such purpose in an amount sufficient to pay in full on said date the principal and interest evidenced thereby, and any premium due on the Certificates called for prepayment.

(h) Notice of Optional Prepayment; Rescission. Any notice of optional prepayment of the Certificates shall be delivered in accordance with Section 4.05 and may be rescinded as provided in Section 4.05.

**Section 4.03. Mandatory Prepayment.** (a) The Certificates are subject to prepayment from Mandatory Sinking Account Payments to be made on each Mandatory Sinking Account Payment Date at a prepayment price equal to the principal evidenced thereby, without premium in the amounts shown in the following table.

### Mandatory Sinking Account Payments

<u>Payment Number</u>	<u>Amount</u>	<u>Payment Number</u>	<u>Amount</u>
1		16	
2		17	
3		18	
4		19	
5		20	
6		21	
7		22	
8		23	
9		24	
10		25	
11		26	
12		27	
13		28	
14		29	
15		30	

(b) In accordance with Section 7.05, on each Interest Payment Date date following the Acquisition Date the Trustee shall transfer from the funds in the Base Rental Account of the Certificate Fund and deposit into (i) the Interest Account of the Certificate Fund the amount equal to the interest accrued since the last Interest Payment Date following the Acquisition Date, or, on the first Interest Payment Date following the Acquisition Date, the interest accrued since the Acquisition Date and (ii) the Principal Account of the Certificate Fund a portion of the amount due on the next following Mandatory Sinking Account Payment Date. The portion of the Mandatory Sinking Account Payment to be deposited into the Principal Account shall be such Mandatory Sinking Account Payment due on the next Mandatory Sinking Account Payment Date multiplied by a fraction with the numerator being the number of months since the last Interest Payment Date following the Acquisition Date, or, on the first Interest Payment Date following the Acquisition Date, the number of months since the Acquisition Date and the denominator being twelve. Amounts remaining in the Base Rental Account following such transfers shall be transferred to the Prepayment Account and applied to the prepayment of the Certificates without regard to Authorized Denominations on the next following Mandatory Sinking Account Payment Date at a prepayment price equal to the principal evidenced thereby, without premium. Such prepayment shall be in addition to the Mandatory Sinking Account Payment due on such Mandatory Sinking Account Payment Date. Unless otherwise instructed in writing by the District, such prepayment shall be applied to reduce Mandatory Sinking Account Payments in inverse order of such Mandatory Sinking Account Payments.

(c) In addition, on the Acquisition Date the District shall pay to the Trustee for deposit in the Prepayment Account of the Certificate Fund an amount not less than \$8,500,000 which shall be applied by the Trustee to the prepayment of Certificates on the Acquisition Date at a prepayment price equal to the principal evidenced thereby, without premium.

**Section 4.04. Selection of Certificates for Prepayment.** Whenever less than all the Outstanding Certificates are to be prepaid on any one date, the Trustee shall select the Certificates to be prepaid, as directed in a Written Request of the District, and by lot among Certificates with the same stated Principal Payment Date in any manner that the Trustee deems fair and appropriate, which decision shall be final and binding upon the District, the Authority and the Owners; provided, however, Provider Certificates shall be selected first. The Trustee shall promptly notify the District in writing of the numbers of the Certificates so selected for prepayment on such date. For purposes of such selection, any Certificate may be prepaid in part.

**Section 4.05. Notice of Prepayment.** When prepayment of Certificates is authorized pursuant to this Article, the Trustee shall give notice, at the expense of the District, of the prepayment of the Certificates; provided, however, that except with respect to prepayments of Certificates pursuant to Section 4.02 hereof, and except with respect to Certificates to be prepaid with the proceeds of obligations issued to accomplish a current or advance refunding of the Certificates, the Trustee shall not give notice of prepayment of Certificates unless there shall have been deposited with the Trustee funds sufficient to pay the prepayment price of the Certificates to be prepaid. The notice of prepayment shall specify (a) the Certificates or designated portions thereof (in the case of prepayment of the Certificates in part but not in whole) which are to be prepaid, (b) the date of prepayment, (c) the place or places where the prepayment will be made, including the name and address of any paying agent, (d) the prepayment price, (e) the CUSIP numbers assigned to the Certificates to be prepaid, (f) the numbers of the Certificates to be prepaid in whole or in part and, in the case of any Certificate to be prepaid in part only, the principal evidenced by such Certificate to be prepaid, (g) the stated Principal Payment Date of each Certificate to be prepaid in whole or in part, (h) with respect to any notice of any optional prepayment of Adjustable Rate Certificates, that a Credit and/or Liquidity Provider (if any) may direct the Trustee to cancel such prepayment upon the occurrence and continuation of any event of default under the Credit and/or Liquidity Facility (if any), and (i) if the Certificates are to be prepaid with the proceeds of obligations issued to accomplish a current or advance refunding of the Certificates, a statement that the prepayment of the Certificates is contingent on such obligations being issued. Such notice of prepayment shall further state that on the specified date, sufficient funds for the payment of said Certificates subject to such notice being held by the Trustee, there shall become due and payable upon each Certificate or portion thereof being prepaid the prepayment price and that from and after such date interest evidenced thereby shall cease to accrue and be payable.

Any notice of optional prepayment of the Certificates delivered in accordance with Section 4.02 may be conditional and if any condition stated in the notice of redemption shall not have been satisfied on or prior to the redemption date, said notice shall be of no force and effect and the District shall not be required to redeem the Certificates and the prepayment shall not be made and the Trustee shall within a reasonable time thereafter give notice, to the persons and in the manner in which the notice of prepayment was given, that such condition or conditions were not met and that the prepayment was cancelled. In addition, the District may, at its option, on or prior to the date fixed for prepayment in any notice of prepayment of the Certificates, rescind and cancel such notice of prepayment by Written Request of the District to the Trustee, and the Trustee shall mail notice of such cancellation to the recipients of the notice of prepayment being cancelled. Such notices of prepayment may state that no representation is made as to the accuracy or correctness of the CUSIP numbers set forth therein or printed on the Certificates.

The Trustee shall take the following actions with respect to such notice of prepayment:

At least 15 but not more than 30 days prior to any prepayment date, notice of prepayment shall be given to the respective Owners of Certificates designated for prepayment by first-class mail, postage prepaid, at their addresses appearing on the Registration Books maintained by the Trustee as of the close of business on the day before such notice of prepayment is given.

The actual receipt by an Owner of any notice of such prepayment shall not be a condition precedent to prepayment, and neither failure to receive such notice nor any defect therein shall affect the validity of the proceedings for the prepayment of such Certificates or the cessation of interest evidenced thereby on the date fixed for prepayment.

A certificate by the Trustee that notice of prepayment has been given to Owners as herein provided shall be conclusive as against all parties, and no Owner whose Certificate is called for prepayment may object thereto or object to the cessation of interest evidenced thereby on the fixed prepayment date by any claim or showing that said Owner failed to actually receive such notice of prepayment.

In the event any Credit and/or Liquidity Provider directs the Trustee to cancel any optional prepayment of Adjustable Rate Certificates upon the occurrence and continuation of any event of default under a Credit and/or Liquidity Facility, the prepayment of such Certificates shall be cancelled and the Trustee shall, prior to the date on which such prepayment is to occur, give notice to the Persons and in the manner in which the notice of prepayment was given, that the prepayment is cancelled and that there shall be no prepayment of Adjustable Rate Certificates pursuant to such notice of prepayment.

The Trustee shall provide copies of all notices given under this Section and all revocations of notices to the any Credit and/or Liquidity Provider and the District at the same time it gives notices to Owners.

The Trustee shall give notice of prepayment of any Certificates to be prepaid upon receipt of a Written Request of the District (which request shall be given to the Trustee at least 20 days prior to the date fixed for prepayment).

**Section 4.06. Partial Prepayment of Certificates.** Upon surrender of any Certificate prepaid in part only, the Trustee shall execute and deliver to the Owner thereof a new Certificate or Certificates evidencing the unprepaid principal of the Certificate surrendered.

**Section 4.07. Effect of Prepayment.** If notice of prepayment has been duly given as aforesaid and moneys for the payment of the prepayment price of the Certificates to be prepaid are held by the Trustee, then on the prepayment date designated in such notice, the Certificates so called for prepayment shall become payable at the prepayment price specified in such notice; and from and after the date so designated, interest evidenced by the Certificates so called for prepayment shall cease to accrue, such Certificates shall cease to be entitled to any benefit or security hereunder and the Owners of such Certificates shall have no rights in respect thereof except to receive payment of the prepayment price thereof, and such moneys shall be pledged to such prepayment. The Trustee shall, upon surrender for payment of any of the Certificates to be prepaid, pay such Certificates at the prepayment price thereof.

All Certificates prepaid pursuant to the provisions of this Article shall be canceled by the Trustee and shall not be redelivered.

**Section 4.08. Purchase In Lieu of Redemption.** The District reserves the right at all times to purchase any of its Certificates (including, without limitation, during the Initial Escrow Period and during any Subsequent Escrow Period) on the open market. In lieu of mandatory redemption, the District may surrender to the Trustee for cancellation Certificates purchased on the open market, and such Certificates shall be cancelled by the Trustee. If any Certificates are so cancelled, the District may designate the Mandatory Sinking Account Payments or portions thereof that are to be reduced as a result of such cancellation.

## ARTICLE V

### TENDER AND PURCHASE OF CERTIFICATES

**Section 5.01. Tender for Purchase Upon Election of Owner.** (a) During any Daily Rate Period, any Certificate or (subject to subsection (c) of this Section) a portion thereof, may be tendered for purchase on any Business Day at the applicable Purchase Price, payable in accordance with Section 5.08 in immediately available funds, upon (A) delivery by the Owner or Beneficial Owner of such Certificate to the Remarketing Agent and to the Trustee at its Principal Office of an irrevocable written notice or notice by Electronic Means by 11:00 a.m. (New York City time) on the Purchase Date, which states the principal amount of such Certificate to be tendered for purchase and the Purchase Date, and (B) delivery of such Certificate to the Trustee on the Purchase Date in accordance with Section 5.03. The Trustee shall keep a written record of the notice described in clause (A) of this subsection (a).

(b) During any Weekly Rate Period, any Certificate or (subject to subsection (c) of this Section) a portion thereof, may be tendered for purchase on any Business Day at the applicable Purchase Price, payable in accordance with Section 5.08 in immediately available funds, upon (A) delivery by the Owner or Beneficial Owner of such Certificate to the Remarketing Agent and to the Trustee at its Principal Office of an irrevocable written notice or notice by Electronic Means by 5:00 p.m. (New York City time) on any Business Day at least seven (7) days prior to the Purchase Date, which states the principal amount of such Certificate to be tendered for purchase and the Purchase Date, and (B) delivery of such Certificate to the Trustee on the Purchase Date in accordance with Section 5.03. The Trustee shall keep a written record of the notice described in clause (A) of this subsection (b).

(c) If any Certificate is to be purchased in part pursuant to subsection (a) or subsection (b) of this Section, the amount so purchased and the amount not so purchased must each be an Authorized Denomination; provided that either may be in other than an Authorized Denomination to the extent Section 4.03(b) has created interests in Certificates in other than Authorized Denominations.

(d) Any instrument delivered to the Trustee in accordance with this Section shall be irrevocable with respect to the purchase for which such instrument was delivered and shall be binding upon the Depository and any subsequent Owner or Beneficial Owner of the Certificate to which it relates, including any Certificate issued in exchange therefor or upon the registration of



transfer thereof, and as of the date of such instrument, the Owner or Beneficial Owner of the Certificates specified therein shall not have any right to optionally tender for purchase such Certificates prior to the date of purchase specified in such notice. The District, the Remarketing Agent and the Trustee may conclusively assume that any person (other than an Owner) providing notice of optional tender pursuant to subsection (a) or subsection (b) of this Section is the Beneficial Owner of the Certificate to which such notice relates, and none of the District, the Remarketing Agent or the Trustee shall assume any liability in accepting such notice from any person whom it reasonably believes to be a Beneficial Owner of Certificates.

**Section 5.02. Mandatory Tender of Certificates for Purchase.** (a) The Certificates shall be subject to mandatory tender for purchase at the applicable Purchase Price at the following times and upon the occurrence of any of the events stated below with respect to any Rate Period other than the Initial Escrow Period, any Subsequent Escrow Period and the Initial Index Rate Period:

(i) in the absence of a Consensual Rate Determination Notice, on the Conversion Date to a new Mode specified in a Conversion Notice (whether or not the proposed Conversion becomes effective on such date, unless converting from an Index Rate Period or a Term Rate Period for which there is no Credit and/or Liquidity Facility (including, without limitation, converting from one Index Rate Period to another Index Rate Period or from one Term Rate Period to another Term Rate Period), and the proposed Conversion does not occur, in which case the mandatory tender will be cancelled);

(ii) with respect to Certificates bearing interest at a Daily Rate, a Weekly Rate or a Commercial Paper Rate: (A) on the fifth (5th) Business Day preceding (i) the scheduled Expiration of a Credit and/or Liquidity Facility or (ii) the Termination of a Credit and/or Liquidity Facility, at the election of the District as permitted by such Credit and /or Liquidity Facility; or (B) on the date of the provision of an alternate Credit and/or Liquidity Facility for such Certificates pursuant to Section 5.12 and the resultant Termination of the existing Credit and/or Liquidity Facility; provided, however, that, notwithstanding any other provision of this Trust Agreement to the contrary, no mandatory tender for purchase shall be required pursuant to this subsection if a Rating Confirmation shall be delivered by each Rating Agency then rating the Certificates with respect to which an alternate Credit and/or Liquidity Facility is being provided pursuant to Section 5.12 on the date of the provision of the Alternate Liquidity Facility pursuant to Section 5.12 and the resultant Termination of the existing Liquidity Facility;

(iii) with respect to each Certificate bearing interest at a Commercial Paper Rate, on each Interest Payment Date immediately following each Commercial Paper Rate Period for such Certificate;

(iv) in the absence of a Consensual Rate Determination Notice, with respect to each Certificate bearing interest at a Term Rate, on the Term Rate Conversion Date on which a new Term Rate Period and a new Term Rate are to be established;

(v) with respect to Certificates bearing interest at a Daily Rate, a Weekly Rate or a Commercial Paper Rate, upon receipt by the Trustee of written notice from the Credit and/or Liquidity Provider for any such Certificates that an event of default or an event of termination (other than an immediate termination or suspension) has occurred under the related Credit and/or Liquidity Facility with the effect that the obligations of such Credit and/or Liquidity Provider to purchase such Certificates or otherwise provide for the Purchase Price of such Certificates under such Credit and/or Liquidity Facility shall terminate on the date specified in such notice, in which event such Certificates shall be subject to purchase on a Business Day selected by the Trustee which date shall be not more than five (5) Business Days after receipt of such notice, but in no event later than the second Business Day preceding the termination date specified in the notice received from such Credit and/or Liquidity Provider; and

(vi) in the absence of a Consensual Rate Determination Notice, with respect to Certificates bearing interest at an Index Rate, on the Index Rate Conversion Date on which a new Index Rate Period is to be established as designated by the District pursuant to Section 3.01(a)(vi)(D) or Section 3.01(b)(i)(C).

(b) Notice of mandatory tender for purchase on a Conversion Date shall be given by the Trustee to the Owners as provided in Section 3.01(b)(iii) or Section 3.01(b)(iv), as applicable.

(c) The Trustee shall give notice by first class mail or by Electronic Means to the Owners of the Certificates of each Termination (as defined in the applicable Credit and/or Liquidity Facility) of a Credit and/or Liquidity Facility and each Expiration (as defined in the applicable Credit and/or Liquidity Facility) of a Credit and/or Liquidity Facility making Certificates subject to mandatory tender pursuant to Section 5.02(a)(ii), which notice shall (i) state the date of such Termination, substitution or Expiration; (ii) state that unless a rating confirmation is received with respect to the substitution (in which event no mandatory tender for purchase shall occur), such Certificates shall be subject to mandatory tender for purchase on the specified Purchase Date at the applicable Purchase Price (which shall be specified in such notice); and (iii) be mailed or delivered by Electronic Means by the Trustee not later than the fifteenth (15th) day prior to such Termination, substitution or expiration.

(d) No notice need be given to the Owners of any Certificate bearing interest at a Commercial Paper Rate of the mandatory tender for purchase of such Certificate on an Interest Payment Date for such Certificate, except for Certificates registered in book-entry form, such notice, if any, as shall be required by the Depository.

(e) Upon the expiration of the then current Term Rate Period for the Certificates, in the absence of a Consensual Rate Determination Notice, the Trustee shall give notice by first class mail or by Electronic Means to the Owners of the Certificates at the address shown on the certificate registration books maintained by the Trustee not later than the fifteenth (15th) day prior to the date on which the Certificates are subject to mandatory tender for purchase pursuant to Section 5.02(a)(iv), as applicable, which notice shall state that such Certificates are subject to mandatory tender on the specified Purchase Date at the applicable Purchase Price (which shall be specified in such notice).

(f) The Trustee shall give notice by first class mail or Electronic Means within two (2) Business Days of receipt of a notice from a Credit and/or Liquidity Provider pursuant to Section 5.02(a)(v), to the Owners of the affected Certificates at their addresses shown on the bond registration books maintained by the Trustee which notice shall: (1) state such Certificates are subject to mandatory tender for purchase pursuant to Section 5.02(a)(v) at the applicable Purchase Price (which shall be specified in such notice); and (2) state the Purchase Date.

(g) With respect to the Certificates in an Index Rate Period, in the absence of a Consensual Rate Determination Notice, the Trustee shall give notice by first class mail or by Electronic Means via the EMMA system, not later than the fifteenth (15th) day prior to the date on which the Certificates are subject to mandatory tender pursuant to Section 5.02(a)(vi), which notice shall state that the Certificates are subject to mandatory tender for purchase on the specified Purchase Date at the applicable Purchase Price (which Purchase Price shall be specified in such notice).

**Section 5.03. Delivery of Tendered Certificates.** With respect to any Certificate that is registered in book-entry form with a Depository, delivery of such Certificate to the Trustee in connection with any optional or mandatory tender for purchase pursuant to Section 5.01 or Section 5.02, as applicable, shall be effected by the making of, or the irrevocable authorization to make, appropriate entries on the books of the Depository for such Certificate or any Participant of such Depository to reflect the transfer of the beneficial ownership interest in such Certificate to the account of the Trustee, or to the account of a Participant of such Depository acting on behalf of the Trustee. With respect to any Certificate that is not registered in book-entry form with a Depository, delivery of such Certificate to the Trustee in connection with any optional or mandatory tender for purchase pursuant to Section 5.01 or Section 5.02, as applicable, shall be effected by physical delivery of such Certificate to the Trustee at its Principal Office, by 1:00 p.m. (New York City time) on the Purchase Date, accompanied by an instrument of transfer thereof, in a form satisfactory to the Trustee, executed in blank by the Owner thereof with the signature of such Owner guaranteed in accordance with the guidelines set forth by one of the nationally recognized medallion signature programs.

**Section 5.04. Certificates Deemed Purchased.** (a) If moneys sufficient to pay the Purchase Price of Certificates to be purchased pursuant to Section 5.01 or Section 5.02, as applicable, shall be held by the Trustee on the applicable Purchase Date, such Certificates shall be deemed to have been purchased for all purposes of this Trust Agreement, irrespective of whether or not such Certificates shall have been delivered to the Trustee or transferred on the books of a Depository for such Certificates, and neither the former Owner or Beneficial Owner of such Certificates nor any other person shall have any claim thereon, under this Trust Agreement or otherwise, for any amount other than the Purchase Price thereof.

(b) In the event of non-delivery of any Certificate to be purchased pursuant to Section 5.01 or Section 5.02, as applicable, the Trustee shall segregate and hold uninvested the moneys for the Purchase Price of such Certificate in trust, without liability for interest thereon, for the benefit of the former Owners or Beneficial Owners of such Certificate, who shall, except as provided in the following sentence, thereafter be restricted exclusively to such moneys for the satisfaction of any claim for the Purchase Price of such Certificate. Any moneys that the Trustee shall segregate and hold in trust for the payment of the Purchase Price of any Certificate and

remaining unclaimed for one (1) year after the date of purchase shall be paid automatically to the District. After the payment of such unclaimed moneys to the District, the former Owner or Beneficial Owner of such Certificate shall look only to the District for the payment thereof.

**Section 5.05. Deposit of Certificates.** The Trustee agrees to accept and hold all Certificates delivered to it pursuant to Section 5.01 or Section 5.02, as applicable, in trust for the benefit of the respective Owners or Beneficial Owners which shall have so delivered such Certificates until the Purchase Price of such Certificates shall have been delivered to or for the account of or to the order of such Owners or Beneficial Owners pursuant to Section 5.08. Any Certificates registered for transfer to new purchasers and delivered to the Trustee as described in Section 5.06 shall be held in trust by the Trustee for the benefit of such new purchasers until delivery to such new purchasers.

**Section 5.06. Remarketing of Tendered Certificates.** (a) Daily Put or Commercial Paper Tender Certificates.

(i) Not later than 11:00 a.m. (New York City time) on each Business Day on which the Trustee receives a notice from an Owner or Beneficial Owner of a Certificate to be tendered pursuant to Section 5.01(a) (the “Daily Put Certificates”), and on each day any Certificates bearing interest at a Commercial Paper Rate are subject to mandatory tender pursuant to Section 5.02(a)(iii) (the “Commercial Paper Tender Certificates”), the Trustee shall give notice by Electronic Means to the Remarketing Agent and the District, specifying the principal amount of Certificates for which it has received such notice and the names of the Owner or Owners thereof. The Remarketing Agent shall thereupon offer for sale and use its best efforts to find purchasers for such Daily Put Certificates or Commercial Paper Tender Certificates, other than Certificates that are Provider Certificates, which shall be remarketed pursuant to Section 5.11.

(ii) Not later than 11:30 a.m. (New York City time) on the Purchase Date described in subparagraph (i) above, the Trustee shall give notice by Electronic Means to the Remarketing Agent and the District of the accrued amount of interest payable with respect to the Daily Put Certificates or Commercial Paper Tender Certificates, as applicable, as of such Purchase Date and confirming the aggregate principal amount of the Daily Put Certificates or Commercial Paper Tender Certificates.

(iii) Not later than 11:30 a.m. (New York City time) on any Purchase Date for Daily Put Certificates or Commercial Paper Tender Certificates, the Remarketing Agent shall give notice by Electronic Means to the District, the Trustee and the Credit and/or Liquidity Provider of the principal amount of any Daily Put Certificates or Commercial Paper Tender Certificates, as applicable, which have not been remarketed in accordance with the applicable Remarketing Agreement and its confirmation of funds on hand and its commitment to deliver funds (versus delivery of Daily Put Certificates or Commercial Paper Tender Certificates that have been remarketed) from the Daily Put Certificates or Commercial Paper Tender Certificates that have been remarketed to the Trustee by 2:00 p.m. (New York City time) on such day pursuant to Section 5.08.

