

**TRUST INDENTURE**

between

**GOLDEN STATE FINANCE AUTHORITY,**  
as Issuer

and

**WILMINGTON TRUST, NATIONAL ASSOCIATION,**  
as Trustee

relating to

\$3,730,000  
Senior Housing Revenue Bonds  
(Harmony Court Bakersfield Apartments Project)  
2016 Series E-1

and

\$1,997,000  
Subordinate Senior Housing Revenue Bonds  
(Harmony Court Bakersfield Apartments Project)  
2016 Series E-2

Dated as of November 1, 2016

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## TRUST INDENTURE

**THIS TRUST INDENTURE** (together with any amendments or supplements hereto, this “Indenture”), dated as of November 1, 2016, is made by and between the GOLDEN STATE FINANCE AUTHORITY, a joint exercise of powers agency duly organized and validly existing under the laws of the State of California (the “Issuer”) and WILMINGTON TRUST, NATIONAL ASSOCIATION, duly organized, existing and authorized under the laws of the United States of America to accept and execute trusts of the character herein set forth, with a corporate trust office located in Costa Mesa, California, as trustee (together with any successor trustee hereunder, the “Trustee”). Terms not otherwise defined in the Recitals have the respective meanings set forth in ARTICLE I.

### RECITALS

**WHEREAS**, the Issuer is a joint exercise of powers agency duly organized and validly existing under the laws of the State of California (the “State”);

**WHEREAS**, pursuant to Chapter 5 of Division 7 of Title 1 of the California Government Code together with the provisions of Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as amended (the “Act”), the Issuer is authorized and empowered to issue its revenue bonds and to lend the proceeds thereof for the purpose of financing the development of the Project (as defined below);

**WHEREAS**, pursuant to the laws of the State, and particularly the Act, the Issuer has agreed to issue its revenue bonds and to lend the proceeds thereof to Harmony Bakersfield AR, L.P., a California limited partnership (the “Borrower”), for the purpose of (1) financing of the acquisition, rehabilitation, and equipping of a 96-unit senior housing facility (the “Improvements”), located at 5948 Victor Street, Bakersfield, California (the “Land” and, together with the Improvements, the “Project”), known as Harmony Court Apartments (the “Project”), (2) paying capitalized interest, and (3) paying a portion of the costs of issuing each Series (defined herein) of revenue bonds;

**WHEREAS**, pursuant to and in accordance with the Act, the Issuer desires to provide funds to finance the acquisition, rehabilitation, improvement, and equipping of the Project by issuing its Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project), 2016 Series E-1, in the aggregate principal amount of \$3,730,000 (the “Series E-1 Bonds”), and its Subordinate Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project), 2016 Series E-2, in the aggregate principal amount of \$1,997,000 (the “Series E-2 Bonds”) together with the Series E-1 Bonds, the “Bonds”), in order to provide funds which the Issuer shall use to make a loan (the “Loan”) to the Borrower to finance a portion of the acquisition costs of the Project;

**WHEREAS**, the Series E-1 Bonds are being issued on a senior lien basis and the Series E-2 Bonds (the “Subordinate Bonds”) are being issued on a subordinate lien basis;

**WHEREAS**, under the terms of the Loan Agreement dated as of November 1, 2016 (the “Agreement” or “Loan Agreement”), by and between the Issuer and the Borrower, the Issuer has agreed to make the Loan to the Borrower and the Borrower has agreed to the repayment of

the sums borrowed pursuant thereto and the Borrower has executed, or caused to be executed, the Notes, the Mortgage and the other Loan Documents with respect to the Project;

**WHEREAS**, in order to provide the funds necessary to enable the Issuer to fund the Loan, the Issuer has, pursuant to the Act, authorized (a) the issuance of the Bonds pursuant to this Indenture for the purpose of providing financing for the Project by making the proceeds of the Bonds available to fund the Loan to the Borrower in the aggregate principal amount of \$5,727,000, and (b) the execution and delivery of this Indenture to establish the terms of the Bonds and the security for the Bonds;