(iv) If a Remarketing Agent's notice pursuant to subparagraph (iii) above indicates that such Remarketing Agent has remarketed less than all the Daily Put Certificates or Commercial Paper Tender Certificates to be purchased on any Purchase Date or if the Trustee does not receive such notice from the Remarketing Agent, the Trustee shall demand payment under the Credit and/or Liquidity Facility then in effect with respect to the tendered Certificates in sufficient time (as set forth by the terms of the Credit and/or Liquidity Facility) so as to provide by 2:30 p.m. (New York City time) on such Purchase Date an amount sufficient, together with the remarketing proceeds to be available for such purchase, calculated solely on the basis of the notice given by the Remarketing Agent pursuant to subparagraph (iii) above or, if no such notice is received on the assumption that there are no remarketing proceeds, to pay the Purchase Price of the Daily Put Certificates or Commercial Paper Tender Certificates, as applicable. The Trustee shall immediately after such demand for payment give notice by Electronic Means to the District of the amount, if any, of such demand. Notwithstanding the foregoing, the Trustee will only request funds under a Credit and/or Liquidity Facility for payment of the Purchase Price of the Daily Put Certificates or the Commercial Paper Tender Certificates to the extent the Liquidity Facility applies to Certificates bearing interest of such Interest Rate Determination Method.

(b) Weekly Put Certificates.

(i) Not later than 10:30 a.m. (New York City time) on each Business Day succeeding a day on which the Trustee receives a notice from an Owner or Beneficial Owner of Certificates to be tendered pursuant to Section 5.01(b) (the "Weekly Put Certificates"), the Trustee shall give notice by Electronic Means to the Remarketing Agent and the District, specifying the principal amount of Certificates for which it has received such notice, the names of the Owner or Owners thereof and the Purchase Date. The Remarketing Agent shall thereupon offer for sale and use its best efforts to find purchasers for such Weekly Put Certificates, other than Certificates that are Provider Certificates, which shall be remarketed pursuant to Section 5.11.

(ii) Not later than 11:00 a.m. (New York City time) on the Business Day immediately preceding the Purchase Date described in subparagraph (i) above, the Trustee shall give notice by Electronic Means to the Remarketing Agent and the District of the accrued amount of interest payable with respect to the Weekly Put Certificates as of such Purchase Date and confirming the aggregate principal amount of the Weekly Put Certificates.

(iii) Not later than 11:30 a.m. (New York City time) on any Purchase Date for Weekly Put Certificates, the Remarketing Agent shall give notice by Electronic Means to the District, the Trustee and the Credit and/or Liquidity Facility Provider of the principal amount of Weekly Put Certificates that have not been remarketed in accordance with the applicable Remarketing Agreement and its confirmation of funds on hand and its commitment to deliver funds (versus delivery of Weekly Put Certificates that have been remarketed) from the Weekly Put Certificates that have been remarketed to the Trustee by 2:00 p.m. (New York City time) on the Purchase Date pursuant to Section 5.08.

(iv) If a Remarketing Agent's notice pursuant to subparagraph (iii) above indicates that such Remarketing Agent has remarketed less than all the Weekly Put Certificates to be purchased on any Purchase Date or if the Trustee does not receive such notice from the Remarketing Agent, the Trustee shall demand payment under the Credit and/or Liquidity Facility then in effect with respect to the Weekly Put Certificates in sufficient time (as set forth by the terms of the Credit and/or Liquidity Facility) so as to provide by 2:30 p.m. (New York City time) on such Purchase Date an amount sufficient, together with the remarketing proceeds to be available for such purchase, calculated solely on the basis of the notice given by the Remarketing Agent pursuant to subparagraph (iii) above or, if no such notice is received, on the assumption that there are no remarketing proceeds, to pay the Purchase Price of the Weekly Put Certificates. The Trustee shall immediately after such demand for payment give notice by Electronic Means to the District of the amount, if any, of such demand.

(c) Mandatory Tender Certificates.

(i) Not later than 9:30 a.m. (New York City time) on each Purchase Date occurring pursuant to Section 5.02, as applicable, with the exception of subsection 5.02(a)(iii), the Trustee shall give notice by Electronic Means to the Remarketing Agent and the District specifying the principal amount of all Outstanding Certificates that are subject to mandatory tender (the "Mandatory Tender Certificates") on such Purchase Date pursuant to any subsection of Section 5.02 except subsection 5.02(a)(iii) and the names of the registered Owner or Owners thereof. The Remarketing Agent shall thereupon offer for sale and use its best efforts to find purchasers for such Mandatory Tender Certificates (if there is still an obligation to remarket), other than Certificates that are Provider Certificates, which shall be remarketed pursuant to Section 5.11.

(ii) Not later than 10:00 a.m. (New York City time) on each Purchase Date described in subparagraph (i) above, the Trustee shall give notice by Electronic Means to the Remarketing Agent and the District of the accrued amount of interest payable with respect to the Mandatory Tender Certificates as of the Purchase Date and confirming the aggregate principal amount of the Mandatory Tender Certificates. With respect to Mandatory Tender Certificates that are in an Index Rate Period, the Index Agent shall give notice by Electronic Means to the Trustee, the Remarketing Agent, the District and the Credit and/or Liquidity Provider, if any, of the Spread Premium, if any, payable with respect to such Mandatory Tender Certificates as of the Purchase Date.

(iii) Not later than 11:30 a.m. (New York City time) on any Purchase Date with respect to Mandatory Tender Certificates, the Remarketing Agent shall give notice by Electronic Means to the District, the Trustee and any Credit and/or Liquidity Provider of the principal amount of Mandatory Tender Certificates that have not been remarketed in accordance with the Remarketing Agreement and its confirmation of funds on hand and its commitment to deliver funds (versus delivery of Mandatory Tender Certificates that have been remarketed) from the Mandatory Tender Certificates that have been remarketed to the Trustee by 2:00 p.m. (New York City time) on the Purchase Date pursuant to Section 5.08.

(iv) If a Remarketing Agent's notice pursuant to subparagraph (iii) above indicates that such Remarketing Agent has remarketed less than all the Mandatory Tender Certificates to be purchased on such Purchase Date or if the Trustee does not receive such notice from the Remarketing Agent, the Trustee shall demand payment under the Credit and/or Liquidity Facility then in effect with respect to the Mandatory Tender Certificates in sufficient time (as set forth by the terms of the Liquidity Facility) so as to provide by 2:30 p.m. (New York City time) on such Purchase Date an amount sufficient, together with the remarketing proceeds to be available for such purchase, calculated solely on the basis of the notice given by the Remarketing Agent pursuant to subparagraph (iii) above or, if no such notice is received, on the assumption that there are no remarketing proceeds, to pay the Purchase Price of the Mandatory Tender Certificates.

(d) Optional District Deposit. If a Remarketing Agent's notice pursuant to subparagraph (a)(iii), (b)(iii) or (c)(iii) above indicates that such Remarketing Agent has remarketed less than all the Daily Put Certificates, Commercial Paper Tender Certificates, Weekly Put Certificates, or Mandatory Tender Certificates to be purchased on any Purchase Date and the Trustee does not receive sufficient funds from, or has received notice from a Credit and/or Liquidity Provider that it will not provide sufficient funds from, draws on the Credit and/or Liquidity Facility to pay the Purchase Price of all such Certificates that have not been remarketed by 2:00 p.m. (New York City time) on the Purchase Date, the Trustee shall immediately (but in no event later than 2:30 p.m. (New York City time)) give notice by Electronic Means to the District specifying the principal amount and the Purchase Price of such Certificates for which moneys will not be available in the Certificate Purchase Fund, and requesting the District to deposit with the Trustee as soon as possible on such Purchase Date, preferably by 3:00 p.m. (New York City time), an amount sufficient to pay that portion of the Purchase Price for which moneys will not be available in the Purchase Fund, such notice to be confirmed immediately by Electronic Means to the District. Such deposit by the District shall be at the sole option of the District.

(e) Limitation. If a Credit and/or Liquidity Facility is in effect with respect to the Certificates, the Remarketing Agent shall not remarket any tendered Certificates to the District or any affiliate of the District, without the written consent of the Credit and/or Liquidity Provider. Each Remarketing Agent shall remarket the Certificates, as provided herein, at not less than the Purchase Price thereof, except for Certificates that are Provider Certificates, which shall be remarketed pursuant to Section 5.11.

**Section 5.07. No Sales After Certain Defaults.** The Remarketing Agent shall not remarket Daily Rate or Weekly Rate Certificates pursuant to Section 5.06 hereof if there shall have occurred and be continuing an event of default under Section 12.1(i) or 12.1(ii) of the Lease or the Trustee shall have received notice from the Credit and/or Liquidity Provider that either an event of default under the Credit and/or Liquidity Facility has occurred or that the Credit and/or Liquidity Provider will not reinstate the Credit and/or Liquidity Facility.

**Section 5.08. Purchase Fund.** (a) The Trustee shall establish and maintain a special fund designated the "Purchase Fund." The Trustee shall further establish a separate account within the Purchase Fund designated the "Credit and/or Liquidity Facility Purchase Account," a

separate account within the Purchase Fund designated the “Remarketing Proceeds Account,” and a separate account within the Purchase Fund designated the “District Account.”

(b) Upon receipt of the proceeds of a remarketing of Certificates on a Purchase Date or Mandatory Purchase Date, the Trustee shall deposit such proceeds in the Remarketing Proceeds Account for application to the Purchase Price of the Certificates in accordance with Section 5.06 hereof. Notwithstanding the foregoing, upon the receipt of the proceeds of a remarketing of Provider Certificates, the Trustee shall immediately pay such proceeds to the Credit and/or Liquidity Provider to the extent of any amount owing to the Credit and/or Liquidity Provider.

(c) Upon receipt from the Credit and/or Liquidity Provider of the immediately available funds transferred to the Trustee pursuant to Section 5.06(a)(iv), (b)(iv) and (c)(iv) hereof, the Trustee shall deposit such money in the Credit and/or Liquidity Facility Purchase Account for application to the Purchase Price of the tendered Certificates to the extent that the monies on deposit in the Remarketing Proceeds Account shall not be sufficient. Any amounts deposited in the Credit and/or Liquidity Facility Purchase Account and not needed with respect to any Purchase Date or Mandatory Purchase Date for the payment of the Purchase Price for any tendered Certificates shall be immediately returned to the Credit and/or Liquidity Provider.

(d) Upon receipt from the District of funds pursuant to Section 5.06(d), the Trustee shall deposit such funds in the District Account for application to the Purchase Price of the tendered Certificates to the extent that monies on deposit in the Remarketing Proceeds Account and the Credit and/or Liquidity Facility Purchase Account shall not be sufficient. Any amounts deposited in the District Account and not needed for the payment of the Purchase Price for any tendered Certificates shall be promptly returned to the District.

(e) Amounts held in the Credit and/or Liquidity Facility Purchase Account and the Remarketing Proceeds Account and the District Account by the Trustee shall be held in separate segregated accounts, shall be held uninvested and shall not be subject to the pledge and lien hereunder. The proceeds of any draw on any Credit and/or Liquidity Facility issued with respect to the Certificates and deposited in any Credit and/or Liquidity Facility Purchase Account shall be applied only to the payment of principal and interest evidenced by the Certificates.

**Section 5.09. Disbursements from the Purchase Fund.** (a) *Application of Moneys.* Moneys in the Purchase Fund (other than the proceeds of any remarketing of Certificates that are Provider Certificates, which shall be paid to the Credit and/or Liquidity Provider on the remarketing date) shall be applied at or before 3:00 p.m. (New York City time) to the purchase of Certificates as provided herein by the Trustee, on each Purchase Date, as follows:

First – Moneys constituting funds in the Remarketing Account shall be used by the Trustee on any Purchase Date to purchase Certificates tendered or deemed tendered for purchase pursuant to Section 5.01 or 5.02 at the Purchase Price thereof.

Second – In the event such moneys in the Remarketing Account on any Purchase Date are insufficient to purchase all of the Certificates, moneys in the Credit and/or



Liquidity Facility Purchase Account on such Purchase Date shall be used by the Trustee at that time to purchase such remaining Certificates at the Purchase Price thereof.

Third – If the amount of money in the Remarketing Account and Credit and/or Liquidity Facility Purchase Account on any Purchase Date is insufficient to pay in full the Purchase Price of all Certificates tendered or deemed tendered for purchase pursuant to Section 5.01 or 5.02 on such Purchase Date, moneys in the District Account on such Purchase Date, if any, shall be used by the Trustee at that time to purchase such remaining Certificates at the Purchase Price thereof.

**Section 5.10. Inadequate Funds for Tenders.** If the funds available for purchases of Certificates pursuant to this Article V are inadequate for the purchase of all Certificates tendered on any Purchase Date or Mandatory Purchase Date, no purchase shall be consummated and the Trustee shall, after any applicable grace period, (1) return all tendered Certificates to the Owners thereof, (2) return all moneys transferred via the Depository to the Remarketing Agent for return to the Persons providing such moneys, (3) return all moneys from any draw on any Credit and/or Liquidity Facility to the Credit and/or Liquidity Provider (if any) and (4) return to the District all moneys transferred from the District. At such time, the Certificates shall remain in the Weekly Rate Mode or convert to the Weekly Rate Mode and shall bear interest at the Cap Rate. Notwithstanding any other provision of this Trust Agreement to the contrary, (i) such failed purchase and return shall not constitute an Event of Default and (ii) unless a Credit and/or Liquidity Facility is in effect and a Remarketing Agent has been appointed with respect to the Certificates, the Certificates shall not be subject to optional tender pursuant to Section 5.01. The District shall continue to use all commercially reasonable efforts to remarket such tendered Certificates at the Purchase Price sufficient to fund the purchase of all such tendered Certificates.

**Section 5.11. Credit and/or Liquidity Facilities; Provider Certificates.** (a) Unless all the Outstanding Certificates are Provider Certificates or are in an Index Rate Period, a Term Rate Period or a Fixed Rate Period, the District shall provide, or cause to be provided, to the Trustee a Credit and/or Liquidity Facility for the Certificates. The District shall not reduce the amount of a Credit and/or Liquidity Facility or permit a substitution of a Credit and/or Liquidity Provider thereunder without obtaining a Rating Confirmation with respect to such action unless such action is considered a substitution of a Credit and/or Liquidity Facility subjecting the Certificates affected thereby to mandatory purchase pursuant to Section 5.02(a)(ii). The District shall have the right at any time to provide, pursuant to Section 5.12, an Alternate Credit and/or Liquidity Facility for any Credit and/or Liquidity Facility then in effect. If there shall have been delivered to the Trustee (i) an Alternate Credit and/or Liquidity Facility meeting the requirements of Section 5.12 and (ii) the opinions and documents required by Section 5.12, then the Trustee shall accept such Alternate Credit and/or Liquidity Facility and, if so directed by the District, on or after the effective date of such Alternate Credit and/or Liquidity Facility promptly surrender the Credit and/or Liquidity Facility being so substituted in accordance with the respective terms thereof for cancellation; provided the Trustee shall not surrender any Credit and/or Liquidity Facility until all draws or requests to purchase Certificates made under such Credit and/or Liquidity Facility have been honored in accordance with the terms thereof, including all draws required to be made in connection with such substitution. In the event that the District elects to provide an Alternate Credit and/or Liquidity Facility with respect to the Certificates, the Certificates shall be subject to the mandatory tender provisions of Section

5.02(a)(ii). Notwithstanding the foregoing, if at any time there shall cease to be any Certificates Outstanding or if all the Outstanding Certificates have been converted to a Fixed Rate Period, an Index Rate Period, or a Term Rate Period for which the Credit and/or Liquidity Facility does not apply, or a Credit and/or Liquidity Facility shall be terminated pursuant to its terms, the Trustee shall promptly surrender such Credit and/or Liquidity Facility in accordance with its terms for cancellation. The Trustee shall comply with the procedures set forth in each Credit and/or Liquidity Facility relating to the termination thereof.

(b) In the event that a Credit and/or Liquidity Facility is in effect with respect to the Certificates, the Trustee shall make a demand for payment under such Credit and/or Liquidity Facility, subject to and in accordance with its terms, in order to receive payment thereunder on each Purchase Date for the Certificates as provided in Section 5.06(a)(iv), Section 5.06(b)(iv) or Section 5.06(c)(iv), as applicable.

(c) Each such demand for payment shall be made pursuant to and in accordance with this Trust Agreement and the Credit and/or Liquidity Facility. The Trustee shall give notice of each such demand for payment to the District at the time of each such demand. The proceeds of each such demand shall be deposited in the Credit and/or Liquidity Facility Purchase Account within the Purchase Fund and used in the order of priority established by Section 5.09. At the time of making any demand under a Liquidity Facility pursuant to Section 5.11(b), the Trustee shall direct the Credit and/or Liquidity Provider to pay the proceeds of such demand directly to the Trustee for deposit in the Credit and/or Liquidity Facility Purchase Account. The Trustee shall comply with all provisions of each Credit and/or Liquidity Facility in order to realize upon any demand for payment thereunder, and will not demand payment under any Credit and/or Liquidity Facility of any amounts for payment of: (i) Certificates that are Provider Certificates; or (ii) to the extent set forth as so held on the Trustee's Certificate register, Certificates held by the District or, to the extent that the Trustee is notified in writing by the District, held by any affiliate of the District or any nominee of the District unless such Credit and/or Liquidity Facility specifically permits such demand.

(d) Any Certificates purchased with payments made under a Credit and/or Liquidity Facility pursuant to Section 5.11(b) shall constitute Provider Certificates and shall be registered in the name of, or as otherwise directed by, the Credit and/or Liquidity Provider and delivered to or upon the order of, or as otherwise directed by, such Credit and/or Liquidity Provider. At the option of the District, the District may provide funds to the Credit and/or Liquidity Provider to purchase Provider Certificates, in which event such Certificates shall be held by the Trustee in accordance with instructions by the District.

(e) Unless otherwise provided in a Credit and/or Liquidity Facility, Certificates that are Provider Certificates shall be remarketed by the applicable Remarketing Agent prior to any other Certificates tendered for purchase pursuant to Section 5.01 or 5.02 and shall be remarketed in accordance with the terms of the applicable Remarketing Agreement. Upon (i) receipt by the District and the Trustee of written notification from a Credit and/or Liquidity Provider that a Credit and/or Liquidity Facility has been fully reinstated with respect to principal and interest (unless such Credit and/or Liquidity Facility provides for automatic reinstatement); and (ii) release by the Credit and/or Liquidity Provider of any Certificates that are Provider Certificates that the Remarketing Agent has remarketed, such Certificates shall be made

available to the purchasers thereof and shall no longer constitute Provider Certificates for purposes of this Trust Agreement. The proceeds of any remarketing of Certificates that are Provider Certificates shall be paid to the Credit and/or Liquidity Provider by the Trustee on such remarketing date in immediately available funds with interest on the sale price being calculated as if such Certificate were not a Provider Certificate; provided, however, if all such Certificates are Provider Certificates, at the principal amount thereof plus accrued interest, and the remarketing date will be considered an Interest Payment Date.

(f) The Trustee agrees that it will, promptly upon receipt, send to any Credit and/or Liquidity Provider (by Electronic Means) a copy of every notice received by it hereunder relating to any Certificates that are Provider Certificates.

(g) Notwithstanding anything to the contrary herein or in the Certificates, all obligations of the District under or in connection with any Credit and/or Liquidity Facility (including, without limitation, the payment of any reimbursement obligations to any Credit and/or Liquidity Provider and the payment of any Certificates that are Provider Certificates) shall be governed by the terms of the Credit and/or Liquidity Facility, except the Maximum Rate shall be as provided herein.

(h) The Trustee shall provide to the Remarketing Agent and to each Rating Agency then rating the Certificates written notice of the extension of any Credit and/or Liquidity Facility in effect with respect to the Certificates.

**Section 5.12. Alternate Credit and/or Liquidity Facilities.** (a) So long as any Certificates bear interest at a Variable Rate (other than Certificates in an Index Rate Period or a Term Rate Period for which there is no Credit and/or Liquidity Facility), not less than 20 days prior to the Expiration or Termination of any existing Credit and/or Liquidity Facility, including any renewals or extensions thereof (other than an Expiration of such Credit and/or Liquidity Facility at the final maturity of the Certificates), the District shall provide to the Trustee (with a copy to the applicable Remarketing Agent) a renewal or extension of the term of the existing Credit and/or Liquidity Facility for the Certificates or an Alternate Credit and/or Liquidity Facility for the Certificates meeting the requirements set forth in subsection (b) of this Section.

(b) The District may at any time provide an Alternate Credit and/or Liquidity Facility for the Certificates in accordance with the provisions hereof and upon delivery to the Trustee of the items specified in subsection (c) of this Section.

Any such Alternate Credit and/or Liquidity Facility must meet the following conditions:

(i) The obligations of a Credit and/or Liquidity Provider under an Alternate Credit and/or Liquidity Facility to purchase Certificates or otherwise provide for the Purchase Price of Certificates tendered or deemed tendered pursuant to Section 5.01 or Section 5.02 shall not be subject to suspension or termination on less than fifteen (15) days' notice to the District and the Trustee; provided, however, that the obligations of a Credit and/or Liquidity Provider to purchase Certificates or otherwise provide for the Purchase Price of such Certificates may be immediately suspended or terminated (A) without such notice upon the occurrence of such events as may be provided in a

Credit and/or Liquidity Facility and which are disclosed to the Owners of such Certificates in connection with the provision of such Credit and/or Liquidity Facility or, (B) if applicable, upon the remarketing of such Certificates upon the mandatory tender thereof as a result of provision of such Alternate Credit and/or Liquidity Facility pursuant to Section 5.02(a)(ii);

(ii) such Alternate Credit and/or Liquidity Facility must take effect on or before the Purchase Date for the Certificates established pursuant to Section 5.02(a)(ii);

(iii) such Alternate Credit and/or Liquidity Facility shall provide for the purchase of all Certificates that are Provider Certificates held by the Credit and/or Liquidity Provider being replaced by the Alternate Credit and/or Liquidity Facility on the date of delivery of such Alternate Credit and/or Liquidity Facility; and

(iv) such Alternate Credit and/or Liquidity Facility must be in an amount sufficient to pay the maximum Purchase Price of the Certificates which will be applicable during the Rate Period commencing on such substitution.

(c) Prior to the date of the delivery of such Alternate Credit and/or Liquidity Facility to the Trustee pursuant to subsection (b) of this Section, the District shall cause to be furnished to the Trustee an opinion or opinions of counsel to the Credit and/or Liquidity Provider for such Alternate Credit and/or Liquidity Facility addressed to the Trustee, to the effect that such Alternate Credit and/or Liquidity Facility has been duly authorized, executed and delivered by the Credit and/or Liquidity Provider and constitutes the valid, legal and binding obligation of such Credit and/or Liquidity Provider enforceable against such Credit and/or Liquidity Provider in accordance with its terms and (iii) if the Certificates are not subject to mandatory tender for purchase, the Rating Confirmation required by Section 5.02(a)(ii).

(d) The Trustee shall give notice by first class mail or Electronic Means to the Owners of the Certificates of the proposed substitution of a Credit and/or Liquidity Facility not later than the fifteenth (15th) day prior to the substitution date.

## ARTICLE VI

### PURCHASE OF CERTIFICATES AT DIRECTION OF DISTRICT

**Section 6.01. Mandatory Tender for Purchase at Direction of District.** (a) In addition to the provisions relating to the mandatory tender for purchase of Certificates pursuant to Section 5.02, the Certificates, or any of them, shall be subject to mandatory tender for purchase by the District, in whole or in part (such that the portion that is subject to mandatory tender for purchase pursuant to this Section 6.01 and the portion not subject to such mandatory tender shall each be in an Authorized Denomination; provided that either may be in other than an Authorized Denomination to the extent Section 4.03(b) has created interests in Certificates in other than Authorized Denominations), at the applicable Optional Purchase Price on each Optional Purchase Date. In the event that the District determines to purchase any Certificates on any Optional Purchase Date, the District shall provide the Trustee with written notice of such determination at least fifteen (15) days prior to the Optional Purchase Date, which notice shall

specify the principal amount of Certificates that are to be purchased and the Optional Purchase Date on which such purchase is to occur.

(b) When the Trustee shall receive notice from the District of its determination to purchase Certificates pursuant to subsection (a) of this Section, the Trustee shall give notice, in the name of the District, of the mandatory tender for purchase of such Certificates, which notice shall be mailed, by first class mail, postage prepaid or by Electronic Means, not more than ninety (90) nor less than ten (10) days before the Optional Purchase Date to the Owners of any Certificates or portions of Certificates to be purchased at their addresses appearing in the bond registration books maintained by the Trustee, with a copy to the Notice Parties. Such notice shall specify the Certificates to be purchased, the Optional Purchase Date, the Optional Purchase Price and the place or places where the Optional Purchase Price due upon such tender for purchase shall be payable. Such notice shall further state that on such Optional Purchase Date there shall become due and payable upon each Certificate to be purchased, the Optional Purchase Price thereof, or the Optional Purchase Price of the specified portions of the principal amount thereof to be purchased in the case of Certificates to be purchased in part only, and that from and after such Optional Purchase Date interest on such Certificate for the benefit of the current Owner of such Certificate or the portion of such Certificate to be purchased shall cease to accrue and be payable.

Receipt of such notice of mandatory tender for purchase shall not be a condition precedent to the mandatory tender for purchase of the Certificates and failure of any Owner of a Certificate to receive any such notice or any defect in such notice shall not affect the validity of the proceedings for the mandatory tender for purchase of the Certificates pursuant to this Section.

(c) If at the time the Trustee sends any notice of mandatory tender for purchase of the Certificates pursuant to this Section, the District has not deposited with the Trustee an amount sufficient to pay the full Optional Purchase Price of the Certificates, or the portions thereof, to be purchased, such notice shall state that such mandatory tender for purchase is conditional upon the receipt by the Trustee on or prior to the Optional Purchase Date fixed for such purchase of moneys sufficient to pay the Optional Purchase Price of such Certificates, or the portions thereof to be purchased, and that if such moneys shall not have been so received said notice shall be of no force and effect and the District shall not be required to purchase such Certificates. In the event that such notice of mandatory tender for purchase contains such a condition and such moneys are not so received, no purchase of the Certificates identified in the notice of mandatory tender for purchase shall be made and the Trustee shall, within a reasonable time thereafter, give notice, to the Remarketing Agent and to the persons and in the manner in which the notice of tender was given, that such moneys were not so received and that there will be no purchase of Certificates pursuant to the notice of mandatory tender for purchase. Such failure to purchase Certificates shall not constitute an Event of Default.

(d) If less than all of the Outstanding Certificates are to be called for mandatory tender for purchase pursuant to this Section, the principal amount and maturity of such Certificates to be purchased shall be selected by the District in its sole discretion; provided that Provider Certificates shall be purchased prior to any other Certificates. If less than all Certificates shall be called for mandatory tender for purchase pursuant this Section, except as

otherwise provided by the Depository, the particular Certificates or portions of Certificates to be purchased shall be selected by lot by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that in selecting portions of Certificates for purchase, the Trustee shall treat each Certificate as representing that number of Certificates of the minimum Authorized Denomination for the Certificates which is obtained by dividing the principal amount of such Certificate by the minimum Authorized Denomination for the Certificates.

**Section 6.02. Delivery of Tendered Certificates.** With respect to any Certificate that is registered in book-entry form, delivery of such Certificate to the Trustee in connection with any mandatory tender for purchase pursuant to Section 6.01 shall be effected by the making of, or the irrevocable authorization to make, appropriate entries on the books of the Depository for such Certificate or any Participant thereof to reflect the transfer of the beneficial ownership interest in such Certificate to the account of the Trustee, on behalf of the District, or to the account of a Participant acting on behalf of the District. With respect to any Certificate that is not registered in book-entry form, delivery of such Certificate to the Trustee in connection with any mandatory tender for purchase pursuant to Section 6.01 shall be effected by physical delivery of such Certificate to the Trustee at its Principal Office, by 1:00 p.m. (New York City time) on the Optional Purchase Date, accompanied by an instrument of transfer thereof, in a form satisfactory to the Trustee, executed in blank by the Owner thereof with the signature of such Owner guaranteed in accordance with the guidelines set forth by one of the nationally recognized medallion signature programs.

**Section 6.03. Certificates Deemed Purchased.** (a) If moneys sufficient to pay the Optional Purchase Price of Certificates to be purchased pursuant to Section 6.01 on an Optional Purchase Date shall be held by the Trustee on such Optional Purchase Date, such Certificates shall be deemed to have been purchased for all purposes of this Trust Agreement, irrespective of whether or not such Certificates shall have been delivered to the Trustee or transferred on the books of the Depository for the Certificates, and neither the former Owner or former Beneficial Owner of such Certificates nor any other person shall have any claim thereunder, under this Trust Agreement or otherwise, for any amount other than the Optional Purchase Price thereof.

(b) In the event of non-delivery of any Certificate to be purchased pursuant to Section 6.01, the Trustee shall segregate and hold uninvested the moneys for the Optional Purchase Price of such Certificate in trust, without liability for interest thereon, for the benefit of the former Owners or Beneficial Owners of such Certificate, who shall, except as provided in the following sentence, thereafter be restricted exclusively to such moneys for the satisfaction of any claim for the Optional Purchase Price of such Certificate. Any moneys that the Trustee shall segregate and hold in trust for the payment of the Optional Purchase Price of any Certificate remaining unclaimed for one (1) year after the Optional Purchase Date shall be paid automatically to the District. After the payment of such unclaimed moneys to the District, the former Owner or former Beneficial Owner of such Certificate shall look only to the District for the payment thereof.

**Section 6.04. Deposit of Certificates.** The Trustee agrees to accept and hold all Certificates delivered to it pursuant to Section 6.01 in trust for the benefit of the respective Owners or Beneficial Owners which shall have so delivered such Certificates until the Optional

Purchase Price of such Certificates shall have been delivered to or for the account of or to the order of such Owners or Beneficial Owners pursuant to Section 6.05. Any Certificates purchased pursuant to Section 6.01 and registered for transfer to the Trustee shall be held in trust by the Trustee for the benefit of the District in accordance with the instructions of the District.

**Section 6.05. Payment of Optional Purchase Price of Certificates.** (a) Moneys held by the Trustee for the payment of the Optional Purchase Price of Certificates subject to mandatory tender for purchase pursuant to Section 6.01 shall be applied at or before 3:00 p.m. (New York City time) to the purchase of such Certificates. Except as otherwise provided with respect to Certificates that are registered in book-entry form, payment of the Optional Purchase Price of Certificates tendered for purchase pursuant to Section 6.01 shall be made only upon the surrender of such Certificates to the Trustee. Notwithstanding anything to the contrary in this Section, if the Certificates to be tendered for purchase pursuant to Section 6.01 are registered in book-entry form, payment of the Optional Purchase Price for tendered Certificates shall be made in accordance with the rules and procedures of the Depository.

(b) The Trustee shall, as to any Certificates that are not registered in book-entry form and that have not been delivered to it as required by Section 6.02, place a stop transfer against an appropriate amount of Certificates registered in the name of the Owner of such Certificates on the bond registration books maintained by the Trustee. The Trustee shall place and maintain such stop transfer commencing with the lowest serial number Certificate registered in the name of such Owner until stop transfers have been placed against an appropriate amount of Certificates until the appropriate Certificates are delivered to the Trustee. Upon such delivery, the Trustee shall make any necessary adjustments to such bond registration books.

**Section 6.06. Certificates Owned by District.** (a) Any Certificates purchased by the District pursuant to Section 6.01 shall not be cancelled by the Trustee unless such cancellation is directed by an Authorized District Representative but shall remain Outstanding for all purposes of this Trust Agreement.

(b) The District covenants and agrees that in the event there are insufficient funds in the Principal Fund, the Interest Fund or the Prepayment Fund, as applicable, to pay the principal of and interest then due with respect to the Outstanding Certificates, the District will surrender or cause to be surrendered to the Trustee for cancellation any Certificates purchased by the District pursuant to the provisions set forth in this Article VI and then being held by or on behalf of the District.

(c) The District covenants and agrees that any Credit and/or Liquidity Facility shall not apply to any Certificates purchased or to be purchased by the District.

## ARTICLE VII

### FUNDS AND ACCOUNTS; RENTAL PAYMENTS

**Section 7.01. Deposit of Proceeds of Certificates.** The proceeds received from the sale of the Certificates shall be deposited or transferred by the Trustee as follows, as directed by a Written Request of the District:

(a) the Trustee shall deposit in the Costs of Issuance Fund established pursuant to Section 7.02 hereof the amount of \$\_\_\_\_\_;

(b) the Trustee shall deposit in the Administrative Expense Fund established pursuant to Section 7.03 hereof the amount of \$\_\_\_\_\_;

(c) the Trustee shall deposit in the Escrow Account within the Acquisition Fund established pursuant to Section 7.04 hereof the amount of \$\_\_\_\_\_;

**Section 7.02. Establishment and Application of Costs of Issuance Fund.** There is hereby established in trust a special fund designated the “**Costs of Issuance Fund,**” which shall be held by the Trustee and which shall be kept separate and apart from all other funds and money held by the Trustee. There shall be deposited in the Costs of Issuance Fund that portion of the proceeds of the Certificates to be deposited therein pursuant to Section 7.01. The Trustee shall disburse moneys from the Costs of Issuance Fund on such dates and in such amounts as are necessary to pay Costs of Issuance, in accordance with a payment request in the form attached hereto as Exhibit D. Any amounts remaining in the Costs of Issuance Fund on the earlier of (i) the date on which the District has notified the Trustee in writing that all Costs of Issuance with respect to the Certificates have been paid, and (ii) the 180th day after the Delivery Date, shall be transferred to the Interest Account of the Certificate Fund. Thereafter, the Costs of Issuance Fund shall be closed.

**Section 7.03. Establishment and Application of Administrative Expense Fund.** There is hereby established in trust a special fund designated the “**Administrative Expense Fund,**” which shall be held by the Trustee and which shall be kept separate and apart from all other funds and money held by the Trustee. There shall be deposited in the Administrative Expense Fund those amounts specified in Sections 7.01 and 7.08 hereof. The Trustee shall administer the Administrative Expense Fund as provided in this Article VII.

The Trustee shall, to the extent of monies available therein, disburse money from the Administrative Expense Fund on such dates and in such amounts as are necessary to pay all expenses of the District (not otherwise paid or provided for out of the proceeds of the sale of the Certificates) incidental to the execution and delivery of the Certificates, including but without limiting the generality of the foregoing; salaries, wages, expenses, fees and charges of auditors, accountants, architects, attorneys and engineers, and all other necessary administrative charges of the District or charges required to be paid in order to comply with the terms of the Certificates or of this Trust Agreement and for any other lawful purpose of the District in accordance with a payment request in the form attached hereto as Exhibit D.

**Section 7.04. Establishment and Application of Acquisition Fund and Escrow Account.** There is hereby established in trust a special fund designated the “**Acquisition Fund,**” which shall be held by the Trustee and which shall be kept separate and apart from all other funds and money held by the Trustee. Within the Acquisition Fund, the Trustee shall establish the “**Escrow Account.**” Amounts in the Escrow Account shall be used solely by the District to make payments of Option Payments under the Lease during the Escrow Phase and to prepay Base Rental upon the occurrence of an Extraordinary Prepayment Event. Such Escrow Phase Option Payments shall be sufficient in time and amount to pay interest with respect to the



Certificates until the Acquisition Date. Upon the Acquisition Date amounts in the Escrow Account shall, after payment of any interest with respect to the Certificates due on the Acquisition Date, be released into the Acquisition Fund and used to pay costs of the Acquisition. Until and on the Acquisition Date, amounts in the Escrow Account shall be transferred on each Interest Payment Date to the Interest Account of the Certificate Fund for payment of interest due with respect to the Certificates. Notwithstanding anything to the contrary herein, until the Acquisition Date, (i) funds in the Escrow Account shall be used for no other purposes and (ii) investment earnings on amounts held in the Escrow Account shall be held by the Trustee in the Escrow Account. Any amounts remaining in the Acquisition Fund on the 90<sup>th</sup> day following the Acquisition Date shall be transferred to the Principal Account of the Certificate Fund and applied to Mandatory Sinking Account Payments. The District shall request withdrawals from the Acquisition Fund or the Escrow Account by submitting a requisition to the Trustee in the form of Exhibit E attached hereto, on which the Trustee may conclusively rely.

**Section 7.05. Establishment and Application of Certificate Fund.** There is hereby established in trust a special fund designated the “**Certificate Fund,**” which shall be held by the Trustee and which shall be kept separate and apart from all other funds and money held by the Trustee. The Trustee shall administer such fund as provided in this Article VII. The Certificate Fund shall be maintained by the Trustee until all required Base Rental is paid in full pursuant to the terms of the Lease, or until such earlier date as there are no Certificates Outstanding. Within the Certificate Fund, the Trustee shall establish the following accounts: Base Rental Account, Interest Account, Principal Account and Prepayment Account.

(a) *Base Rental Account.* Except as otherwise provided in this paragraph or in a supplement or amendment to this Trust Agreement, Base Rental and proceeds of rental interruption insurance with respect to the Leased Premises, if any, received by the Trustee shall be deposited in the Base Rental Account. On each Interest Payment Date with respect to the Certificates following the Acquisition Date, monies in the Base Rental Account shall be transferred to the Interest Account and the Principal Account in accordance with Section 7.05(b) and Section 7.05(c) hereof. Any amounts remaining in the Base Rental Account on an Interest Payment Date after the transfers referred to in the preceding sentence have been made shall be deposited into the Prepayment Account for prepayment of principal without regard to Authorized Denominations on the next Mandatory Sinking Account Payment Date in accordance with Section 4.03(b). Any delinquent Base Rental payments and any proceeds of rental interruption insurance with respect to the Leased Premises deposited in the Base Rental Account shall be applied first to the Interest Account for the immediate payment of interest payments past due and then to the Principal Account for payment of principal according to the tenor of any Certificate. Any remaining monies representing delinquent Base Rental payments and any proceeds of rental interruption insurance shall remain on deposit in the Base Rental Account to be applied in the manner provided herein.

(b) *Interest Account.* The Trustee shall transfer from the Base Rental Account to the Interest Account on each Interest Payment Date that amount of moneys representing the portion of the Base Rental designated as the interest component coming due on such Interest Payment Date. On each Interest Payment Date, the Trustee shall withdraw from the Interest Account (i) if the Credit and/or Liquidity Provider has paid a draw on any Credit and/or Liquidity Facility pursuant to Section 5.11 hereof to be applied to the payment of the interest evidenced by the

Adjustable Rate Certificates coming due on such Interest Payment Date, for payment to the Credit and/or Liquidity Provider to reimburse the Credit and/or Liquidity Provider for such draw, an amount equal to such draw, (ii) if there has been no draw on any Credit and/or Liquidity Facility pursuant to Section 5.11 hereof, for payment to the Owners of the Adjustable Rate Certificates the interest evidenced by the Adjustable Rate Certificates coming due on such Interest Payment Date, and (iii) for payment to the Owners of the Fixed Rate Certificates the interest evidenced by the Fixed Rate Certificates coming due on such Interest Payment Date. In the event that the amount in the Interest Account is not sufficient to so reimburse any Credit and/or Liquidity Provider for any such draw on any Credit and/or Liquidity Facility, the Trustee shall immediately notify such Credit and/or Liquidity Provider in writing of such insufficiency.

(c) *Principal Account.* The Trustee shall transfer from the Base Rental Account to the Principal Account on each Interest Payment Date that amount of moneys representing the portion of the Mandatory Sinking Account Payment determined in accordance with Section 4.03(b)(ii). On each Mandatory Sinking Account Payment Date, the Trustee shall withdraw from the Principal Account (i) if a Credit and/or Liquidity Provider has paid a draw on any Credit and/or Liquidity Facility pursuant to Section 5.11 hereof to be applied to the payment of principal evidenced by the Adjustable Rate Certificates due and payable on such Principal Payment Date, for payment to such Credit and/or Liquidity Provider to reimburse the Credit and/or Liquidity Provider for such draw, an amount equal to such draw, (ii) if there has been no draw on any Credit and/or Liquidity Facility pursuant to Section 5.11 hereof, for payment to the Owners of the Certificates to be applied to principal. In the event that the amount in the Principal Account is not sufficient to so reimburse a Credit and/or Liquidity Provider for any such draw on any Credit and/or Liquidity Facility, the Trustee shall immediately notify the Credit and/or Liquidity Provider in writing of such insufficiency.

(d) *Prepayment Account.* The Trustee, on the prepayment date specified in the Written Request of the District filed with the Trustee at the time that any prepaid Base Rental is paid to the Trustee pursuant to the Lease, shall deposit in the Prepayment Account that amount of moneys representing the portion of the Base Rental designated as prepaid Base Rental. Additionally, the Trustee shall deposit in the Prepayment Account any amounts required to be deposited therein pursuant to Section 4.01, Section 4.03(b), Section 403(c), Section 7.05(a), Section 7.08 or Section 7.09 hereof. Moneys in the Prepayment Account shall be used by the Trustee for the purpose of paying the interest, premium, if any, and principal evidenced by the Certificates to be prepaid. On each date on which Adjustable Rate Certificates are to be prepaid, the Trustee shall withdraw from the Prepayment Account (i) if a Credit and/or Liquidity Provider has paid a draw on any Credit and/or Liquidity Facility pursuant to Section 5.11 hereof to be applied to the payment of the prepayment price of the Adjustable Rate Certificates so prepaid on said date, for payment to such Credit and/or Liquidity Provider to reimburse such Credit and/or Liquidity Provider for such draw, an amount equal to such draw, and (ii) if there has been no draw on any Credit and/or Liquidity Facility pursuant to Section 5.11 hereof, for payment to the Owners of such Certificates the prepayment price of the Certificates so prepaid on said date. All moneys held by the Trustee in the Prepayment Account shall either be held uninvested or invested in Defeasance Securities, which mature in sufficient amounts and on the dates needed to make the prepayments of Certificates for which such moneys were deposited.

(e) To the extent a draw on any Credit and/or Liquidity Facility pursuant to Section 5.11 hereof is applied to the payment of any principal or interest evidenced by an Adjustable Rate Certificate pursuant to subsection (b), (c) or (d) of this Section and not reimbursed, (i) the Credit and/or Liquidity Provider shall be fully subrogated to all of the Owner's rights thereunder to the extent of the moneys so advanced under any Credit and/or Liquidity Facility, including the Owner's right to receive payment of such interest or principal, as applicable, (ii) such interest, and the interest evidenced by such Adjustable Rate Certificates, shall accrue and be payable at the Default Rate, and (iii) such Adjustable Rate Certificate shall remain Outstanding hereunder.

**Section 7.06. Establishment and Application of Credit and/or Liquidity Facility Fund.** There is hereby established in trust a special fund designated the "**Credit and/or Liquidity Facility Fund**," in which none of the Trustee, the District or the Authority shall have any right, title or interest and the moneys in which shall be held exclusively for the Owners of the Adjustable Rate Certificates and paid over in accordance with the provision hereof. The Trustee shall deposit the proceeds of draws on any Credit and/or Liquidity Facility made pursuant to Section 5.11 hereof in any Credit and/or Liquidity Facility Fund. On each Interest Payment Date, each Mandatory Sinking Account Payment Date, each Principal Payment Date and each prepayment date with respect to any Adjustable Rate Certificate, the Trustee shall withdraw from any Credit and/or Liquidity Facility Fund for payment to the Owners of the Adjustable Rate Certificates the interest and principal evidenced by the Adjustable Rate Certificates due and payable on the Adjustable Rate Certificates. The proceeds of any draw on any Credit and/or Liquidity Facility issued with respect to the Certificates and deposited in the Credit and/or Liquidity Facility Fund shall be applied only to the payment of principal and interest evidenced by the Certificates.

**Section 7.07. Reserved.**

**Section 7.08. Application of Net Proceeds.** If the Leased Premises or any portion thereof shall be damaged or destroyed, subject to the further requirements of this Section, the District shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted the repair or replacement thereof, unless the District elects not to repair or replace the Leased Premises or the affected portion thereof in accordance with the provisions hereof.

The Net Proceeds of any insurance (other than Net Proceeds of rental interruption insurance), including the proceeds of any self-insurance, received on account of any damage or destruction of the Leased Premises or a portion thereof shall as soon as possible be deposited with the Trustee and be held by the Trustee in a special account (the "Net Proceeds Account") and made available for and, to the extent necessary, shall be applied to the cost of repair or replacement of the Leased Premises or the affected portion thereof upon receipt of a Written Request of the District, in substantially the form of Exhibit B hereto, together with invoices therefor. Pending such application, such proceeds may be invested by the Trustee as directed by the District in Permitted Investments that mature not later than such times as moneys are expected to be needed to pay such costs of repair or replacement.

Notwithstanding the foregoing, the District shall, within 90 days of the occurrence of the event of damage or destruction, notify the Trustee in writing as to whether the District intends to

replace or repair the Leased Premises or the portions of the Leased Premises which were damaged or destroyed. If the District does intend to replace or repair the Leased Premises or portions thereof, the District shall deposit with the Trustee the full amount of any insurance deductible to be credited to the Net Proceeds Account.

If such damage, destruction or loss was such that there resulted a substantial interference with the District's right to the use or occupancy of the Leased Premises and an abatement in whole or in part of Rental Payments results from such damage or destruction pursuant to Section 3.5 of the Lease, then the District shall be required either to (a) apply sufficient funds from the insurance proceeds and other legally available funds to the replacement or repair of the Leased Premises or the portions thereof which have been damaged to the condition which existed prior to such damage or destruction, or (b) apply sufficient funds from the insurance proceeds and other legally available funds to the prepayment, as set forth in Section 4.01(b) hereof, in full of all the Outstanding Certificates or all of those Outstanding Certificates which evidence that portion of the Base Rental which are abated as a result of the damage or destruction. If the District is required to apply funds from the insurance proceeds and other legally available funds to the prepayment of Certificates in accordance with clause (b) above, the District shall direct the Trustee, in a Written Request of the District, to transfer the funds to be applied to such prepayment to the Prepayment Account and the Trustee shall transfer such funds to the Prepayment Account. If there is first delivered to the Trustee a Certificate of the District to the effect that the annual fair rental value of the Leased Premises after such damage or destruction, and after any repairs or replacements made as a result of such damage or destruction, is at least equal to 100% of the maximum amount of Base Rental becoming due under the Lease in the then current Rental Period or any subsequent Rental Period and the fair replacement value of the Leased Premises after such damage or destruction is at least equal to the sum of the then unpaid principal components of Base Rental, said amounts shall be deposited into the Prepayment Account and applied to the prepayment of Provider Certificates in accordance with Section 4.02, if any, and/or the payment of unpaid reimbursement amounts owing to the Credit and/or Liquidity Provider under the Credit and/or Liquidity Facility, and then, to the extent any amounts remain after any such Provider Certificates are prepaid and reimbursement amounts are paid, paid to the District to be used for any lawful purpose.