**WHEREAS**, the Loan will be evidenced by a Promissory Note related to the Series E-1 Bonds (the "Series E-1 Note"), a Promissory Note related to the Series E-2 Bonds (the "Series E-2 Note" together with the Series E-1 Note, the "Notes"), each of the Notes to be secured by the Mortgage (defined herein) and otherwise evidenced and secured by certain of the other Loan Documents (defined herein);

**WHEREAS**, the Series E-1 Bonds issued under this Indenture will be secured by an assignment and pledge of all right, title and interest of the Issuer in and to the Agreement and the Series E-1 Note and the Senior Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of November 1, 2016, from the Borrower to the Issuer (the "Senior Deed of Trust") and delivered on the Closing Date, such assignment and pledge being on a senior, first lien basis to the Series E-2 Bonds, the Series E-2 Note and the Subordinate Deed of Trust (defined herein);

**WHEREAS**, the Series E-2 Bonds issued under this Indenture will be secured by an assignment and pledge of all right, title and interest of the Issuer in and to the Agreement, the Series E-2 Note and the Subordinate Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of November 1, 2016, from the Borrower to the Issuer (the "Subordinate Deed of Trust") delivered on the Closing Date, such assignment and pledge being on a subordinate, second lien basis from the Closing Date to the Series E-1 Bonds, the Series E-1 Note, and the Senior Deed of Trust;

**WHEREAS**, the Notes and certain of the other Loan Documents will be executed by the Borrower in favor of the Issuer and assigned by the Issuer to the Trustee pursuant to this Indenture;

**WHEREAS**, the execution and delivery of this Indenture and the issuance and sale of the Bonds have been in all respects duly and validly authorized by the Bond Resolution;

**WHEREAS**, the Trustee has the power and authority to enter into this Indenture, to accept trusts and to execute the trusts created by this Indenture, and has accepted the trusts so created, and in evidence of its acceptance has joined in the execution of this Indenture;

**WHEREAS** in order to provide for restrictions on the use of the Project to preserve the excludability of interest on the Bonds from gross income for federal income tax purposes, the Issuer, the Borrower and the Trustee will execute the Regulatory Agreement and Declaration of Restrictive Covenants dated November 1, 2016 (the "Regulatory Agreement") and the Issuer and the Borrower will enter into the Tax Certificate and Agreement, dated the Closing

Date (the “Tax Certificate”), and cause the Regulatory Agreement to be recorded in the real property records of Kern County, California;

**WHEREAS** the Issuer has executed this Indenture for the purpose of authorizing and securing the Bonds and prescribing the terms thereof and the conditions, terms, trusts and provisions upon the basis of which the Bonds will be delivered and held;

**WHEREAS** the Bonds, the certificates of registration and authentication to be endorsed on the Bonds and the form of assignment to be endorsed on each respective series of the Bonds are to be in substantially the forms, with appropriate variations, omissions and insertions as permitted or required by this Indenture described on *Exhibit A* and *Exhibit B*, respectively; and

**WHEREAS**, all acts and proceedings required by law necessary to make the Bonds, when authenticated by the Trustee and duly issued as provided in this Indenture, the valid, binding and legal limited obligations of the Issuer, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth, in accordance with its terms, have been done and taken; and the execution and delivery of this Indenture have been in all respects duly authorized; and

**WHEREAS**, the Trustee has agreed to accept the trusts herein created upon the terms set forth herein.

**NOW, THEREFORE**, the Issuer, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created, of the purchase and acceptance of the Bonds by the Initial Purchaser thereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, in order to secure the performance and observance by the Issuer of all the covenants expressed and obligations expressed or implied herein and in the Bonds, does hereby irrevocably **GRANT, CONVEY, PLEDGE, TRANSFER, ASSIGN and DELIVER** in trust to the Trustee and its successors and assigns in trust forever all of the Issuer’s right, title and interest in and to the money, rights and properties described in the Granting Clauses, as follows, to wit:

#### GRANTING CLAUSES

##### CLAUSE A

All money in and investments of all funds created in this Indenture (other than the Rebate Fund, and the Administrative Expenses Account, all of which shall not be subject to the lien of this Indenture).