The proceeds of any award in eminent domain shall be deposited by the Trustee in the Prepayment Account and applied to the prepayment of Outstanding Certificates pursuant to Section 4.01 hereof.

**Section 7.09. Title Insurance.** Proceeds of any policy of title insurance received by the Trustee in respect of the Leased Premises shall be applied and disbursed by the Trustee as follows:

(a) if the District determines that the title defect giving rise to such proceeds has not substantially interfered with its use and occupancy of the Leased Premises and will not result in an abatement of Rental Payments payable by the District under the Lease, such proceeds shall first be applied to the prepayment of Credit and/or Liquidity Provider Certificates, if any, and or reimbursement of unpaid reimbursement amounts owing to the Credit and/or Liquidity Provider under the Credit and/or Liquidity Facility, and second shall be remitted to the District and used for any lawful purpose thereof; or

(b) if the District determines that the title defect giving rise to such proceeds has substantially interfered with its use and occupancy of the Leased Premises and will result in an abatement in whole or in part of Rental Payments payable by the District under the Lease, then the District shall, in a Written Request of the District, direct the Trustee to, and the Trustee shall immediately deposit such proceeds in the Prepayment Account and such proceeds shall be applied to the prepayment of Certificates in the manner provided in Section 4.01(b) hereof.

**Section 7.10. Surplus.** After payment or prepayment of all amounts due with respect to the Certificates (or a defeasance of the Certificates pursuant to Section 12.01 hereof), the payment of unpaid reimbursement amounts owing under any Credit and/or Liquidity Facility, the payment of all fees and expenses owing to any Credit and/or Liquidity Provider under a Credit and/or Liquidity Facility, and the payment of all fees and expenses to the Trustee, or satisfactory provision for such payments having been made, any amounts remaining in any of the funds or accounts established hereunder with respect to the Certificates and not required for the purposes set forth herein shall be remitted to the District and used for any lawful purpose thereof.

**Section 7.11. Held in Trust.** The money and investments held by the Trustee hereunder are irrevocably held in trust for the purposes herein specified, and such money and investments, and any income or interest earned thereon, shall be expended only as provided herein, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of (i) the Authority, (ii) the District, (iii) the Trustee, (v) any Credit and/or Liquidity Provider or (v) any Owner of Certificates.

**Section 7.12. Investments Authorized.** Money held by the Trustee in any fund or account hereunder shall be invested by the Trustee in Permitted Investments pending application as provided herein subject to the direction of the District, shall be registered in the name of the Trustee where applicable, as Trustee, and shall be held by the Trustee, where applicable; provided however that moneys in any Credit and/or Liquidity Facility Fund, any Credit and/or Liquidity Facility Purchase Account and the Remarketing Proceeds Account shall be held uninvested and not commingled with any other funds held hereunder. The District shall, where applicable, direct the Trustee in writing prior to 12:00 noon Pacific Time on the day before any Permitted Investment matures or is redeemed as to the reinvestment of such proceeds. If the District shall fail to provide the Trustee direction with respect to any monies subject to investment, the Trustee shall [hold such monies uninvested] [nevertheless, invest such monies in those investments described in clause (5) of clause (B) of the definition of Permitted Investments for a period of no longer than 180 days]. The Trustee may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section 7.12. Any investments and reinvestments shall be made giving full consideration to the time at which funds are required to be available hereunder and to the highest yield practicably obtainable giving due regard to the safety of such funds and the date upon which such funds will be required for the uses and purposes set forth in this Trust Agreement. The Trustee may act as agent in the making or disposing of any investment. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with this Section 7.12.

To the extent regulations of the Comptroller of the Currency or other applicable regulatory entity provide that the District has the right to receive brokerage confirmations of security transactions as they occur, at no additional cost, the District will waive such

confirmations to the extent permitted by law. The Trustee will furnish the District periodic cash transaction statements which include details for all investment transactions made by the Trustee hereunder. The Trustee or any of its affiliates may act as sponsor, advisor or provide administrative services in connection with any Permitted Investment. The Trustee may make any investments through its own investment or bond department, or that of any of its affiliates. The Trustee may rely upon any investment direction from the District as a certification to the Trustee that such investment constitutes a Permitted Investment.

**Section 7.13. Valuation and Disposition of Investments.** For the purpose of determining the amount in any fund or account hereunder, all Permitted Investments shall be valued as frequently as deemed necessary by the District, but not less often than quarterly at the market value of such investments (exclusive of accrued interest). Such valuations may be in the form of the Trustee's customary statement. For the purpose of valuing Permitted Investments held in any account held by the Trustee hereunder, the Trustee shall value all investments at market. In determining market value of Permitted Investments, the Trustee may use and rely conclusively and without liability upon any generally recognized pricing information service (including brokers and dealers in securities) available to it. Deficiencies in the amount on deposit in any fund or account resulting from a decline in market value shall be restored no later than the succeeding valuation date. The Trustee may sell at the price obtainable, or present for prepayment, any Permitted Investment so purchased by the Trustee whenever it shall be necessary in order to provide monies to meet any required payment, transfer, withdrawal or disbursement from any fund or account hereunder, and the Trustee shall not be liable or responsible for any loss resulting from such investment or sale.

**Section 7.14. Application of Investment Earnings.** The Trustee shall deposit, as and when received, all Investment Earnings on amounts on deposit in all funds, accounts and subaccounts maintained by it hereunder into such funds, accounts and subaccounts.

**Section 7.15. Additional Rental.** In the event the Trustee receives Additional Rental pursuant to the Lease, such Additional Rental shall be applied by the Trustee solely to the payment of any costs in respect of which such Additional Rental was received in accordance with the written direction of the District, and shall not be commingled in any way with any other funds received by the Trustee pursuant to the Lease or this Trust Agreement.

**Section 7.16. Substitution and Release of Leased Premises or Leased Components.** Notwithstanding anything herein to the contrary, the Leased Premises or any Leased Component may be amended, modified, released, transferred, changed or substituted with other properties, in accordance with Section 2.2 of the Lease and Section 11.01(b) hereof with the prior written consent of the Purchaser; provided, however, that so long as any Credit and/or Liquidity Provider is not in default in its obligation to honor draws on any Credit and/or Liquidity Facility, such Credit and/or Liquidity Provider shall have provided its prior written consent to such amendment, modification, release, change, transfer or substitution.

## ARTICLE VIII

### COVENANTS

**Section 8.01. Compliance with Trust Agreement.** The Trustee shall not execute or deliver any Certificates in any manner other than in accordance with the provisions hereof, and the Authority and the District shall not suffer or permit any default by them to occur hereunder, but will faithfully comply with, keep, observe and perform all the agreements, conditions, covenants and terms hereof required to be complied with, kept, observed and performed by them.

**Section 8.02. Compliance with Site Lease and Lease.** The Authority and the District shall faithfully comply with, keep, observe and perform all the agreements, conditions, covenants and terms contained in the Site Lease and the Lease required to be complied with, kept, observed and performed by them and, together with the Trustee (subject to its rights and protections hereunder), shall enforce the Site Lease and the Lease against the other party thereto in accordance with their respective terms.

**Section 8.03. Observance of Laws and Regulations.** The Authority, the District and the Trustee shall faithfully comply with, keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on them by contract, or prescribed by any law of the United States of America or of the State of California, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of each and every franchise, right or privilege now owned or hereafter acquired by them, including their right to exist and carry on their respective businesses, to the end that such franchises, rights and privileges shall be maintained and preserved and shall not become abandoned, forfeited or in any manner impaired.

**Section 8.04. Other Liens.** The District and the Authority shall keep the Leased Premises and all parts thereof free from judgments and materialmen's and mechanics' liens and free from all claims, demands, encumbrances and other liens of whatever nature or character, and free from any claim or liability which materially impairs the District in conducting its business or utilizing the Leased Premises.

So long as any Certificates are Outstanding, none of the Trustee, the Authority or the District shall create or suffer to be created any pledge of or lien on the amounts on deposit in any of the funds or accounts created hereunder, other than the pledge and lien hereof.

The Authority shall not, and shall not request the Trustee to, encumber the Leased Premises other than in accordance with the Site Lease, the Lease, this Trust Agreement and the Assignment Agreement.

**Section 8.05. Prosecution and Defense of Suits.** The District shall promptly, upon request of the Trustee (which has no duty to make such request), the Credit and/or Liquidity Provider or any Owner, take such action from time to time as may be necessary or proper to remedy or cure any cloud upon or defect in the title to the Leased Premises or any part thereof, whether now existing or hereafter developing, shall prosecute all actions, suits or other proceedings as may be appropriate for such purpose and shall indemnify and save the Trustee,

the Credit and/or Liquidity Provider and every Owner harmless from all cost, damage, expense or loss, including attorneys' fees and expenses, which they or any of them may incur by reason of any such cloud, defect, action, suit or other proceeding.

The District shall defend against every action, suit or other proceeding at any time brought against the Trustee upon any claim arising out of the receipt, deposit or disbursement of any of the Base Rental or involving the rights of the Trustee hereunder; provided, however, that the Trustee at its election may appear in and defend any such action, suit or other proceeding. The District shall, to the extent permitted by law, indemnify and hold harmless the Trustee against any and all liability claimed or asserted by any person arising out of any such receipt, deposit or disbursement, and shall, to the extent permitted by law, indemnify and hold harmless the Trustee against any attorneys' fees and expenses or other expenses which any of them may incur in connection with any litigation or otherwise in connection with the foregoing to which any of them may become a party in order to enforce their rights hereunder, provided that no indemnification shall be made to the Trustee for losses arising out of the willful misconduct or negligence of the Trustee.

**Section 8.06. Accounting Records and Statements.** The Trustee shall keep proper accounting records in which complete and correct entries shall be made of all transactions relating to the receipt, deposit and disbursement of the Base Rental, and such accounting records shall be available for inspection by the Authority and the District at reasonable hours and under reasonable conditions. The Trustee shall, upon written request, make copies of the foregoing available to the Credit and/or Liquidity Provider and any Owner or its agent duly authorized in writing.

**Section 8.07. Recordation.** Within two Business Days following the Acquisition Date, the District shall record, or cause to be recorded, with the appropriate county recorder, the Site Lease, the Lease and the Assignment Agreement, or memoranda thereof.

**Section 8.08. Reserved.**

**Section 8.09. Further Assurances.** Whenever and so often as requested to do so by the Trustee, the Credit and/or Liquidity Provider or any Owner, the Authority and the District shall promptly execute and deliver or cause to be executed and delivered all such other and further assurances, documents or instruments and promptly do or cause to be done all such other and further things as may be necessary or reasonably required in order to further and more fully vest in the Trustee, the Credit and/or Liquidity Provider and the Owners all advantages, benefits, interests, powers, privileges and rights conferred or intended to be conferred upon them hereby or by the Assignment Agreement, the Site Lease or the Lease.

**Section 8.10. Ratings.** Upon the written request on or after the Acquisition Date of the Owners of more than 50% of the principal amount evidenced by the Outstanding Certificates, the District, at the expense of the requesting Owners, shall use its best efforts to obtain long-term and short-term (to the extent applicable) credit ratings for the Certificates from at least one or two of the Rating Agencies as requested by such Owners.



**Section 8.11. Reports.** Not later than 270 days following the end of each fiscal year of the District commencing with the fiscal year ending June 30, 2013, the District shall deliver to the Trustee and the Purchaser (i) a copy of its audited financial statements of the District for and as of the end of such fiscal year, including all footnotes to such audited financial statements and the opinion of an independent certified public accountant with respect to such audited financial statements, and (ii) a certificate of an Authorized District Representative to the effect that no event of default by the District has occurred and is continuing under the Lease or this Trust Agreement. The Trustee shall have no duty to review, verify or analyze such financial statements and shall hold such financial statements solely as a repository for the benefit of the Owners. The Trustee shall not be deemed to have notice of any information contained therein, default or event of default (within the meaning of Section 9.01 hereof and Section 12 of the Lease) which may be disclosed therein in any manner.

**Section 8.12. Additional Obligations.** So long as the principal amount evidenced by Outstanding Certificates equals or exceeds \$5,000,000, the District shall not borrow money, incur indebtedness for borrowed money or enter into additional lease obligations for the purpose of financing capital projects in excess of the total amount of the estimate of the tax income to the District for either the current fiscal year or the ensuing fiscal year unless the District obtains the prior written consent of the Purchaser.

## **ARTICLE IX**

### **DEFAULT AND LIMITATIONS OF LIABILITY**

**Section 9.01. Action on Default.** If an event of default (within the meaning of Section 12 of the Lease) shall happen, then such event of default shall constitute an event of default hereunder. The Trustee may give notice, as assignee of the Authority, of an event of default under the Lease to the District, and shall do so if directed to do so by the Owners of not less than a majority of the aggregate principal evidenced by Certificates then Outstanding. In each and every case during the continuance of an event of default, the Trustee (a) may, with the prior written consent of any Credit and/or Liquidity Provider, at the direction of the Owners of not less than a majority of the aggregate principal evidenced by Certificates then Outstanding and upon being indemnified to its satisfaction, and (b) shall, so long as such Credit and/or Liquidity Provider is not in default in its obligation to honor a draw on any Credit and/or Liquidity Facility, at the direction of the Credit and/or Liquidity Provider and upon being indemnified to its satisfaction, upon notice in writing to the District and the Authority, exercise any of the remedies granted to the Authority under the Lease and, in addition, with the written consent or at the written direction of any Credit and/or Liquidity Provider, take whatever action at law or in equity may appear necessary or desirable to enforce its rights as assignee pursuant to the Assignment Agreement or to protect and enforce any of the rights vested in the Trustee or the Owners by this Trust Agreement or by the Certificates, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement or for the enforcement of any other legal or equitable right, including any one or more of the remedies set forth in Section 9.02 hereof.

**Section 9.02. Other Remedies of the Trustee.** Subject to the provisions of Sections 9.01 and 9.11 hereof, the Trustee shall have the right:

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the Authority or the District or any member, director, officer or employee thereof, and to compel the Authority or the District or any such member, director, officer or employee to perform or carry out its or his or her duties under law and the agreements and covenants required to be performed by it or him or her contained herein;

(b) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Trustee; or

(c) by suit in equity upon the happening of any event of default hereunder to require the Authority and the District to account as the trustee of an express trust.

Nothing herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Owner any plan of reorganization, arrangement, adjustment, or composition affecting the Certificates or the rights of any Owner thereof, or to authorize the Trustee to vote in respect of the claim of any Owner in any such proceeding without the approval of the Owners so affected.

**Section 9.03. Non-Waiver.** A waiver of any default or breach of duty or contract by the Trustee shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Trustee to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Trustee by law or by this Article may be enforced and exercised from time to time and as often the Trustee shall deem expedient.

If any action, proceeding or suit to enforce any right or to exercise any remedy is abandoned or determined adversely to the Trustee, any Credit and/or Liquidity Provider or any Owner, then subject to any adverse determination, the Trustee, such Credit and/or Liquidity Provider, such Owner, the Authority and the District shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

**Section 9.04. Remedies Not Exclusive.** Subject to the provisions of Section 9.01 hereof, no remedy herein conferred upon or reserved to the Trustee is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by any law. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

**Section 9.05. No Liability by the Authority to the Owners.** Except as expressly provided herein, the Authority shall not have any obligation or liability to the Owners with respect to the payment when due of the Base Rental by the District, or with respect to the performance by the District of the other agreements and covenants required to be performed by it

contained in the Lease or herein, or with respect to the performance by the Trustee of any right or obligation required to be performed by it contained herein.

**Section 9.06. No Liability by the District to the Owners.** Except for the payment when due of the Option Payments and the Base Rental and the performance of the other agreements and covenants required to be performed by it contained in the Lease or herein, the District shall not have any obligation or liability to the Owners with respect to this Trust Agreement or the preparation, execution, delivery or transfer of the Certificates or the disbursement of the Option Payments or the Base Rental by the Trustee to the Owners, or with respect to the performance by the Trustee of any right or obligation required to be performed by it contained herein.

**Section 9.07. No Liability of the Trustee to the Owners.** Except as expressly provided herein, the Trustee shall not have any obligation or liability to the Owners with respect to the payment when due of the Option Payments or the Base Rental by the District, or with respect to the performance by the Authority or the District of the other agreements and covenants required to be performed by them, respectively, contained in the Lease, the Site Lease or herein.

**Section 9.08. Application of Amounts After Default.** All payments received by the Trustee with respect to the rental of the Leased Premises after a default by the District pursuant to Section 12 of the Lease (including, without limitation, any proceeds received in connection with the sale, assignment or sublease of the Authority's right, title and interest in the Lease), and all damages or other payments received by the Trustee for the enforcement of any rights and powers of the Trustee under Section 12 of the Lease, shall be deposited into the Certificate Fund and as soon as practicable thereafter applied:

- (a) to the payment of all amounts due the Trustee under Section 10.03 hereof;
- (b) to the payment of all amounts then due for interest evidenced by the Certificates, in respect of which, or for the benefit of which, money has been collected (other than Certificates which have become payable prior to such event of default and money for the payment of which is held by the Trustee), ratably without preference or priority of any kind, according to the amounts of interest evidenced by such Certificates due and payable;
- (c) to the payment of all amounts then due for principal evidenced by the Certificates, in respect of which, or for the benefit of which, money has been collected (other than Certificates which have become payable prior to such event of default and money for the payment of which is held by the Trustee), ratably without preference or priority of any kind, according to the amounts of principal evidenced by such Certificates due and payable; and
- (d) to the extent not included in clause (b) or clause (c) above, to the payment of all amounts then due hereunder to any Credit and/or Liquidity Provider on account of draws under any Credit and/or Liquidity Facility or otherwise under any Credit and/or Liquidity Facility.

**Section 9.09. Trustee May Enforce Claims Without Possession of Certificates.** All rights of action and claims under this Trust Agreement or the Certificates may be prosecuted and enforced by the Trustee without the possession of any of the Certificates or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee

shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall be after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Owners of the Certificates in respect of which such judgment has been recovered.

**Section 9.10. Limitation on Suits.** No Owner of any Certificate shall have any right to institute any proceeding, judicial or otherwise, with respect to this Trust Agreement, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless (a) such Owner shall have previously given written notice to the Trustee of a continuing event of default or a failure by any Credit and/or Liquidity Provider to honor a properly conforming draw request under any Credit and/or Liquidity Facility to pay the purchase price of Certificates tendered by the owners thereof, (b) so long as any Credit and/or Liquidity Provider is not in default in its obligation to honor a draw on any Credit and/or Liquidity Facility, such Owner shall have obtained the Credit and/or Liquidity Provider's consent to such institution or appointment, (c) the Owners of not less than 25% of the aggregate principal evidenced by Certificates then Outstanding shall have made written request to the Trustee to institute proceedings in respect of such event of default in its own name as Trustee hereunder, (d) such Owner or Owners shall have afforded to the Trustee indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request, (e) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such proceedings, and (f) no direction inconsistent with such written request shall have been given to the Trustee during such 60 day period by the Owners of a majority of the aggregate principal evidenced by Certificates then Outstanding; it being understood and intended that no one or more Owners of Certificates shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Trust Agreement to affect, disturb or prejudice the rights of any other Owner of Certificates, or to obtain or seek to obtain priority or preference over any other Owner or to enforce any right under this Trust Agreement, except in the manner herein provided and for the equal and ratable benefit of all the Owners of Certificates.

**Section 9.11. Purchaser's and Credit and/or Liquidity Provider's Rights Regarding Remedies.** Anything to the contrary contained herein notwithstanding, so long as the Purchaser owns all of the Certificates or so long as any Credit and/or Liquidity Provider is not in default of its obligation to honor a draw on any Credit and/or Liquidity Facility, the Trustee shall not exercise any of the remedies provided in this Trust Agreement (except, at its option, to file proofs of claim on its own behalf in the event of a default under Section 12.1(ii) of the Lease) without the prior written consent of the Purchaser or such Credit and/or Liquidity Provider, and shall, upon indemnification by the Purchaser or such Credit and/or Liquidity Provider of the Trustee to the Trustee's reasonable satisfaction, exercise such rights in accordance with and at the direction of the Purchaser or such Credit and/or Liquidity Provider.

## ARTICLE X

### THE TRUSTEE AND THE REMARKETING AGENT

**Section 10.01. Employment of the Trustee; Duties.** The Authority and the District hereby appoint and employ the Trustee to receive, deposit and disburse the Base Rental, to prepare, execute, deliver and transfer the Certificates, to make the draws under any Credit and/or

Liquidity Facility as and when required pursuant hereto and thereto and to perform the other functions contained herein, all in the manner provided herein and subject to the conditions and terms hereof. By executing and delivering this Trust Agreement, the Trustee accepts the appointment and employment hereinabove referred to and accepts the rights and obligations of the Trustee provided herein, subject to the conditions and terms hereof. Other than when an event of default has occurred and is continuing, the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement, and no implied covenants or obligations shall be read into this Trust Agreement against the Trustee. In case an event of default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Trust Agreement, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs. The Trustee hereby covenants and agrees that it will not knowingly encumber the Leased Premises, except as expressly provided herein or in the Lease.

The Trustee agrees to hold all Certificates delivered to it for purchase hereunder in trust for the benefit of the respective Owners which shall have so delivered such Certificates until moneys representing the Purchase Price of such Certificates shall have been delivered to or for the account of or to the order of such Owners and to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the District, any Credit and/or Liquidity Provider and the Remarketing Agent.

The Trustee shall provide written notice to the District and the Purchaser, not earlier than 60 days nor later than 45 days prior to the end of each Rate Period, of the last day of such Rate Period.

**Section 10.02. Removal and Resignation of the Trustee.** The Authority and the District may by an instrument in writing, remove the Trustee initially a party hereto and any successor thereto unless an event of default shall have occurred and then be continuing, and shall remove the Trustee initially a party hereto and any successor thereto if at any time (a) requested to do so by a Credit and/or Liquidity Provider (so long as such Credit and/or Liquidity Provider is not in default of its obligation to honor a draw on any Credit and/or Liquidity Facility) or by an instrument or concurrent instruments in writing signed by the Owners of a majority of the aggregate principal component represented by the Certificates at the time Outstanding (or their attorneys duly authorized in writing), or (b) the Trustee shall cease to be eligible in accordance with the following sentence, and shall appoint a successor Trustee. The Trustee and any successor Trustee shall be a commercial bank with trust powers or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least \$50,000,000 (or be part of a bank holding company with a combined capital and surplus of at least \$50,000,000) and subject to supervision or examination by federal or state authorities. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The Trustee may at any time resign by giving written notice of such resignation to the Authority and the District and by giving notice, by first class mail, postage prepaid, of such resignation to the Owners at their addresses appearing on the Registration Books maintained by

the Trustee. Upon receiving such notice of resignation, the Authority and the District shall, with the written consent of the Credit and/or Liquidity Provider (so long as the Credit and/or Liquidity Provider is not in default of its obligation to honor a draw on any Credit and/or Liquidity Facility), promptly appoint a successor Trustee by an instrument in writing; provided, however, that in the event the District and the Authority do not appoint a successor Trustee within 30 days following receipt of such notice of resignation, the resigning Trustee may, at the expense of the District, petition the appropriate court having jurisdiction to appoint a successor Trustee. Any resignation or removal of a Trustee and appointment of a successor Trustee shall become effective only upon acceptance of appointment by the successor Trustee. Any successor Trustee appointed under this Trust Agreement shall signify its acceptance of such appointment by executing and delivering to the District, the Authority and the Credit and/or Liquidity Provider and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless, at the written request of the District or of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Trust Agreement and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth, including any Credit and/or Liquidity Facility (which shall be transferred in accordance with the terms thereof).