##### CLAUSE B

All of the Issuer’s right, title and interest in, to and under the Loan Agreement, the Notes and the Mortgage, including all payments due under the Loan Agreement and the Notes, and the right to receive the same.



## CLAUSE C

Any and all property, rights and interests of every kind or description which from time to time hereafter may be sold, transferred, conveyed, assigned, pledged, mortgaged or delivered to the Trustee as additional security hereunder, including by any deed in lieu of foreclosure.

## CLAUSE D

All of the Issuer's right, title and interest in, to and under any Additional Security.

TO HAVE AND TO HOLD the Trust Estate whether now owned or held or hereafter acquired, unto the Trustee and its successors or assigns, forever.

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth first, (except as otherwise specifically provided herein) for the equal and proportionate benefit, security and protection of all present and future Holders of the Senior Bonds without privilege, priority or distinction as to the lien or otherwise with respect to any of the Senior Bonds over any of the other Senior Bonds; and second (except as otherwise specifically provided herein), for the equal and proportionate benefit, security and protection of all present and future Holders of the Subordinate Bonds without privilege, priority or distinction as to the lien or otherwise with respect to any of the Subordinate Bonds over any of the other Subordinate Bonds.

PROVIDED, HOWEVER, that if the Issuer shall comply with the provisions of ARTICLE XII hereof or shall otherwise well and truly pay or cause to be paid the principal of, premium, if any, and interest due or to become due on the Bonds, at the times and in the manner specified therein, according to the true intent and meaning thereof, and shall well and truly keep and observe all the covenants and conditions in this Indenture expressed to be kept, performed and observed by the Issuer, and shall pay to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then this Indenture and the rights hereby granted shall cease, terminate and be void, and the Trustee in such case, on demand of the Issuer or the Borrower, upon payment to the Trustee and the Issuer of their fees, costs and expenses, shall execute and deliver to the Borrower in accordance with the terms hereof such deeds, discharges and satisfactions prepared by the Issuer or the Borrower as shall be requisite to discharge the lien hereof and to convey to the Borrower all interests held by the Trustee pursuant to the terms hereof, otherwise this Indenture to be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all Bonds shall be issued, authenticated and delivered, and the Trust Estate shall be dealt with and disposed of, under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes hereinafter expressed, and the Issuer and the Borrower (by execution of the Loan Agreement) have agreed and covenanted and do hereby, and by the Loan Agreement, agree and covenant with the Trustee and with the respective owners, from time to time, of the Bonds, or any part thereof, as follows:

## ARTICLE I

### DEFINITION OF TERMS

**Section 1.01. Definitions.** The capitalized terms used herein which are included as defined terms in the Loan Agreement and the Regulatory Agreement shall have the same meanings defined for and assigned to them in the Loan Agreement and the Regulatory Agreement. The following additional, defined terms shall have the following meanings.

“*Act*” means Chapter 5 of Division 7 of Title 1 of the California Government Code together with the provisions of Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as amended, all as now in effect and as it may from time to time hereafter be amended or supplemented.

“*Additional Security*” means any letter of credit, guarantee agreement, mortgage-backed security, insurance policy or other security which would result in a rating on the Bonds not less than “A” by a Nationally Recognized Rating Agency, or other collateral which would result in a rating on the Bonds of at least “A” from a Nationally Recognized Rating Agency.

“*Administrative Expenses*” means the Issuer Fee, the Trustee Fee, the Rebate Analyst Fee, the Servicer Fee, the Financial Monitor Fee, and the Costs of Issuance.

“*Administrative Expenses Account*” means the account by that name within the Bond Fund established pursuant to Section 5.05.

“*Agent*” means HCHP Property Management, LP, a California limited partnership, as manager of the Project under that certain Managing Agent Agreement between Borrower and Agent dated as of November 21, 2016, or such other management company selected by the Borrower and acceptable to the Servicer.