Any corporation, association or agency into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, provided that such entity meets the combined capital and surplus requirements of this Section, ipso facto, shall be and become successor trustee under this Trust Agreement and vested with all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

**Section 10.03. Compensation of the Trustee.** The District shall from time to time, subject to any written agreement then in effect with the Trustee, pay the Trustee reasonable compensation for all its services rendered hereunder and reimburse the Trustee for all its reasonable advances and expenditures (which shall not include “overhead expenses” except as such expenses are included as a component of the Trustee’s stated annual fees) hereunder, including but not limited to advances to and reasonable fees and reasonable expenses of accountants, agents, appraisers, consultants or other experts, and counsel not directly employed by the Trustee but an attorney or firm of attorneys retained by the Trustee, employed by it in the exercise and performance of its rights and obligations hereunder; provided, however, that the Trustee shall not have any lien for such compensation or reimbursement against any moneys held by it in any of the funds or accounts established hereunder (except that such compensation or reimbursement may be made from the Costs of Issuance Fund to the extent provided in

Section 7.02 hereof or as provided in Section 8.08 hereof). The Trustee may take whatever legal actions are lawfully available to it directly against the Authority or the District.

The District hereby agrees to indemnify and hold harmless the Trustee, its officers, directors, agents and employees from and against any and all costs, claims, liabilities, losses or damages whatsoever (including reasonable costs and fees of counsel, auditors or other experts), asserted or arising out of or in connection with the acceptance or administration of the trusts established pursuant to this Trust Agreement, the Lease, the Site Lease, the Assignment Agreement and any other documents or transactions contemplated in connection herewith or therewith, except costs, claims, liabilities, losses or damages resulting from the negligence or willful misconduct of the Trustee, including the reasonable costs and expenses (including the reasonable fees and expenses of its counsel) of defending itself against any such claim or liability in connection with its exercise or performance of any of its duties hereunder and of enforcing this indemnification provision. The indemnifications set forth herein shall survive the termination of this Trust Agreement and/or the earlier resignation or removal of the Trustee.

When the Trustee incurs expenses or renders services after the occurrence of an event of default, such expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

Except as otherwise expressly provided herein, no provision of this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers hereunder.

**Section 10.04. Protection of the Trustee.** The Trustee shall be protected and shall incur no liability in acting or proceeding in good faith upon any affidavit, bond, certificate, consent, notice, request, requisition, resolution, statement, telegram, voucher, waiver or other paper or document which it shall in good faith believe to be genuine and to have been adopted, executed or delivered by the proper party or pursuant to any of the provisions hereof, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements. The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Trust Agreement at the request or direction of any of the Owners of the Certificates, any Credit and/or Liquidity Facility Provider or the Purchaser pursuant to this Trust Agreement, unless such Owners, any Credit and/or Liquidity Facility Provider or the Purchaser shall have offered to the Trustee security or indemnity, reasonably satisfactory to the Trustee, against the reasonable costs, expenses and liabilities which might be incurred by it in compliance with such request or direction. Under no circumstances shall the Trustee request or be entitled to indemnification from the District for taking actions required by and in accordance with this Trust Agreement, including, but not limited to, requesting amounts under any Credit and/or Liquidity Facility, causing payments of interest and principal evidenced by the Certificates to be made to the Owners thereof and carrying out purchases or prepayments of the Certificates in accordance with the terms hereof. The Trustee may consult with counsel, who may be counsel to the Authority or the District, with regard to legal questions, and the opinion of such counsel shall be full and complete

authorization and protection in respect to any action taken or suffered by it hereunder in good faith in accordance therewith.

The Trustee shall not be responsible for the sufficiency of the Certificates or the Lease, or of the assignment made to it by the Assignment Agreement, or for statements made in the preliminary or final official statement relating to the Certificates, or of the title to the Leased Premises.

The Trustee shall not be required to take notice or be deemed to have notice of any default or event of default hereunder, except failure of any of the payments to be made to the Trustee required to be made hereunder or under the Lease, unless the Trustee shall be specifically notified at its Principal Office in San Francisco, California in writing of such default, or event of default by the Credit and/or Liquidity Provider, the District, the Authority or by the Owners of not less than 25% of the aggregate principal evidenced by the Certificates then Outstanding.

Whenever in the administration of its rights and obligations hereunder the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of the District, and such certificate shall be full warrant to the Trustee for any action taken or suffered under the provisions hereof upon the faith thereof, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as it deems reasonable.

The Trustee may buy, sell, own, hold and deal in any of the Certificates and may join in any action which any Owner may be entitled to take with like effect as if the Trustee were not a party hereto. The Trustee, either as principal or agent, may also engage in or be interested in any financial or other transaction with the Authority or the District, and may act as agent, depository or trustee for any committee or body of Owners or of owners of obligations of the Authority or the District as freely as if it were not the Trustee hereunder.

The Trustee may, to the extent reasonably necessary, execute any of the trusts or powers hereof and perform any rights and obligations required of it hereunder by or through agents, attorneys or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its rights and obligations hereunder, and the Trustee shall not be answerable for the negligence or misconduct of any such agent, attorney or receiver selected by it with reasonable care; provided, however, that in the event of any negligence or misconduct of any such attorney, agent or receiver, the Trustee shall diligently pursue all remedies of the Trustee against such agent, attorney or receiver. The Trustee shall not be liable for any error of judgment made by it in good faith unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

The Trustee shall not be answerable for the exercise of any trusts or powers hereunder or for anything whatsoever in connection with the funds established hereunder, except only for its own willful misconduct, negligence or material breach of an obligation hereunder.



The Trustee may, on behalf of the Owners, intervene in any judicial proceeding to which the Authority or the District is a party and which, in the opinion of the Trustee and its counsel, affects the Certificates or the security therefor, and shall do so if requested in writing by any Credit and/or Liquidity Provider (so long as such Credit and/or Liquidity Provider is not in default of its obligation to honor a draw on any Credit and/or Liquidity Facility) or the Owners of at least 5% of the aggregate principal evidenced by Certificates then Outstanding, provided the Trustee shall have no duty to take such action unless it has been indemnified to its reasonable satisfaction against all risk or liability arising from such action.

The Trustee shall not be accountable for the use or application by the District of any of the proceeds of the Certificates or for the use or application of any money paid over by the Trustee in accordance with the provisions of this Trust Agreement or for the use and application of money received by any paying agent. The permissive right of the Trustee to do things enumerated in this Trust Agreement shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful default. The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

In acting or omitting to act pursuant to the Lease, the Site Lease and the Assignment Agreement, the Trustee shall be entitled to all of the rights, immunities and indemnities accorded to it under this Trust Agreement, including, but not limited to, this Article X.

Notwithstanding the effective date of this Trust Agreement or anything to the contrary in this Trust Agreement, the Trustee shall have no liability or responsibility for any act or event relating to this Trust Agreement which occurs prior to the date the Trustee formally executes this Trust Agreement and commences acting as Trustee hereunder.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Trust Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Authority or the District elect to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Authority and the District agree: (i) to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting instructions to the Trustee and that there may be more secure methods of transmitting instructions than the method(s) selected by the Authority or the District; and (iii) that the security procedures (if any) to be followed in connection with its transmission of

instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

**Section 10.05. Appointment of Co-Trustee.** It is the purpose of this Trust Agreement that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State of California) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in the case of litigation under this Trust Agreement, and in particular in case of the enforcement of the rights of the Trustee on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional institution as a separate or co-trustee. The following provisions of this Section are adopted to these ends.

In the event that the Trustee appoints an additional institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Trust Agreement to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-trustee but only to the extent necessary to enable such separate or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them. Any co-trustee shall be bound by the standards of care, duties and obligations of the Trustee under this Trust Agreement as if such co-trustee were the Trustee. Any co-trustee shall be a bank or trust company doing business in the State of California and at all times shall have a combined capital (exclusive of borrowed capital) and surplus of at least \$50,000,000 and subject to supervision or examination by federal or state authorities. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

Should any instrument in writing from the District, the Authority or any Credit and/or Liquidity Provider be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the District, the Authority or any Credit and/or Liquidity Provider. In case any separate trustee or co-trustee, or a successor to either, shall become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new Trustee or successor to such separate trustee or co-trustee.

**Section 10.06. Appointment and Qualifications of Remarketing Agent.** If the District and the Purchaser, or the District and the Beneficial Owners, are unable to reach a Consensual Rate Determination under Section 3.01 or the Certificates are Converted to a Daily Rate Mode or a Weekly Rate Mode, the District shall appoint a Remarketing Agent meeting the

qualifications set forth in this Section 9.06 to remarket Adjustable Rate Certificates and perform the other duties of a Remarketing Agent pursuant to and under this Trust Agreement, and to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by any Credit and/or Liquidity Provider, the District and the Trustee at all reasonable times, upon reasonable notice, and to give written notice (which may be by Electronic Means) to the Trustee (who shall then promptly notify any Credit and/or Liquidity Provider), specifying (x) the principal amount of such Adjustable Rate Certificates, if any, remarketed by it as provided in this Trust Agreement, and (y) the interest rates on the remarketed Adjustable Rate Certificates as determined pursuant to and in accordance herewith.

(b) The Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Trust Agreement by giving at least thirty (30) days' notice to the District, the Trustee and the Credit and/or Liquidity Provider (if any); provided that in the event a successor shall not have been appointed within such thirty (30) day period, the Remarketing Agent's resignation and discharge from duties and obligations hereunder will not be effective until the earlier of (a) the appointment of a successor, or (b) thirty (30) days from the expiration of such thirty (30) day notice period. The Remarketing Agent may be removed upon fifteen (15) days' notice to the Remarketing Agent, at the direction of the District, by an instrument filed with the Remarketing Agent, the Trustee and the Credit and/or Liquidity Provider (if any). Any successor Remarketing Agent shall be selected by the District and shall be either (i) a member of FINRA, having a capitalization of at least \$5,000,000, or (ii) a commercial bank having combined capital and surplus of \$5,000,000 and, in either event, rated Baa/Prime-3 or better by Moody's or shall otherwise be approved in writing by the rating agencies then rating the Certificates and authorized by law to perform all the duties imposed upon it by this Trust Agreement. When a Credit and/or Liquidity Facility is in effect or a Credit and/or Liquidity Provider is owed any amounts under a Credit and/or Liquidity Facility and so long as such Credit and/or Liquidity Provider is not in default of its obligation to honor a draw on any Credit and/or Liquidity Facility, the District shall obtain the Credit and/or Liquidity Provider's written consent to the appointment of such successor Remarketing Agent, which consent shall not be unreasonably withheld. The District's delivery to the Trustee of a certificate setting forth the effective date of the appointment of a successor Remarketing Agent and the name of such successor shall be conclusive evidence that (i) if applicable, the predecessor Remarketing Agent has been removed in accordance with the provisions of this Trust Agreement, and (ii) such successor has been appointed and is qualified to act as Remarketing Agent under the terms of this Trust Agreement.

(c) If the Remarketing Agent consolidates with, merges or converts into, or transfers all or substantially all of its assets to, another corporation, the resulting, surviving or transferee corporation without any further act shall be the successor Remarketing Agent, but only if such successor meets the eligibility requirements of subsection (b) of this Section.

## ARTICLE XI

### AMENDMENT OR SUPPLEMENT

#### **Section 11.01. Amendment or Supplement.**

(a) *Amendment or Supplement of Trust Agreement.*

(i) This Trust Agreement and the rights and obligations of the Authority, the District, the Owners and the Trustee hereunder may be amended or supplemented at any time by an amendment hereof or supplement hereto which shall become binding when the prior written consents of the Purchaser, any Credit and/or Liquidity Provider (so long as such Credit and/or Liquidity Provider is not in default of its obligation to honor a draw on any Credit and/or Liquidity Facility) and the Owners of a majority of the aggregate principal evidenced by the Certificates then Outstanding, exclusive of Certificates disqualified as provided in Section 11.02 hereof, are filed with the Trustee. No such amendment or supplement shall (1) extend the stated Principal Payment Date of any Certificate or reduce the rate of interest applicable to the interest evidenced thereby or extend the time of payment of such interest or reduce the amount of principal evidenced thereby or reduce the amount of any Mandatory Sinking Account Payment or change the prepayment terms and provisions or the provisions regarding delivery of notice of prepayment without the prior written consent of the Owner of each Certificate so affected, (2) reduce the percentage of Owners whose consent is required for the execution of any amendment hereof or supplement hereto without the prior written consent of the Owners of all Certificates then Outstanding, (3) modify any of the rights or obligations of the Trustee without the prior written consent of the Trustee, (4) modify any of the rights or obligations of any Credit and/or Liquidity Provider without the prior written consent of such Credit and/or Liquidity Provider, or (5) amend this Section without the prior written consent of the Owners of all Certificates then Outstanding.

(ii) This Trust Agreement and the rights and obligations of the Authority, the District, the Owners and the Trustee hereunder may also be amended or supplemented at any time by an amendment hereof or supplement hereto which shall become binding upon execution, with the prior written consent of the Purchaser, any Credit and/or Liquidity Provider (so long as such Credit and/or Liquidity Provider is not in default of its obligation to honor a draw on any Credit and/or Liquidity Facility), but without the written consents of any other Owners, but only to the extent permitted by law and only for any one or more of the following purposes:

(1) to add to the agreements, conditions, covenants and terms required by the Authority or the District to be observed or performed herein other agreements, conditions, covenants and terms thereafter to be observed or performed by the Authority or the District, or to surrender any right or power reserved herein to or conferred herein on the Authority or the District, and which in either case shall not materially adversely affect the rights or interests of the Credit and/or Liquidity Provider or the Owners as evidenced by the opinion of counsel delivered to the Trustee pursuant to Section 10.01(a)(iv) hereof;

(2) to make such provisions for the purpose of curing any ambiguity or of correcting, curing or supplementing any defective provision contained herein or in regard to questions arising hereunder which the Authority or the District may deem desirable or necessary and not inconsistent herewith, and which shall not materially adversely affect the rights or interests of the Credit and/or Liquidity Provider or the Owners as evidenced by the opinion of counsel delivered to the Trustee pursuant to Section 10.01(a)(iv) hereof;

(3) to modify, amend or supplement this Trust Agreement in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by said act or similar federal statute, and which shall not materially and adversely affect the interests of the Owners as evidenced by the opinion of counsel delivered to the Trustee pursuant to Section 10.01(a)(iv) hereof;

(4) to make such additions, deletions or modifications as may be necessary or appropriate to assure the exclusion from gross income for federal income tax purposes of interest evidenced by the Certificates;

(5) to make modifications or adjustments necessary, appropriate or desirable to provide for change from one interest rate period to another, including, without limitation, conversion to a Commercial Paper Interest Rate Period or an Index Rate Interest Period;

(6) to make modifications or adjustments necessary, appropriate or desirable to accommodate Credit and/or Liquidity Facilities and Credit and/or Liquidity Providers;

(7) to make modifications or adjustments necessary, appropriate or desirable to provide for the appointment of an auction agent, a broker-dealer, a remarketing agent, a tender agent and/or a paying agent;

(8) to provide for the execution and delivery of Certificates in book-entry form or bearer form and/or to modify or eliminate the book-entry registration system;

(9) to modify, alter, amend or supplement this Trust Agreement in any other respect, including amendments that would otherwise be described in Section 11.01(a)(i) hereof, if the effective date of such amendments is a date on which all Certificates affected thereby are subject to mandatory tender for purchase pursuant to the provisions of this Trust Agreement or if notice of the proposed amendments is given to Owners of the affected Certificates at least thirty (30) days before the proposed effective date of such amendments and, on or before such effective date, such Owners have the right to demand purchase of their Certificates pursuant to the provisions of this Trust Agreement or if all

Certificates affected thereby are in an auction mode and a successful auction is held following notice of such amendment; or

(11) for any other reason, provided such amendment or supplement does not materially adversely affect the rights or interests of any Credit and/or Liquidity Provider or the Owners as evidenced by the opinion of counsel delivered pursuant to Section 10.01(a)(iv) hereof.

(iii) This Trust Agreement and the rights and obligations hereunder of the Authority, the District, the Trustee and the Owners of Certificates being converted from one Mode to another Mode, but only as such rights and obligations relate solely to such Certificates, may also be amended or supplemented as of any Conversion Date by an amendment hereof or supplement hereto which shall become binding on such Conversion Date with the prior written consent of any Credit and/or Liquidity Provider (so long as such Credit and/or Liquidity Provider is not in default of its obligation to honor a draw on any Credit and/or Liquidity Facility), but without the written consents of any Owners, but only to the extent permitted by law and only if the Certificates have been remarketed by the Remarketing Agent pursuant to Section 5.06 hereof for purchase on such Conversion Date with such amended or supplemented rights or obligations.

(iv) Before executing any amendment or supplement authorized by this Article, the Trustee may consult with counsel, who may be counsel to the Authority or the District, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect to any action taken or suffered by it hereunder in good faith in accordance therewith.

(b) *Amendment or Supplement of Lease, Site Lease or Assignment Agreement.*

The Lease (subject to Section 7.16 hereof), the Site Lease and the Assignment Agreement may be amended in writing by agreement between the parties thereto, with the consent of the Trustee, if any, but no such amendment shall become effective as to the Owners of Certificates unless and until approved in writing by the Owners of a majority in aggregate principal amount of Certificates then Outstanding. Notwithstanding the foregoing, the Lease, the Site Lease and the Assignment Agreement and the rights and obligations provided thereby may also be modified or amended at any time with the consent of the Trustee and any Credit and/or Liquidity Provider but without the consent of any Owners of the Certificates upon the written agreement of the District and the Authority, but only (i) for the purpose of amending the Leased Premises pursuant to Section 2.2 of the Lease, (ii) in regard to questions arising under the respective Lease, the Site Lease or the Assignment Agreement that the District and the Authority may deem necessary or desirable and not inconsistent with such Lease, the Site Lease or Assignment Agreement and that shall not materially adversely affect the interests of the Owners of the Certificates, or (iii) for any other reason, provided such modification or amendment does not materially adversely affect the interests of the Owners of the Certificates provided that the District, the Authority and the Trustee may rely in entering into any such amendment or modification thereof upon the opinion of counsel stating that the requirements of this sentence have been met with respect to such amendment or modification.

**Section 11.02. Disqualified Certificates.** Certificates owned or held by or for the account of the District or the Authority (but excluding Certificates held in any pension or retirement fund of the District) shall not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Certificates provided in this Article, and shall not be entitled to consent to or take any other action provided in this Article (unless all Certificates issued hereunder are so held, in which case all such Certificates shall be deemed Outstanding) , and the Trustee may adopt appropriate regulations to require each Owner, before its consent provided for herein shall be deemed effective, to reveal if the Certificates as to which such consent is given are disqualified as provided in this Section. The Trustee may require the District and the Authority to certify whether any Certificates are held by or for the account of the District or the Authority, as the case may be, and the Trustee may rely on such certification for purposes of any consent or other action or any calculation of Outstanding Certificates provided in this Article.

**Section 11.03. Endorsement or Replacement of Certificates After Amendment or Supplement.** After the effective date of any action taken as hereinabove provided in this Article, the District may determine that the Certificates may bear a notation by endorsement in form approved by the Trustee as to such action, and in that case upon demand of the Owner of any Outstanding Certificate and presentation of such Certificate for such purpose at the Principal Office of the Trustee a suitable notation as to such action shall be made on such Certificate. If the Trustee shall receive an opinion of counsel advising that new Certificates modified to conform to such action are necessary, modified Certificates shall be prepared, and in that case upon demand of the Owner of any Outstanding Certificates such new Certificates shall be exchanged at the Principal Office of the Trustee without cost to each Owner for Certificates then Outstanding upon surrender of such Outstanding Certificates.

**Section 11.04. Amendment by Mutual Consent.** The provisions of this Article shall not prevent any Owner from accepting any amendment as to the particular Certificates owned by it, provided that due notation thereof is made on such Certificates.

## **ARTICLE XII DEFEASANCE**

**Section 12.01. Discharge of Certificates and Trust Agreement.** (a) If the Trustee shall pay or cause to be paid or there shall otherwise be paid (i) to the Owners of all Outstanding Certificates the interest and principal evidenced thereby at the times and in the manner stipulated herein and therein, and (ii) all other amounts due hereunder and under the Lease and the Credit and/or Liquidity Facility, then such Owners shall cease to be entitled to the pledge of and lien on the amounts on deposit in the funds and accounts established hereunder, as provided herein, and all agreements and covenants of the Authority, the District, and the Trustee to such Owners hereunder shall thereupon cease, terminate and become void and shall be discharged and satisfied except for the provisions of Section 10.03 hereof, which shall survive.

(b) Any Outstanding Certificate shall be deemed to have been paid within the meaning and with the effect expressed in this Section when the whole amount of the principal, premium, if any, and interest evidenced by such Certificate shall have been paid or when (i) in case said Certificate or portion thereof has been selected for prepayment in accordance with

Section 4.04 hereof prior to its stated Principal Payment Date, the District shall have given to the Trustee irrevocable instructions to give, in accordance with the provisions of Section 4.05 hereof, notice of prepayment of such Certificate, or portion thereof, (ii) there shall be on deposit with the Trustee, either (A) money in an amount which shall be sufficient, or (B) Defeasance Securities, which Defeasance Securities shall not contain provisions permitting the redemption thereof other than at the option of the owner, the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which shall be sufficient to pay when due the principal, premium, if any, and interest evidenced by such Certificate and due and to become due on or prior to the prepayment date or its stated Principal Payment Date, as the case may be, and (iii) in the event the stated Principal Payment Date of such Certificate will not occur, and said Certificate is not to be prepaid, within the next succeeding 60 days, the District shall have given the Trustee irrevocable instructions to give notice, as soon as practicable in the same manner as a notice of prepayment given pursuant to Section 4.05 hereof, to the Owner of said Certificate, or portion thereof, stating that the deposit of moneys or Defeasance Securities required by clause (ii) of this subsection has been made with the Trustee and that said Certificate, or portion thereof, is deemed to have been paid in accordance with this Section and stating such Principal Payment Date or prepayment date upon which moneys are to be available for the payment of the principal, premium, if any, and interest evidenced by said Certificate, or portion thereof.

Neither the moneys nor the Defeasance Securities deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for and pledged to, the payment of the principal, premium, if any, and interest evidenced by said Certificate, or portions thereof. If payment of less than all of the Certificates is to be provided for in the manner and with the effect expressed in this Section, the Trustee or the District, as applicable, shall select such Certificates, or portions thereof, in the manner specified in Section 4.04 hereof for selection for prepayment of less than all of the Certificates, in the principal amounts designated to the Trustee by the District.

(c) The Trustee may seek and is entitled to rely upon (i) an opinion of counsel reasonably satisfactory to the Trustee to the effect that the conditions precedent to a defeasance pursuant to this Section have been satisfied, and (ii) such other opinions, certifications and computations, as the Trustee may reasonably request, of accountants or other financial consultants concerning the matters described in subsection (b) of this Section.

(d) After the payment of all the interest, prepayment premium, if any, and principal evidenced by all Outstanding Certificates and all other amounts due hereunder and under the Lease and any Credit and/or Liquidity Facility as provided in this Section, the Trustee shall execute and deliver to the Authority and the District all such instruments as may be necessary or desirable and prepared by or on behalf of the Authority and/or the District to evidence the discharge and satisfaction of this Trust Agreement, and, subject to Section 5.06(c) hereof, the Trustee shall pay over or deliver to the District all moneys or securities held by it pursuant hereto which are not required for the payment of the interest, prepayment premium, if any, and principal evidenced by such Certificates and all other amounts due hereunder, under the Credit and/or Liquidity Facility and under the Lease.



(e) Prior to any defeasance becoming effective under this Article, (i) all amounts currently due to any Credit and/or Liquidity Provider under a Credit and/or Liquidity Facility shall have been paid in full, and (ii) the District shall cause to be delivered (A) an executed copy of a report, addressed to the Trustee, the District and any Credit and/or Liquidity Provider, in form and in substance acceptable to the Trustee, the District and the Credit and/or Liquidity Provider, of a nationally recognized certified public accountant, or firm of such accountants, verifying that the Defeasance Securities and cash, if any, satisfy the requirements of clause (ii) of subsection (b) of this Section (a “Verification”), (B) a copy of the escrow deposit agreement entered into in connection with such defeasance, which escrow deposit agreement shall provide that no substitution of Defeasance Securities shall be permitted except with other Defeasance Securities and upon delivery of a new Verification and no reinvestment of Defeasance Securities shall be permitted except as contemplated by the original Verification or upon delivery of a new Verification, and (C) a copy of an opinion of counsel, dated the date of such defeasance and addressed to the Trustee, the District and the Credit and/or Liquidity Provider, in form and in substance acceptable to the Trustee, the District and the Credit and/or Liquidity Provider, to the effect that such Certificates have been paid within the meaning and with the effect expressed in this Trust Agreement, and all agreements and covenants of the Authority, the District and the Trustee to the Owners of such Certificates under this Trust Agreement have ceased, terminated and become void and have been discharged and satisfied (except for such provisions which, by their terms, survive).

**Section 12.02. Unclaimed Moneys.** Any moneys held by the Trustee in trust for the payment and discharge of the interest or principal evidenced by any of the Certificates which remain unclaimed for two years after the date when such interest or principal evidenced by such Certificates have become payable, if such moneys were held by the Trustee at such date, or for two years after the date of deposit of such moneys if deposited with the Trustee after the date when the interest and principal evidenced by such Certificates have become payable, shall, subject to subsection (c) of Section 5.06 hereof, at the Written Request of the District be repaid by the Trustee (without liability for interest) to the District as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Owners shall look only to the District for the payment of the interest and principal evidenced by such Certificates.

## ARTICLE XIII

### MISCELLANEOUS

**Section 13.01. Benefits of Trust Agreement Limited to Parties.** Nothing contained herein, expressed or implied, is intended to give to any person other than the Authority, the District, the Trustee, any Credit and/or Liquidity Provider, the Remarketing Agent and the Owners any claim, remedy or right under or pursuant hereto, and any agreement, condition, covenant or term required herein to be observed or performed by or on behalf of the Authority or the District shall be for the sole and exclusive benefit of the Trustee, any Credit and/or Liquidity Provider, the Remarketing Agent and the Owners.

**Section 13.02. Successor Deemed Included in all References to Predecessor.** Whenever the Authority, the District, any Credit and/or Liquidity Provider or the Trustee, or any

officer thereof, is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the Authority, the District, the Credit and/or Liquidity Provider or the Trustee, or such officer, and all agreements, conditions, covenants and terms required hereby to be observed or performed by or on behalf of the Authority, the District, such Credit and/or Liquidity Provider or the Trustee, or any officer thereof, shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

**Section 13.03. Execution of Documents by Owners.** Any declaration, request or other instrument which is permitted or required herein to be executed by Owners may be in one or more instruments of similar tenor and may be executed by Owners in person or by their attorneys appointed in writing. The fact and date of the execution by any Owner or its attorney of any declaration, request or other instrument or of any writing appointing such attorney may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state or territory in which such notary public or other officer purports to act that the person signing such declaration, request or other instrument or writing acknowledged to such notary public or other officer the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer, or by such other proof as the Trustee may accept which it may deem sufficient.

The ownership of any Certificates and the amount, payment date, number and date of owning the same may be proved by the Registration Books maintained by the Trustee pursuant to the provisions of Section 2.07 hereof.

Any declaration, request or other instrument in writing of the Owner of any Certificate shall bind all future Owners of such Certificate with respect to anything done or suffered to be done by the Authority, the District or the Trustee in good faith and in accordance therewith.

**Section 13.04. Waiver of Personal Liability.** Notwithstanding anything contained herein to the contrary, no member, officer or employee of the District shall be individually or personally liable for the payment of any moneys, including without limitation, the interest or principal represented by the Certificates, but nothing contained herein shall relieve any member, officer or employee of the District from the performance of any official duty provided by any applicable provisions of law, by the Lease or hereby.

**Section 13.05. Content of Certificates.** Every Certificate of the District with respect to compliance with any agreement, condition, covenant or term contained herein shall include (a) a statement that the person making or giving such certificate has read such agreement, condition, covenant or term and the definitions herein relating thereto, (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements contained in such certificate are based, (c) a statement that, in the opinion of the signer, the signer has made or caused to be made such examination or investigation as is necessary to enable the signer to express an informed opinion as to whether or not such agreement, condition, covenant or term has been complied with, and (d) a statement as to whether, in the opinion of the signer, such agreement, condition, covenant or term has been complied with.

Any Certificate of the District may be based, insofar as it relates to legal matters, upon an Opinion of Counsel, unless the person making or giving such certificate knows that the opinion of counsel with respect to the matters upon which each person's certificate may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous. Any opinion of counsel may be based, insofar as it relates to factual matters, upon information which is in the possession of the District or the Authority upon a representation by an officer or officers of the District or the Authority, as the case may be, unless the counsel executing such opinion of counsel knows that the representation with respect to the matters upon which such counsel's opinion may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous.

**Section 13.06. Funds and Accounts.** Any fund or account required to be established and maintained herein by the Trustee may be established and maintained in the accounting records of the Trustee either as an account or a fund, and may, for the purposes of such accounting records, any audits thereof and any reports or statements with respect thereto, be treated either as an account or a fund, but all such records with respect to all such funds and accounts shall at all times be maintained in accordance with sound accounting practice and with due regard for the protection of the security of the Certificates and the rights of the Owners. The Trustee may establish such funds and accounts as it deems necessary to perform its obligations hereunder.

**Section 13.07. Third-Party Beneficiaries.** Any Credit and/or Liquidity Provider is a third-party beneficiary of this Trust Agreement.

**Section 13.08. Article and Section Headings, Gender and References.** The singular form of any word used herein, including the terms defined in Section 1.01 hereof, shall include the plural, and vice versa, unless the context otherwise requires. The use herein of a pronoun of any gender shall include correlative words of the other genders. The headings or titles of the several Articles and Sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. All references herein to "Articles," "Sections," subsections or clauses are to the corresponding Articles, Sections, subsections or clauses hereof, and the words "hereby," "herein," "hereof," "hereto," "herewith," "hereunder" and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section, subsection or clause thereof.

**Section 13.09. Partial Invalidity.** If any one or more of the agreements, conditions, covenants or terms required herein to be observed or performed by or on the part of the Authority, the District or the Trustee shall be contrary to law, then such agreement or agreements, such condition or conditions, such covenant or covenants or such term or terms shall be null and void to the extent contrary to law and shall be deemed separable from the remaining agreements, conditions, covenants and terms hereof and shall in no way affect the validity hereof or of the Certificates, and the Owners shall retain all the benefit, protection and security afforded to them under any applicable provisions of law. The Authority, the District and the Trustee hereby declare that they would have executed this Trust Agreement, and each and every Article, Section, paragraph, subsection, sentence, clause and phrase hereof and would have authorized the execution and delivery of the Certificates pursuant hereto irrespective of the fact that any one or more Articles, Sections, paragraphs, subsections, sentences, clauses or phrases hereof or the

application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

**Section 13.10. California Law.** This Trust Agreement shall be construed and governed in accordance with the laws of the State of California.

**Section 13.11. Notices.** All written notices to be given hereunder shall be given to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other parties in writing from time to time, namely:

If to the District:

Prior to the Acquisition Date:

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109  
Attention: Executive Director  
Phone:  
Fax:

Following the Acquisition Date:

Bay Area Air Quality Management District  
390 Main Street  
San Francisco, CA 94105  
Attention: Executive Director:  
Phone:  
Fax:

If to the Authority:

Prior to the Acquisition Date:

Bay Area Headquarters Authority  
101 8<sup>th</sup> Street  
Oakland, CA 94607  
Attention: Executive Director  
Phone:  
Fax:

Following the Acquisition Date:

Bay Area Headquarters Authority  
390 Main Street  
San Francisco, CA 94105  
Attention: Executive Director  
Phone:  
Fax:

If to the Trustee:                   The Bank of New York Mellon Trust Company, N.A.  
100 Pine Street, Suite 3100  
San Francisco, CA 94111  
Attention: Milly Canessa  
Phone: (415) 263-2420  
Fax:   (415) 399-1647

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered to the party to whom it is addressed (a) if personally served or delivered, upon delivery, (b) if given by electronic communication, whether by telex, telegram or telecopier, upon the sender's receipt of an appropriate answerback or other written acknowledgment, (c) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, 72 hours after such notice is deposited with the United States mail, (d) if given by overnight courier, with courier charges prepaid, 24 hours after delivery to said overnight courier, or (e) if given by any other means, upon delivery at the address specified in this Section.

**Section 13.12. New York Time.** Unless otherwise expressly stated, all times referred to in this Trust Agreement shall be New York City time.

**Section 13.13. References to Credit and/or Liquidity Provider Ineffective.** Notwithstanding any provisions contained herein to the contrary, after the expiration or termination of any Credit and/or Liquidity Facility and after all amounts owed by the District to the Credit and/or Liquidity Provider pursuant to any Credit and/or Liquidity Facility have been paid in full, all references to the Credit and/or Liquidity Provider contained herein shall be null and void and of no further force and effect.

**Section 13.14. Effective Date.** This Trust Agreement shall become effective upon its execution and delivery.

**Section 13.15. Execution in Counterparts.** This Trust Agreement may be simultaneously executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have caused this Trust Agreement to be executed by their respective officers thereunto duly authorized, all as of the day and year first written above.

**THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A., as Trustee**

By: \_\_\_\_\_  
Authorized Officer

**BAY AREA HEADQUARTERS  
AUTHORITY**

By: \_\_\_\_\_  
Authorized Officer

**BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT**

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**  
**FORM OF CERTIFICATE**

No. WR-

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**BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
CERTIFICATES OF PARTICIPATION  
(BAAQMD OFFICE PROJECT)**

<b>PAYMENT DATE</b>	<b>INTEREST RATE</b>	<b>DATED DATE</b>	<b>CUSIP NO.</b>
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_____,	As described herein		
20____			

**REGISTERED OWNER:** Cede & Co.

**PRINCIPAL AMOUNT:** \_\_\_\_\_ **DOLLARS**

THIS IS TO CERTIFY that the Registered Owner of this Certificate of Participation (the "Certificate"), as identified above, is the owner of a direct, fractional undivided interest in certain option payments and base rental payments ("Base Rental") payable under and pursuant to the Lease, dated as of October 1, 2013 (the "Lease"), by and between the Bay Area Air Quality Management District (the "District"), an air pollution control district organized and existing under and by virtue of the laws of the State of California, as lessee, and the Bay Area Headquarters Authority (the "Authority"), a joint action agency organized and existing under and by virtue of the laws of the State of California, as lessor. Substantially all of the rights of the Authority under the Lease, including the right to receive the Base Rental, have been assigned without recourse by the Authority to The Bank of New York Mellon Trust Company, N.A., a national banking association organized and existing under and by virtue of the laws of the United States of America, as trustee (the "Trustee") under the Trust Agreement, dated as of October 1, 2013 (the "Trust Agreement"), by and among the Trustee, the Authority and the District.

This Certificate is one of the duly authorized Bay Area Air Quality Management District Certificates of Participation (BAAQMD Office Project) (the "Certificates") evidencing principal in the aggregate amount of \$\_\_\_\_\_, executed pursuant to the terms of the Trust Agreement. The Certificates evidence direct, fractional undivided interests in Base Rental payable under the Lease. The Certificates are being executed and delivered to finance the acquisition of office space for the District.

Reference is hereby made to the Trust Agreement and to any and all amendments thereof and supplements thereto for a description of the agreements, conditions, covenants and terms securing the Certificates, for the nature, extent and manner of enforcement of such agreements, conditions, covenants and terms, for the rights, duties and immunities of the Trustee, for the rights and remedies of the registered owners of the Certificates with respect thereto and for the other agreements, conditions, covenants and terms upon which the Certificates are executed and delivered thereunder, to all of which provisions the Registered Owner by acceptance hereof,

assents and agrees. Capitalized undefined terms used herein shall have the meanings ascribed thereto in the Trust Agreement.

[More to come]

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

The District has certified that all acts, conditions and things required by the statutes of the State of California and by the Trust Agreement to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Certificate do exist, have happened and have been performed in regular and due time, form and manner as required by law, and that the Trustee is duly authorized to execute and deliver this Certificate.

**IN WITNESS WHEREOF**, this Certificate has been executed by the manual signature of an authorized signatory of the Trustee as of the date set forth below.

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

**THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A., as Trustee**

By: \_\_\_\_\_  
Authorized Signatory



**ASSIGNMENT**

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ the within-mentioned Certificate and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney, to transfer the same on the books of the Trustee with full power of substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_

Note: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within registered Certificate in every particular, without alteration or enlargement or any change whatsoever.

Tax I.D. #: \_\_\_\_\_

Signature Guaranteed: \_\_\_\_\_

**EXHIBIT B**

**FORM OF CONSENSUAL RATE DETERMINATION NOTICE**

[To Come]

**EXHIBIT C**

**FORM OF WRITTEN REQUEST NO. \_\_\_\_\_ FOR DISBURSEMENTS OF  
REPAIR OR REPLACEMENT COSTS FROM NET PROCEEDS ACCOUNT**

The undersigned hereby states and certifies:

(a) that the undersigned is the duly appointed, qualified and acting \_\_\_\_\_, of the Bay Area Air Quality Management District, an air pollution control district and political subdivision of the State of California organized and existing under and by virtue of the laws of the State of California (the "District"), and as such, is familiar with the facts herein certified and is authorized and qualified to certify the same;

(b) that The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), is hereby requested to disburse from the Net Proceeds Account, established pursuant to Section 6.08 of the Trust Agreement, dated as of \_\_\_\_\_ (the "Trust Agreement"), by and among the Trustee, the Bay Area Headquarters Authority (the "Authority") and the District, to the payees set forth on Exhibit A attached hereto and by this reference incorporated herein, the amount set forth on Exhibit A opposite each such payee, for payment of such costs identified on said Exhibit A;

(c) that each item of cost identified on Exhibit A has been properly incurred and the amounts to be disbursed pursuant to this Written Request are for costs of repair or replacement of the Leased Premises properly chargeable by the District or the Authority, as the case may be, to the Net Proceeds Account, and no amounts to be disbursed pursuant to this Written Request have been the subject of a previous Written Request for disbursement from said account; and

(d) that an invoice for each item of cost identified on Exhibit A is attached hereto.

Capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Trust Agreement.

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

**BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT**

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

Exhibit A

NET PROCEEDS ACCOUNT DISBURSEMENTS

<u>Payee Name and Address</u>	<u>Purpose of Obligation</u>	<u>Amount</u>
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**EXHIBIT D**

**FORM OF PAYMENT REQUEST**

[Letterhead of Bay Area Air Quality Management District]

PAYMENT  
REQUEST NO.

\_\_\_\_\_  
Trustee

Attention: \_\_\_\_\_

Re: \$\_\_\_\_\_ Bay Area Air Quality Management District Certificates of  
Participation (BAAQMD Office Project)

Ladies and Gentlemen:

Pursuant to Section, [6.02] [6.03] of the Trust Agreement, dated as of \_\_\_\_\_, 2013 (the  
“Trust Agreement”), by and among the Bay Area Air Quality Management District (the  
“District”), the Bay Area Headquarters Authority and you, as trustee, you are hereby instructed  
to disburse the sum of \$\_\_\_\_\_ from the [2013 Account of the Administrative Expense Fund]  
[2013 Account of the Costs of Issuance Fund] established under the Trust Agreement. You are  
instructed to pay such disbursement to the order of the following payee, and for the following  
cost(s) and/or expense(s).

Payee: \_\_\_\_\_

Cost(s) and/or expense(s) for which disbursement is requested:

\_\_\_\_\_.

Dated: \_\_\_\_\_, \_\_\_\_\_.

**BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT**

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

[INSERT NAME]

[INSERT TITLE]

**EXHIBIT E**  
**FORM OF REQUISITION**

[To come]

**PLACEMENT AGENT AGREEMENT**

By and Between

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT,**  
District

and

**MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,**  
Placement Agent

Dated as of October 1, 2013

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## PLACEMENT AGENT AGREEMENT

THIS PLACEMENT AGENT AGREEMENT, dated October 1, 2013 (this “Agreement”), is made by and between BAY AREA AIR QUALITY MANAGEMENT DISTRICT, a regional air pollution control district organized and existing under and by virtue of the laws of the State of California, particularly Division 26, Part 3, Chapter 4 of the California Health and Safety Code (the “District”) and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (the “Placement Agent”);

WHEREAS, the District intends to cause The Bank of New York Mellon Trust Company, N.A., a national banking association duly organized and existing under and by virtue of the laws of the United States of America, as Trustee (the “Trustee”), to execute and deliver certain Bay Area Air Quality Management District Certificates of Participation (BAAQMD Office Project) (the “Certificates”) evidencing an aggregate principal component of up to \$\_\_\_\_\_; and

WHEREAS, the District has identified the Bay Area Headquarters Authority (“BAHA”) as a purchaser for the Certificates, and BAHA has indicated to the District its interest in purchasing the Certificates through a private placement; and

WHEREAS, the District desires to appoint the Placement Agent to perform certain services as provided herein, and the Placement Agent is willing to do so on the terms and conditions set forth herein; and

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Agreements.

(a) Appointment of Placement Agent. The District hereby requests the Placement Agent to act, on the terms and conditions specified herein, as the District’s exclusive agent for the offer (the “Offering”) and sale of the Certificates to be executed and delivered by the Trustee on behalf of the District, and the Placement Agent accepts such appointment and, subject to the terms and conditions of this Agreement, agrees so to act. The Placement Agent agrees to offer and sell the Certificates on a “best efforts” basis, as the District’s sole and exclusive agent.

(b) Sales. On the basis of the representations and warranties herein contained, but subject to the conditions hereinafter stated, the Placement Agent will use its best efforts to sell the Certificates as hereinafter provided. The Certificates will be executed and delivered by the Trustee on behalf of the District to BAHA as the initial purchaser thereof (the “Purchaser”), or persons designated by such purchaser. It is expected that the Certificates will be issued on an “all or none” basis as a single certificate. The parties acknowledge and agree that the District was solely responsible for the identification of BAHA as the Purchaser of the Certificates and the negotiation of the price and other terms of the sale of the Certificates to BAHA, and the Placement Agent has not been engaged to act and the District has not relied on the Placement Agent for such purposes. Specifically, the Placement Agent has not been engaged to (i) identify purchasers of the Certificates, or (ii) opine as to the appropriateness of the price and other terms



of sale of the Certificates, and the District has not relied on the Placement Agent for such purposes.

2. Representations, Warranties, and Agreements of the District. The District represents and warrants to the Placement Agent as of the date of this Agreement and as of the date upon which the Certificates are executed and delivered that the representations contained in Section 6 of the Purchase Contract, dated September \_\_, 2013, by and between the District and the Bay Area Headquarters Authority are true and correct and may be relied upon by the Placement Agent.

3. Compensation and Expenses.

(a) Upon execution and delivery of the Certificates against payment therefor (the "Closing"), the District will pay to the Placement Agent a placement fee equal to \$\_\_\_\_\_.

(b) The Placement Agent shall be under no obligation to pay, and the District shall pay out of proceeds of the Certificates at or prior to Closing, any expenses incident to the performance of the District's and the Placement Agent's obligations hereunder, including but not limited to (i) the fees and expenses of counsel to the District; (ii) the fees and expenses, if any, for accountants, advisors, and any other experts or consultants retained by the District; (iii) the fees and expenses of the District and Special Counsel; (iv) the fees and expenses of the Placement Agent, including, but not limited to, fees of counsel to the Placement Agent, CUSIP Service Bureau charges, and DTC charges; and (v) any expenses (included in the expense component of the Placement Agent's fee) incurred by the Placement Agent on behalf of the District's employees which are incidental to implementing this Place Agent Agreement, including, but not limited to, meals, transportation, lodging and entertainment of those employees. In the event that the Certificates for any reason are not delivered, or to the extent proceeds of the Certificates are insufficient or unavailable therefor, any fees, costs and expenses owed by the District, which otherwise would have been paid from the proceeds of the Certificates and that are not contingent upon their delivery, shall be paid by the District.

4. Indemnification.

(a) The District assumes liability for, and will indemnify and hold the Placement Agent and each person, if any, who controls the Placement Agent within the meaning of Section 15 of the Securities Act harmless from and against, any liabilities, claims, damages, costs, and expenses (including legal fees and expenses) ("Liabilities") arising out of or related to an actual or alleged untrue statement of a material fact made in writing in connection with the execution, delivery and sale of the Certificates or an actual or alleged omission of a material fact necessary in order to make any statement made in writing in connection with the execution, delivery and sale of the Certificates, in the light of the circumstances in which such statements were made, not misleading; provided, however, that the foregoing indemnity shall not extend to any Liabilities to the extent they arise from an untrue statement by the Placement Agent of a material fact or an omission by the Placement Agent of a material fact relating in either case to the Placement Agent's placement of the Certificates, as set forth in writing by the Placement Agent specifically for use by investors, necessary in order to make any statement, in the light of

the circumstances in which such statement was made, not misleading. This indemnity shall survive termination of this Agreement.

(b) Promptly upon receipt by a party indemnified under this Section of notice of the commencement of any action against such indemnified party in respect of which indemnity or reimbursement may be sought against any indemnifying party under this Section, such indemnified party shall notify the indemnifying party in writing of the commencement of such action, but the failure so to notify the indemnifying party shall not relieve it of any liability which it may have to any indemnified party, unless such failure shall materially and adversely affect the defense of such action. If notice of commencement of any such action shall be given to the indemnifying party as above provided, the indemnifying party shall be entitled to participate in and, to the extent it may wish, jointly with any other indemnifying party similarly notified, to assume the defense of such action at its own expense, with counsel chosen by it and satisfactory to such indemnified party. The indemnified party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel (other than reasonable costs of investigation) shall be paid by the indemnified party unless (i) the indemnifying party agrees to pay the same; (ii) the indemnifying party fails to assume the defense of such action with counsel reasonably satisfactory to the indemnified party; or (iii) the named parties to any such action (including any impleaded parties) have been advised by such counsel that representation of such indemnified party and the indemnifying party by the same counsel would be inappropriate under applicable standards of professional conduct (in which case the indemnifying party shall not have the right to assume the defense of such action on behalf of such indemnified party). No indemnifying party shall be liable for any settlement entered into without its consent, not to be unreasonably withheld, except that if any such settlement shall operate to preclude or have the effect of restraining any lawful conduct of business by the indemnifying party, in which case and to such extent the indemnifying party shall have the right to withhold consent in its sole discretion.

5. Arm's Length Transaction. The District acknowledges and agrees that: (i) the primary role of the Placement Agent, as a placement agent, is to assist the District in the District's private placement of the Certificates to BAHA, in an arm's length commercial transaction between the District and the Placement Agent and the Placement Agent has financial and other interests that differ from those of the District; (ii) the Placement Agent is acting solely as a placement agent and is not acting as a municipal advisor, financial advisor or fiduciary to the District and has not assumed any advisory or fiduciary responsibility to the District with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Placement Agent has provided other services or is currently providing other services to the District on other matters); (iii) other than as imposed by law, the only obligations the Placement Agent has to the District with respect to the transaction contemplated hereby are set forth expressly in this Agreement; and (iv) the District has consulted its own financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent it has deemed appropriate

6. Amendments. This Agreement may not be amended except by a writing signed by each of the parties hereto.

7. Term. Unless previously terminated, this Agreement shall remain in full force and effect until the Closing of the sale of the Certificates to BAHA or until this Agreement is otherwise terminated in accordance herewith. Prior to the Closing, either the District or the Placement Agent may terminate this Agreement at any time by giving at least 10 business days' prior written notice to the other party. The representations, warranties, and agreements of the District set forth herein shall, however, remain in full force and effect regardless of any investigation (or any statement as to the results thereof) made by or on behalf of the Placement Agent and shall survive the termination or expiration of this Agreement.

8. Notices. Unless otherwise provided herein, all notices, certificates, requests, or other communications hereunder shall be deemed given when delivered in writing by hand or sent by facsimile transmission or registered mail, postage prepaid, addressed as follows:

to the District: Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109  
Attention: Jeffrey M. McKay

to the Placement Agent: Merrill Lynch, Pierce, Fenner & Smith Incorporated  
333 S. Hope St., Ste. 2310  
Los Angeles, CA 90071  
Attention: Bryon Rockwell, Managing Director  
E-mail: bryon.rockwell@baml.com  
Telephone: 213-345-9585

Each of the above parties may, by written notice given hereunder to the others, designate any further or different addresses to which, or means by which, subsequent notices, certificates, requests, or other communications shall be sent.

9. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD FOR THE LAW OF CONFLICT OF LAWS.

10. Parties in Interest. This Agreement is made solely for benefit of the District and the Placement Agent (including the respective successors or assigns of the Placement Agent) and, except as otherwise expressly provided herein, no other person shall acquire or have any right hereunder or by virtue hereof.

11. Effective Date. This Agreement shall become effective upon its execution by the parties hereto.

12. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Placement Agent Agreement to be duly executed as of the day and year first above written.

BAY AREA AIR QUALITY MANAGEMENT  
DISTRICT

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

MERRILL LYNCH, PIERCE, FENNER & SMITH  
INCORPORATED

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

\$ \_\_\_\_\_  
**BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
 CERTIFICATES OF PARTICIPATION  
 (BAAQMD OFFICE PROJECT)**

**PURCHASE CONTRACT**

[September \_\_], 2013

Bay Area Air Quality  
 Management District  
 San Francisco, California

Ladies and Gentlemen:

The undersigned (the “*Purchaser*”) offers to enter into this Purchase Contract (this “*Purchase Contract*”) with the Bay Area Air Quality Management District (the “*District*”). Upon acceptance of this offer, this Purchase Contract shall be binding upon the District and the Purchaser. Capitalized terms not otherwise defined herein shall have the respective meanings ascribed thereto in the Trust Agreement (BAAQMD Office Project) dated as of October 1, 2013 (the “*Trust Agreement*”) among the District, the Bay Area Headquarters Authority (the “*Authority*”) and The Bank of New York Mellon Trust Company, N.A., as trustee (the “*Trustee*”).

1. Pursuant to a Site and Facilities Lease (BAAQMD Office Project) dated as of October 1, 2013 (the “*Site Lease*”) between the District and the Authority, the District shall lease to the Authority the District’s condominium office space located at 390 Main Street, San Francisco, California (the “*Leased Premises*”). Pursuant to a Facilities Sublease (BAAQMD Office Project) dated as of October 1, 2013 (the “*Facilities Sublease*”) between the Authority and the District, the Authority shall lease to the District the Leased Premises and the District shall make payments to the Authority of (i) option payments in consideration of the purchase option granted to the District by the Authority with respect to the Leased Premises (“*Option Payments*”) and (ii) base rental in consideration of the District’s use and occupancy of the Leased Premises (the “*Base Rental*”). Pursuant to an Assignment Agreement (BAAQMD Office Project) dated as of October 1, 2013 (the “*Assignment Agreement*”) between the Authority and the Trustee, the Authority assigns to the Trustee the Authority’s rights under the Site Lease and the Facilities Sublease, including the right to receive Option Payments and Base Rental, for the benefit of holders of Certificates of Participation (BAAQMD Office Project) (the “*Certificates*”) executed and delivered by the Trustee pursuant to the Trust Agreement and representing undivided interests in the Facilities Sublease, including the right to receive Option Payments and Base Rental thereunder. Payments of Base Rental shall have an interest component and a principal component. Payments of Option Payments shall consist solely of an interest component.

2. Upon the terms and conditions and upon the basis of the representations, warranties and covenants set forth herein, the Purchaser agrees to purchase from the Trustee for the benefit of the District, and the District agrees to cause the Trustee to sell to the Purchaser, all

(but not less than all) of the \$\_\_\_\_\_ principal amount of the Certificates. The Certificates shall be purchased at a purchase price equal to the aggregate amount of the principal component of Base Rental, with no discount or premium.

3. The Site Lease, the Facilities Sublease and the Trust Agreement (the “*District Documents*”) are authorized by Bay Area Air Quality Management District Act, being Title \_\_\_ of the California Health and Safety Code commencing with Section \_\_\_, and the Air Quality District Act, being Title \_\_\_ of the California Health and Safety Code commencing with Section \_\_\_ (collectively, the “*Act*”). The District Documents are further authorized by a Resolution of the District, adopted by the District’s Board of Directors on \_\_\_\_\_, 2013 (the “*District Resolution*”). The Site Lease, the Facilities Sublease, the Trust Agreement and the Assignment Agreement (the “*Authority Documents*”) are authorized by the Joint Exercise of Powers Act, being Title \_\_\_ of the California Government Code commencing with Section 6500. The Authority Documents are further authorized by a Resolution of the Authority adopted by the Authority’s Board of Directors on \_\_\_\_\_, 2013 (the “*Authority Resolution*”).

4. The Certificates shall be dated the date of Closing. The principal component of Base Rental shall be payable on the date and initially bear interest at the rate, payable at the times, and shall be subject to prepayment, all as set forth in the Trust Agreement and on *Exhibit A* attached hereto.

5. The Purchaser represents and warrants and covenants to the District as follows:

(a) The Purchaser has full power and authority to purchase the Certificates and to enter into the Authority Documents and this Purchase Contract and any other instruments and documents required to be executed by the Purchaser in connection with the purchase of the Certificates. The Purchaser has duly authorized the execution and delivery of, and the performance by the Purchaser of its obligations contained in, the Authority Documents and this Purchase Contract. The Authority Documents and this Purchase Contract (assuming due authorization, execution and delivery by and validity against the District) constitute and, as of the date of the Closing, will constitute, the valid and binding agreements of the Purchaser enforceable in accordance with its terms, subject to the effect of bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other similar laws relating to or affecting the creditors’ rights generally, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against governmental entities in the State of California (the “*State*”).

(b) The Purchaser has sufficient knowledge and experience in financial and business matters, including (i) purchase and ownership of municipal obligations, and (ii) the purchase and ownership of illiquid securities, to be able to evaluate the risks and merits of the purchase of the Certificates.

(c) To the knowledge of the Purchaser, there is no litigation pending (with service of process against the Purchaser having been accomplished) or threatened against the Purchaser: (1) seeking to restrain or enjoin the purchase by the Purchaser of the Certificates, or (2) challenging the Purchaser’s entry into any of the Authority Documents

or this Purchase Contract or challenging any proceeding of the Purchaser taken with respect to the foregoing.

(d) All authorizations and approvals that are or will be necessary for the purchase of the Certificates or for the valid execution, delivery or performance of the Authority Documents and this Purchase Contract have been obtained, other than as may be necessary under blue sky or other securities laws and regulations of the various states.

(e) The execution, delivery and performance of the Authority Documents and this Purchase Contract do not and will not conflict with, or result in a violation of, any provision of law, or any order, writ, rule or regulation of any court or government agency or instrumentality binding upon or applicable to the Purchaser and do not and will not in any material aspect conflict with, result in a violation of, or constitute a default under, any agreement or instrument, to which the Purchaser is a party or by which the Purchaser or any of its property is bound, which would, in any such case, materially and adversely affect the Purchaser's ability to perform its obligations with respect to the Authority Documents and this Purchase Contract.

(f) In making its decision to purchase the Certificates, the Purchaser acknowledges that it has either been supplied with or has had access to information to which a reasonable investor would attach significance in making investment decisions, and it has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Certificates and the security therefor, so that as a reasonable investor it has been able to make its decision to purchase the Certificates.

(g) The Purchaser understands that the Certificates (i) are not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (ii) will not be listed on any stock or other securities exchange, (iii) will carry no rating from any rating service, (iv) may not be sold except as provided in paragraph (h) below, (v) are subject to caps on interest rates, and (vi) due to lack of a rating and the interest rate caps may not be readily marketable. The Purchaser further understands that the Certificates have not been registered under the Securities Act of 1933, as amended, and that such registration is not legally required.

(h) The Purchaser is purchasing the Certificates for its own account and not with a view toward or for sale in connection with any distribution thereof. The Purchaser has no present intent to (i) dispose of all or any part of the Certificates, (ii) divide the Certificates into participation interests or other units for sale, or (iii) deposit the Certificates into any fund or trust of which participation interests can be sold to other parties. The Purchaser understands that the Certificates are subject to resale restrictions and may not be marketable, so that the Purchaser will be required to bear the risk of this investment through its maturity. The Purchaser is able to bear the economic risk associated with this investment. Although the Purchaser represents that it is purchasing the Certificates for its own account and not with a view to resale, to maintain adequate fiscal flexibility and liquidity, the Purchaser may sell the Certificates in accordance with the Trust Agreement.

(i) The Purchaser understands that neither the District nor anyone else has prepared or provided any offering statement, prospectus, offering circular, private placement memorandum or other comprehensive offering statement containing material information with respect to the Certificates or the District.

6. The District represents and warrants and covenants to the Purchaser as follows:

(a) The District is duly organized and validly existing under the laws of the State of California and has full power and authority to enter into the District Documents and this Purchase Contract and to cause the execution and delivery of the Certificates to the Purchaser as provided in this Purchase Contract and the Trust Agreement. The District has duly authorized the execution and delivery of, and the performance by the District of its obligations contained in, the District Documents and this Purchase Contract. The District Documents and this Purchase Contract (assuming due authorization, execution and delivery by and validity against the other parties thereto) constitute and, as of the date of the Closing, the District Documents and this Purchase Agreement (assuming due authorization, execution and delivery by and validity against the other parties thereto) will constitute, the valid and binding agreements of the District enforceable in accordance with their respective terms, subject to the effect of bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other similar laws relating to or affecting the creditors' rights generally, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against governmental entities in the State.

(b) The District's Board of Directors has full power and authority to adopt its Resolution approving the District Documents and this Purchase Contract. The Resolution has been duly adopted by the District's Board of Directors empowered to do so and will not be modified, amended or repealed prior to the Closing and is valid and binding and in full force and effect as of the date hereof.

(c) To the knowledge of the District, there is no litigation pending (with service of process against the District having been accomplished) or threatened against the District: (1) seeking to restrain or enjoin the sale, execution or delivery of the Certificates, or (2) challenging the validity of the District Documents or any proceeding of the District taken with respect to the foregoing, or (3) challenging the organization or existence of the District or the entitlement to their respective offices of any of the officers who caused the Certificates to be executed and delivered on behalf of the District.

(d) All authorizations, approvals, licenses, permits, consents, filings, registrations and orders of any court or governmental authority or agency having jurisdiction of the matter that is or will be necessary for the execution and delivery of, and payment of the principal and interest components of, the Certificates, or for the valid execution, delivery or performance of the District Documents or this Purchase Contract have been obtained, other than as may be necessary under blue sky or other securities laws and regulations of the various states.



(e) The execution and delivery of, and the payment of the principal and interest components of, the Certificates and the execution, delivery and performance of the District Documents and this Purchase Contract do not and will not conflict with, or result in a violation of, any provision of law, including the constitution of the State, or any order, writ, rule or regulation of any court or government agency or instrumentality binding upon or applicable to the District and do not and will not in any material aspect conflict with, result in a violation of, or constitute a default under, any agreement or instrument, to which the District is a party or by which the District or any of its property is bound, which would, in any such case, materially and adversely affect the District's ability to perform its obligations with respect to this Purchase Contract and the District Documents.

(f) All written information provided by the District to the Purchaser concerning the District, the District's finances is true and accurate in all material respects and does not include a false statement of a material fact or omit any material fact necessary to make the statements therein, under the circumstances in which they are made, not misleading.

7. At 9:00 a.m., California time, on October [\_\_\_\_], 2013, or at such other time or on such other business day as shall have been mutually agreed upon by the District and the Purchaser, subject to the terms and conditions of this Purchase Contract, the District will deliver or cause to be delivered to the Purchaser or its custodian at the office of Nixon Peabody LLP in San Francisco, California, or such other place as may be mutually agreed upon, the documents required to be delivered pursuant to this Purchase Contract, and, the Purchaser will accept delivery of the Certificates through DTC and such documents and pay the purchase price of the Certificates (in the manner hereinafter described) as set forth in Section 2 by a wire transfer of immediately available funds to the order of the District or pay such balance as otherwise agreed between the Purchaser and the District (such payment and delivery of documents are herein called the "*Closing*"). It is anticipated that CUSIP identification numbers will be printed, typewritten, lithographed or word processed on the Certificates, but neither the failure to include a CUSIP identification number on any Certificates nor any error with respect thereto shall constitute cause for a failure or refusal by the Purchaser to accept delivery of and pay for the Certificates in accordance with the terms of this Purchase Contract.

8. The Purchaser has entered into this Purchase Contract in reliance upon the representations, warranties and covenants of the District contained herein and the performance by the Purchaser of its obligations hereunder are and shall be subject to the following further conditions:

(a) The representations and warranties of the District contained herein and in the District Documents shall be true, complete and correct in all material respects on the date of this Purchase Contract and as of the date of the Closing with the same effect as if made on and as of such date.

(b) At the time of the Closing: (1) the Resolution, the District Documents, the Authority Documents and this Purchase Contract shall be in full force and effect, and shall not have been amended, modified or supplemented (except as may have been agreed

to in writing by the Purchaser); and (2) the District shall perform or have performed its obligations required by this Purchase Contract, the District Documents and the Resolution to be performed at or prior to the Closing.

(c) The Purchaser shall have the right to cancel its obligation to purchase the Certificates by written notification by the Purchaser to the District if at any time after the date hereof and prior to the Closing the Purchaser determines there has been a material, adverse change in the financial condition of the District or its ability to make Option Payments and pay Base Rental, not known to Purchaser at the time of execution of this Purchase Contract.

(d) At or prior to the Closing, the Purchaser and the District shall have received each of the following documents:

(1) (a) An opinion of Nixon Peabody LLP as Special Counsel, dated the date of the Closing, addressed to the District, the Purchaser and the Trustee substantially in the form attached hereto as *Exhibit B*;

(2) An opinion of general counsel to the District, dated the date of the Closing, addressed to the District, the Purchaser and the Trustee, substantially in the form attached hereto as *Exhibit C*;

(3) An opinion of general counsel to the Authority, dated the date of the Closing, addressed to the Authority, the District and the Trustee, substantially in the form attached hereto as *Exhibit D*;

(4) A certificate of the District, dated the date of the Closing, executed by the District's Executive Director to the effect that the representations and warranties of the District in the District Documents and this Purchase Contract are true and correct in all material respects on and as of the date of Closing with the same effect as if made on and as of such date, and the District has complied with and performed all of its covenants and agreements in this Purchase Contract to be complied with and performed at or prior to the Closing;

(5) A certificate of the Purchaser, dated the date of the Closing, executed by the Purchaser to the effect that the representations and warranties of the Purchaser in this Purchase Contract are true and correct in all material respects on and as of the date of Closing with the same effect as if made on and as of such date, and the Purchaser has complied with and performed all of its covenants and agreements in this Purchase Contract to be complied with and performed at or prior to the Closing;

(6) A certificate of the Authority, dated the date of the Closing, executed by the Authority's Executive Director, to the effect that the representations and warranties of the Authority in the Authority Documents are true and correct in all material respects on and as of the date of the Closing with the same effect as if made on and as of such date;

- (7) Certified copies of the District Resolution;
- (8) Certified copies of the Authority Resolution;

(9) Executed copies of the Site Lease, the Facilities Sublease, the Assignment Agreement and the Trust Agreement;

(10) A certificate, dated the date of the Closing, signed by a duly authorized official of the Trustee to the effect that (i) the Trustee is a national banking association organized and existing under and by virtue of the laws of the United States of America, having the full power and being qualified to enter into and perform its duties under the Trust Agreement; (ii) the Trustee is duly authorized to enter into, has duly executed and delivered the Trust Agreement and has duly executed and delivered the Certificates; (iii) the execution and delivery of the Trust Agreement and compliance with the provisions on the Trustee's part contained therein, will not conflict with or constitute a breach of or default under any law, administrative regulation, judgment, decree, material agreement or material instrument to which the Trustee is a party or is otherwise subject (except that no representation, warranty or agreement is made with respect to any federal or state securities or Blue Sky laws or regulations), nor will such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets held by the Trustee pursuant to the lien created by the Trust Agreement under the terms of any such law, administrative regulation, judgment, decree, material agreement or material instrument, except as provided by the Trust Agreement; and (iv) to its knowledge it has not been served with any action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, nor to its knowledge is any such action threatened against the Trustee affecting the existence of the Trustee, or the titles of its officers to their respective offices, or in any way contesting or affecting the validity or enforceability of the Trust Agreement, or contesting the powers of the Trustee or its authority to enter into, adopt or perform its obligations under the Trust Agreement, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability against the Trustee of the Trust Agreement;

(11) An opinion of counsel to the Trustee, dated the date of the Closing and addressed to the District and the Purchaser, to the effect that (i) the Trustee is a national banking association duly organized and validly existing under the laws of the United States of America and has the corporate power to execute and deliver the Trust Agreement and any other documentation relating to the Trust Agreement, and to perform its obligations under the Trust Agreement; (ii) the execution and delivery by the Trustee of the Trust Agreement and any other documentation relating to the Trust Agreement, and its performance of its obligations under the Trust Agreement, have been and are as of the date hereof duly authorized by all necessary corporate action; (iii) no approval, authorization or other action by, or filing with, any governmental body or regulatory authority

(which has not been obtained) is required in connection with the due execution, delivery and performance by the Trustee of the Trust Agreement; and (iv) the Trust Agreement has been duly executed and delivered and constitutes the valid and legally binding obligation of the Trustee enforceable against it in accordance with its terms except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought as a proceeding in equity or at law);

(12) Evidence of required filings with the California Debt and Investment Advisory Commission; and

(13) Any other documents, opinions and/or certifications, in form and substance reasonably requested by and acceptable to Special Counsel, the District and its Counsel or the Purchaser and its counsel.

The opinions, certificates and other materials referred to above shall be in form and substance satisfactory to the Purchaser and its counsel.

If the District shall be unable to satisfy the conditions to the obligations of the Purchaser to purchase, to accept delivery of and to pay for the Certificates contained in this Purchase Contract (unless waived by the Purchaser) or if the obligations of the Purchaser to purchase, to accept delivery of and to pay for the Certificates shall be terminated for any reason permitted by this Purchase Contract, this Purchase Contract shall terminate and neither the Purchaser nor the District shall be under further obligation hereunder, except that the respective obligations of the District and the Purchaser set forth in Section 9 of this Purchase Contract shall continue in full force and effect.

9. Except as provided below, the District shall pay or cause to be paid all expenses incident to the issuance and sale of the Certificates as herein provided, including but not limited to: (a) the cost of the preparation and printing or other reproduction and distribution of the District Documents, the Authority Documents, and the Certificates, (b) the fees and disbursements of Bond Counsel, (c) the fees of any financial advisor for the District, (d) a fee of \$\_\_\_\_\_ to Merrill Lynch, Pierce, Fenner & Smith Incorporated, as Placement Agent, (e) a fee of \$\_\_\_\_\_ to Sidley Austin LLP, as counsel to the Placement Agent, (f) the fee of the California Debt and Investment Advisory Commission, (g) the fees related to obtaining CUSIP numbers, and (h) the fees and disbursements of any other experts or consultants retained by the District in connection with the transaction contemplated hereby. The Purchaser shall pay any other expenses incurred by it.

10. Any notice or other communication to be given to the District under this Purchase Contract may be given by delivering the notice or communication in writing (including by fax) to the Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109, Attention: Brian Bunger (fax: 415-749-5111); any notice or other communication to be given to the Purchaser under this Purchase Contract may be given by delivering the notice or communication in writing to the Bay Area Headquarters Authority, 101 Eighth Street, Oakland, CA 94607, Attention: Brian Mayhew (fax: 510-817-5934).

11. This Purchase Contract shall constitute the entire agreement between the Purchaser and the District and is made solely for the benefit of the District and the Purchaser. No other person shall acquire or have any right hereunder or by virtue hereof. All of the representations, warranties and agreements of the District and the Purchaser in this Purchase Contract shall remain operative and in full force and effect regardless of: (a) any investigation made by or on behalf of the Purchaser or the District; (b) delivery of payment for the Certificates hereunder; and (c) any termination of this Purchase Contract.

12. This Purchase Contract may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

13. This Purchase Contract shall be governed by and interpreted under the laws of the State. This Purchase Contract shall be enforceable in the State and any action arising out of this Purchase Contract shall be brought in the courts of the State located in the City and County of San Francisco or the County of Alameda, California and, by execution and delivery of this Purchase Contract, the parties hereto consent and hereby accept for themselves and in respect of their property, generally and unconditionally, the jurisdiction of the aforesaid courts. To the extent permitted by law, the parties hereto hereby irrevocably waive any objection, including, without limitation, any objection to the laying of venue or based on the grounds of forum non conveniens, which they may now have or hereafter have to the bringing of any such action or proceeding in such jurisdictions.

IN WITNESS WHEREOF, the Purchaser has executed and delivered this Purchase Contract as of the date first written above.

Very truly yours,

BAY AREA HEADQUARTERS AUTHORITY,  
as Purchaser

By: \_\_\_\_\_  
Chief Financial Officer

Accepted:

BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT

By: \_\_\_\_\_  
Executive Director

**EXHIBIT A**

**MATURITY, PRINCIPAL AMOUNT, INTEREST RATES**

<u>MATURITY DATE</u>	<u>PRINCIPAL AMOUNT</u>	<u>INITIAL INTEREST RATE</u>
	\$	%

**REDEMPTION PROVISIONS**

[To Come]

**EXHIBIT B**  
**FORM OF OPINION OF SPECIAL COUNSEL**

October \_\_, 2013

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, California 94109

Bay Area Headquarters Authority  
101 8<sup>th</sup> Street  
Oakland, California 94607

The Bank of New York Mellon Trust Company, N.A.,  
as Trustee  
100 Pine Street  
San Francisco, California 94111

**APPROVING OPINION:** \$\_\_\_\_\_ Bay Area Air Quality  
Management District Certificates of Participation  
(BAAQMD Office Project)

Ladies and Gentlemen:

We have acted as special counsel in connection with the execution, delivery and sale of \$\_\_\_\_\_ aggregate principal amount of Bay Area Air Quality Management District Certificates of Participation (BAAQMD Office Project) (the “Certificates”), representing undivided proportionate interests of the owners thereof in the Facilities Sublease (BAAQMD Office Project), dated as of October 1, 2013 (the “Sublease”), by and between the Bay Area Air Quality Management District (the “District”), as lessee, and the Bay Area Headquarters Authority (the “Authority”), as lessor, including the right to receive payments of Option Payments and Base Rental (as such terms are defined in the Sublease) to be made by the District to the Authority pursuant to the Sublease. The Certificates are being executed and delivered pursuant to a Trust Agreement (BAAQMD Office Project), dated as of October 1, 2013 (the “Trust Agreement”), by and among The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”), the District and the Authority. Capitalized terms used herein that are not defined will have the meanings given in the Trust Agreement.

The District has leased its office condominium (the “Leased Premises”) to the Authority pursuant to the Site and Facilities Lease (BAAQMD Office Project), dated as of October 1, 2013 (the “Site Lease”). The Authority has leased the Leased Premises to the District pursuant to the



Sublease. The Sublease has been entered into by the County for the purpose of financing its acquisition of the Leased Premises.

The County is obligated under the Sublease to pay Option Payments and Base Rental Payments to the Authority. The Option Payments are payable solely from amounts held in the Escrow Account of the Acquisition Fund under the Trust Agreement. The Base Rental payments are payable from any source of legally available funds, subject to provisions in the Sublease providing for abatement of Base Rental payments in certain circumstances. A portion of each of the Option Payments and Base Rental payments is designated as interest.

Pursuant to the Assignment Agreement (BAAQMD Office Project), dated as of October 1, 2013 (the "Assignment Agreement"), the Authority has assigned to the Trustee, on behalf of the Owners of the Certificates, all of the Authority's right to receive Option Payments and Base Rental payments and certain other rights and interests under the Sublease.

In our capacity as Special Counsel, we have examined the record of proceedings submitted to us relative to the execution and delivery of the Certificates, the Trust Agreement, the Site Lease, the Sublease, and the Assignment Agreement, certifications of the District, the Authority and the Trustee, opinions of counsel to the District, the Authority and the Trustee and such other documents and matters deemed necessary by us to render the opinions sets forth herein, although in doing so, we have not undertaken to verify independently the accuracy of the factual matters represented, warranted or certified therein, and we have assumed the genuineness of all signatures thereto.

The opinions expressed herein are based upon an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have neither undertaken to determine, nor to inform any person, whether any such actions are taken or omitted or events do occur or whether any other matters come to our attention after the date hereof. We call attention to the fact that the rights and obligations under the Certificates, the Trust Agreement, the Site Lease, the Sublease and the Assignment Agreement may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases, and to the limitations contained in applicable law regarding legal remedies against public entities in the State of California. We express no opinion as to any provision in the Trust Agreement, the Sublease, the Site Lease, the Assignment Agreement or the Certificates with respect to the priority of any pledge or security interest, indemnification, or governing law. We advise you that we have not made or undertaken to make any investigation of the state of title to any of the real property or ownership of any personal property described in the Sublease, the Site Lease or the Assignment Agreement, or of the accuracy or sufficiency of the description of such property contained therein, and we express no opinion with respect to such matters. We undertake no responsibility for the accuracy, completeness or fairness of any information pertaining to the District relating to the offer or sale of the Certificates and express no opinion with respect thereto.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

1. The Sublease and the Site Lease have been duly authorized, executed and delivered by the District and the Authority and constitute the legally valid and binding obligations of the District and the Authority, enforceable in accordance with their respective terms.

2. The Trust Agreement has been duly authorized, executed and delivered by the District and the Authority and constitutes the legally valid and binding obligation of the District and the Authority, respectively, enforceable in accordance with its terms, and the Certificates are entitled to the benefits of the Trust Agreement.

3. The Assignment Agreement has been duly authorized, executed and delivered by the Authority and creates a valid assignment to the Trustee of certain rights of the Authority in the Sublease, including the right to receive the Option Payments and Base Rental payments from the District to the extent and as more particularly described therein.

4. The Purchase Contract has been duly executed and delivered by the District and (assuming due authorization, execution and delivery by and validity against the other parties thereto) is a legal, valid and binding obligation of the District enforceable against the District in accordance with its terms, except as limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors' rights generally and that the enforceability of the Purchase Contract is subject to the effect of general principles of equity including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing and the possible unavailability of specific performance or injunctive relief, regardless of whether considered in a proceeding in equity or at law.

5. The Certificates are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Trust Agreement is exempt from qualification under the Trust Indenture Act.

6. Interest with respect to the Certificates is exempt from California personal income taxes.

Except as stated in opinion 6 above, we express no opinion as to any other Federal, state or local tax consequences of the ownership or disposition of the Certificates.

Respectfully submitted,

**EXHIBIT C**

**FORM OF OPINION OF COUNSEL TO THE DISTRICT**

October \_\_, 2013

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, California 94109

Bay Area Headquarters Authority  
101 8<sup>th</sup> Street  
Oakland, California 94607

The Bank of New York Mellon Trust Company, N.A.,  
as Trustee  
100 Pine Street  
San Francisco, California 94111

Bay Area Air Quality Management District  
Certificates of Participation  
(BAAQMD Office Project)

Ladies and Gentlemen:

This opinion is furnished in connection with the execution, delivery and sale of \$[\_\_\_\_\_] Bay Area Air Quality Management District Certificates of Participation (BAAQMD Office Project) (the “Certificates”) evidencing undivided proportionate interests in in a Facilities Sublease (BAAQMD Office Project) dated as of October 1, 2013 (the “Sublease”) by and between the Bay Area Headquarters Authority (the “Authority”), as lessor, and the Bay Area Air Quality Management District (the “District”), as lessee, including the right to receive option payments and base rental payments thereunder. The office condominium that is the subject of the Sublease (the “Leased Premises”) has been first leased by the District to the Authority pursuant to a Site and Facilities Lease (BAAQMD Office Project) dated as of October 1, 2013 (the “Site Lease”) between the District, as lessor, and the Authority, as lessee. The rights of the Authority under the Site Lease and the Sublease have been assigned by the Authority pursuant to an Assignment Agreement (BAAQMD Office Project) dated as of October 1, 2013 (the “Assignment Agreement”) to The Bank of New York Mellon Trust Company, N.A., as trustee (the “Trustee”) under the Trust Agreement (BAAQMD Office Project) dated as of October 1, 2013 (the “Trust Agreement”) among the District, the Authority and the Trustee pursuant to which the Certificates have been executed and delivered. The Authority is purchasing the Certificates pursuant to the Purchase Contract dated September \_\_, 2013 (the

“Purchase Contract”) between the Authority and the District. The Site Lease, the Sublease, the Trust Agreement and the Purchase Contract are collectively referred to herein as the “District Documents”).

The execution, delivery and performance by the District of the District Documents are authorized by the Chapters 4 and 6 of Part 3 of Division 26 of the California Health and Safety Code (the “District Act”) and a resolution of the Board of the District adopted on [\_\_\_\_], 2013 (the “Resolution”).

In my capacity as counsel to the District, I have examined the District Act, the Resolution, the District Documents; certifications of the Authority, the District and others as to certain factual matters; and such other documents, opinions and matters deemed necessary by me to provide the opinions or conclusions set forth herein.

The opinions and conclusions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions or conclusions may be affected by actions taken or omitted or events occurring after the date hereof. I have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to my attention after the date hereof. Accordingly, this opinion is not intended to, and may not, be relied upon in connection with any such actions events or matters. In reviewing the documents and matters referred to above, I have assumed the genuineness of all signatures (other than signatures of officials of the District) thereto and the due and legal execution and delivery thereof by, and the validity against, any parties other than the District, and I have assumed, without undertaking to verify, the accuracy of the factual matters represented, warranted or certified therein. In addition, I call attention to the fact that the rights and obligations under the Certificates and the District Documents and the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors’ rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public entities in the State of California. I express no opinion with respect to any indemnification, contribution, penalty, arbitration, judicial reference, choice of law, choice of forum, choice of venue, waiver or severability provisions contained in the foregoing documents, which provisions may be unenforceable against a public entity as a matter of public policy, nor do I express any opinions with respect to the state or quality of title to or interest in any of the assets described in or as subject to the Site Lease, the Sublease, the Assignment Agreement or the Trust Agreement or the accuracy or sufficiency of the description contained therein of, or the remedies available to enforce rights in, any such assets.

Based upon and subject to the foregoing and in reliance thereon, as of the date hereof, I am of the following opinions:

1. The District is a public entity duly established and existing pursuant to the District Act and is organized and operating pursuant to the laws of the State of California.
2. The District has all requisite power and authority under the District Act and the laws of the State of California to adopt the Resolution, to enter into and/or accept and agree to,

execute, deliver and perform its obligations under the District Documents and to conduct its business as currently conducted.

3. The Resolution was duly adopted by the District at a meeting of the District which was called and held in accordance with the requirements of all applicable law and with all public notice required by law and at which a quorum was continuously present and voted at the time of the adoption of the Resolution, and the Resolution has not been modified, amended or repealed, except as set forth therein, and remains in full force and effect on and as of the date hereof.

4. Each of the District Documents has been duly authorized, executed and delivered by the District.

5. Assuming due authorization, execution and delivery by the other parties thereto, each of the District Documents constitutes a valid and binding obligation of the District enforceable against the District in accordance with its terms.

6. The adoption of the Resolution, the execution and delivery by the District of the District Documents and the performance by the District of its obligations under the District Documents: (i) do not violate any provision of the Constitution of the State of California; (ii) do not to any material extent conflict with or violate any applicable federal, state or local law or any applicable order, rule or regulation of any federal, state, county or municipal governmental or public authority or agency having jurisdiction over the District or its properties or by which the District or any of its properties is bound; and (iii) do not conflict with, result in a material breach of, or constitute on the part of the District a default under any resolution, agreement or instrument to which the District is a party or by which the District or any of its properties is bound.

7. To the best of my knowledge after due inquiry, as of the date hereof, no authorization, approval, consent or order of the State of California, any local governmental agency or authority of the State of California or any federal governmental agency or authority is required for the valid authorization, execution, delivery and performance by the District of the District Documents.

8. There is no litigation, proceeding, action, suit or investigation at law or in equity before or by any court, governmental authority or body, now pending or, to the best of my knowledge after due inquiry, threatened against the District: (i) seeking to restrain or enjoin the execution, delivery or sale of the Certificates; (ii) in any manner questioning the authority or proceedings for the execution, delivery or sale of the Certificates; (iii) in any way contesting the validity or enforceability of the District Documents or the authority of the District to enter into or perform its obligations under any of the District Documents; or (iv) contesting the valid existence or powers of the District or the title of any of its present members or officers to their respective positions.

I express no opinion as to any matter other than as expressly set forth above. Without limiting the generality of the foregoing, I specifically express no opinion as to the status of the Certificates or the interest thereon under any federal securities laws, any foreign jurisdiction securities laws or any state securities or "Blue Sky" law or any federal, state or local tax law.

Further, I express no opinion on the laws of any jurisdiction other than the State of California and the United States of America.

I disclaim any obligation to update this letter. This opinion is delivered to the addressees hereof and is solely for the benefit of each of such parties and is not to be used, circulated, quoted, or otherwise referred to or relied upon for any other purpose or by any other person, including owners of the Certificates; provided, however, this opinion may be included in the transcript of closing documents prepared in connection with the execution, delivery and sale of the Certificates.

Very truly yours,

Brian C. Bunger  
District Counsel

**EXHIBIT D**

**FORM OF OPINION OF COUNSEL TO THE AUTHORITY**

October \_\_, 2013

Bay Area Headquarters Authority  
101 8<sup>th</sup> Street  
Oakland, California 94607

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, California 94109

The Bank of New York Mellon Trust Company, N.A.,  
as Trustee  
100 Pine Street  
San Francisco, California 94111

Bay Area Air Quality Management District  
Certificates of Participation  
(BAAQMD Office Project)

Ladies and Gentlemen:

This opinion is furnished in connection with the execution, delivery and sale of \$[\_\_\_\_\_] Bay Area Air Quality Management District Certificates of Participation (BAAQMD Office Project) (the "Certificates") evidencing undivided proportionate interests in a Facilities Sublease (BAAQMD Office Project) dated as of October 1, 2013 (the "Sublease") by and between the Bay Area Headquarters Authority (the "Authority"), as lessor, and the Bay Area Air Quality Management District (the "District"), as lessee, including the right to receive option payments and base rental payments thereunder. The office condominium that is the subject of the Sublease (the "Leased Premises") has been first leased by the District to the Authority pursuant to a Site and Facilities Lease (BAAQMD Office Project) dated as of October 1, 2013 (the "Site Lease") between the District, as lessor, and the Authority, as lessee. The rights of the Authority under the Site Lease and the Sublease have been assigned by the Authority pursuant to an Assignment Agreement (BAAQMD Office Project) dated as of October 1, 2013 (the "Assignment Agreement") to The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee") under the Trust Agreement (BAAQMD Office Project) dated as of October 1, 2013 (the "Trust Agreement") among the District, the Authority and the Trustee pursuant to which the Certificates have been executed and delivered. The Authority is purchasing the Certificates pursuant to the Purchase Contract dated September \_\_, 2013 (the

“Purchase Contract”) between the Authority and the District. The Site Lease, the Sublease, the Assignment Agreement, the Trust Agreement and the Purchase Contract are collectively referred to herein as the “Authority Documents”).

The execution, delivery and performance by the Authority of the Authority Documents are authorized by the Joint Exercise of Powers Act, being Chapter 5 of Division 7 of Title I of the California Government Code (the “JPA Act”), the Joint Powers Agreement dated [\_\_\_\_\_] between the Metropolitan Transportation Commission and the Bay Area Toll Authority pursuant to which the Authority is established (the “JPA Agreement”), and a resolution of the Board of the Authority adopted on [\_\_\_\_\_] , 2013 (the “Resolution”).

In my capacity as counsel to the Authority, I have examined the JPA Act, the JPA Agreement, the Resolution, the Authority Documents; certifications of the Authority, the District and others as to certain factual matters; and such other documents, opinions and matters deemed necessary by me to provide the opinions or conclusions set forth herein.

The opinions and conclusions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions or conclusions may be affected by actions taken or omitted or events occurring after the date hereof. I have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to my attention after the date hereof. Accordingly, this opinion is not intended to, and may not, be relied upon in connection with any such actions events or matters. In reviewing the documents and matters referred to above, I have assumed the genuineness of all signatures (other than signatures of officials of the Authority) thereto and the due and legal execution and delivery thereof by, and the validity against, any parties other than the Authority, and I have assumed, without undertaking to verify, the accuracy of the factual matters represented, warranted or certified therein. In addition, I call attention to the fact that the rights and obligations under the Certificates and the Authority Documents and the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors’ rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public entities in the State of California. I express no opinion with respect to any indemnification, contribution, penalty, arbitration, judicial reference, choice of law, choice of forum, choice of venue, waiver or severability provisions contained in the foregoing documents, which provisions may be unenforceable against a public entity as a matter of public policy, nor do I express any opinions with respect to the state or quality of title to or interest in any of the assets described in or as subject to the Site Lease, the Sublease, the Assignment Agreement or the Trust Agreement or the accuracy or sufficiency of the description contained therein of, or the remedies available to enforce rights in, any such assets.

Based upon and subject to the foregoing and in reliance thereon, as of the date hereof, I am of the following opinions:

1. The Authority is a public entity duly established and existing pursuant to the JPA Act and the JPA Agreement and is organized and operating pursuant to the laws of the State of California.



2. The Authority has all requisite power and authority under the JPA Act, the JPA Agreement and the laws of the State of California to adopt the Resolution, to enter into and/or accept and agree to, execute, deliver and perform its obligations under the Authority Documents, to assign its rights under the Site Lease and the Sublease, including without limitation its rights to receive option payments and base rental pursuant to the Assignment Agreement and to conduct its business as currently conducted.

3. The Resolution was duly adopted by the Authority at a meeting of the Authority which was called and held in accordance with the requirements of all applicable law and with all public notice required by law and at which a quorum was continuously present and voted at the time of the adoption of the Resolution, and the Resolution has not been modified, amended or repealed, except as set forth therein, and remains in full force and effect on and as of the date hereof.

4. Each of the Authority Documents has been duly authorized, executed and delivered by the Authority.

5. Assuming due authorization, execution and delivery by the other parties thereto, each of the Authority Documents constitutes a valid and binding obligation of the Authority enforceable against the Authority in accordance with its terms.

6. The adoption of the Resolution, the execution and delivery by the Authority of the Authority Documents and the performance by the Authority of its obligations under the Authority Documents: (i) do not violate any provision of the Constitution of the State of California; (ii) do not to any material extent conflict with or violate any applicable federal, state or local law or any applicable order, rule or regulation of any federal, state, county or municipal governmental or public authority or agency having jurisdiction over the Authority or its properties or by which the Authority or any of its properties is bound; and (iii) do not conflict with, result in a material breach of, or constitute on the part of the Authority a default under any resolution, agreement or instrument to which the Authority is a party or by which the Authority or any of its properties is bound.

7. To the best of my knowledge after due inquiry, as of the date hereof, no authorization, approval, consent or order of the State of California, any local governmental agency or authority of the State of California or any federal governmental agency or authority is required for the valid authorization, execution, delivery and performance by the Authority of the Authority Documents.

8. There is no litigation, proceeding, action, suit or investigation at law or in equity before or by any court, governmental authority or body, now pending or, to the best of my knowledge after due inquiry, threatened against the Authority: (i) seeking to restrain or enjoin the execution, delivery or sale of the Certificates; (ii) in any manner questioning the authority or proceedings for the execution, delivery or sale of the Certificates; (iii) in any way contesting the validity or enforceability of the Authority Documents or the authority of the Authority to enter into or perform its obligations under any of the Authority Documents; or (iv) contesting the valid existence or powers of the Authority or the title of any of its present members or officers to their respective positions.

I express no opinion as to any matter other than as expressly set forth above. Without limiting the generality of the foregoing, I specifically express no opinion as to the status of the Certificates or the interest thereon under any federal securities laws, any foreign jurisdiction securities laws or any state securities or “Blue Sky” law or any federal, state or local tax law. Further, I express no opinion on the laws of any jurisdiction other than the State of California and the United States of America.

I disclaim any obligation to update this letter. This opinion is delivered to the addressees hereof and is solely for the benefit of each of such parties and is not to be used, circulated, quoted, or otherwise referred to or relied upon for any other purpose or by any other person, including owners of the Certificates; provided, however, this opinion may be included in the transcript of closing documents prepared in connection with the execution, delivery and sale of the Certificates.

Very truly yours,

Adrienne D. Weil  
General Counsel

**EXHIBIT E**  
**INVESTOR LETTER**

[Date]

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
CERTIFICATES OF PARTICIPATION  
(BAAQMD OFFICE PROJECT)**

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

Ladies and Gentlemen:

The undersigned, a duly authorized representative of \_\_\_\_\_ (the “Purchaser”) has agreed to purchase from the \$\_\_\_\_\_ principal amount of the Bay Area Air Quality Management District Certificates of Participation (BAAQMD Office Project) (the “Certificates”).

In connection therewith, the undersigned represents and warrants that:

(1) the Purchaser is (i) an “accredited investor” within the meaning of Regulation D promulgated under the Securities Act of 1933 or (ii) a “qualified institutional buyer” within the meaning of \_\_\_\_\_, and has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal obligations, to be able to evaluate the economic risks and merits of the investment represented by the purchase of the Certificates;

(2) the undersigned has made its own inquiry and analysis with respect to the Certificates and the security therefor, the purpose for which the Certificates were executed and delivered, and other material factors affecting the security and payment of the Certificates. The Purchaser has determined that the price at which the Purchaser is purchasing the Certificates is not more than their fair market value as of the date hereof;

(3) the Purchaser has either been furnished with or has had access to all necessary information that it desires in order to enable it to make an informed investment decision concerning investment in the Certificates and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the purpose for which the Certificates are issued, the Certificates, and the security therefor, so that the Purchaser has been able to make an informed decision to purchase the Certificates;

(4) the Purchaser understands that the Certificates (a) are not being registered under the Securities Act of 1933 and are not being registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state due to exemptions from registration provided for

therein, (b) will not be listed on any stock or other securities exchange, (c) bear interest at rates that are subject to caps for the life of the Certificates, and (d) may not be readily marketable;

(5) the Purchaser is purchasing the Certificates for its own account and not with a view to, and with no present intention of, selling, pledging, transferring, conveying, hypothecating, mortgaging, disposing, reoffering, distributing, or reselling the Certificates, or any part or interest thereof; the Purchaser will not take, or cause to be taken, any action that would cause the Purchaser to be deemed an “underwriter” of the Certificates as defined in Section 2(11) of the Securities Act of 1933, as amended (the “Securities Act”); the Purchaser understands that the District has no legal obligation to register the Certificates for sale, resale or any other transfer under the Securities Act;

(6) the Purchaser further acknowledges that it is responsible for consulting with its advisors concerning any obligations, including, but not limited to, any obligations pursuant to federal and state securities and income tax laws, it may have with respect to subsequent purchasers of the Certificates if and when any such future disposition of the Certificates may occur;

(7) the Purchaser represents that it can bear the economic risk of loss of the value of the Certificates, that it has adequate means for providing for its current needs and contingencies, and that it has no need for liquidity with respect to the Certificates;

(8) The Purchaser acknowledges that it has not requested, nor has it received, any disclosure document in connection with its purchase of the Certificates;

(9) The Purchaser acknowledges that the Certificates are subject to restrictions on transfer and may only be sold to an investor who signs a letter in the form and content hereof.

(10) the undersigned is duly authorized to execute and deliver this Certificate on behalf of the Purchaser, and that all requisite corporate or other necessary action by the Purchaser for the delivery of this Certificate, and the purchase of the Certificates have been duly and validly completed.

Very truly yours,

**[PURCHASER]**

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

AGREED TO AND ACCEPTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

**BAY AREA AIR QUALITY MANAGEMENT  
DISTRICT**

By: \_\_\_\_\_  
District Counsel