“*Authorized Denomination*” means the following for each Series of Bonds:

(a) \$100,000 plus any integral multiple of \$1,000 in excess thereof while the Bonds are not rated “A” or higher by a Nationally Recognized Rating Agency, and \$5,000 plus integral multiples of \$1,000 in excess thereof while the Bonds are rated “A” or higher by a Nationally Recognized Rating Agency; and

(b) For purposes of mandatory sinking fund redemptions for all Series of the Bonds, \$1, and for all other redemptions or defeasance under all circumstances, \$1,000 or any integral multiple thereof.

“*Authorized Signatory*” shall mean the Executive Director, Deputy Director, Vice President and Chief Financial Officer of the Issuer and any other person as may be designated and authorized to sign for the Issuer pursuant to a resolution adopted thereby (including, without limitation, the administrative delegates duly authorized pursuant to Resolution No. 15-07 of the Issuer, adopted on August 19, 2015), or such other person at the time designated to act on behalf of the Issuer as evidenced by a written certificate furnished to the Servicer and the Borrower containing the specimen signature of such person and signed on behalf of the Issuer by an

Authorized Signatory. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Signatory.

“*Bond*” or “*Bonds*” means any of the Series E-1 Bonds or the Series E-2 Bonds.

“*Bond Counsel*” means Kutak Rock LLP or any other firm of nationally recognized bond counsel experienced in tax exempt private activity bond financing selected by the Issuer.

“*Bond Documents*” means, collectively, the Indenture, the Bonds, the Loan Documents, and the other agreements, instruments, and certifications relating to the Bonds (of any of them), together in each instance with all amendments, supplements, and restatements thereof.

“*Bond Fund*” means the fund by that name established pursuant to Section 5.02.

“*Bond Payment Date*” or “*Payment Date*” means each date on which principal or redemption price or interest shall be payable on any of the Bonds according to their respective terms.

“*Bond Resolution*” means the Resolution of the Issuer adopted on August 17, 2016.

“*Bond Year*” means the period from and including the date of issuance of the Bonds through December 31, 2016, and thereafter each year beginning on January 1 and ending on the earlier of the following December 31 or the maturity of the Bonds (whether by redemption, acceleration or otherwise).

“*Borrower*” means Harmony Bakersfield AR, L.P., a California limited partnership, and its permitted successors and assigns.

“*Borrower Contribution*” means, collectively, (i) the amount of \$341,169.00, comprised of (a) \$142,295.02 required to be deposited with the Trustee on the Closing Date to make the payments and deposits set forth in Section 6.01, (b) \$21,850.46 of prepaid expenses and (c) \$176,823.52 paid when required under the Borrower’s Limited Partnership Agreement, (ii) all capital contributions as and when received under the Borrower’s Limited Partnership Agreement for deposit as described in Section 6.02, (iii) all proceeds of the Subordinate Loan(s) as and when received under the respective Subordinate Loan Documents, and (iv) all other amounts provided by or on behalf of the Borrower from time to time for deposit in the Borrower Contribution Subaccount of the Project Fund.

“*Business day*” means any day other than a Saturday, Sunday or a day when banks are authorized to be closed under the laws of the State of California or New York or the New York Stock Exchange is closed.

“*Capital Expenditure*” means any expenditure made or to be made by the Borrower with respect to a Project which is chargeable to a capital account of the Project.

“*Cash Flow Deficiency*” means an amount equal to the difference between (a) the amounts on deposit in the Bond Fund on the determination date, after taking into account investment earnings required to be transferred to the Bond Fund pursuant to Section 6.06, but

excluding unscheduled transfers from any other Fund or Account, and (b) the amount required in order to make the payments, deposits or transfers due on or before the next Bond Payment Date pursuant to Section 5.02(a)(ii)(A) through (F) and (K) (provided that the Issuer has requested payment for extraordinary expenses and stated the amount thereof) or Section 5.02(b)(ii)(A) through (G), as the case may be, and amounts due as principal of and interest on the Subordinate Bonds on the tenth day of any preceding month.

“*Certificate of Completion*” means the certificate indicating the Project Completion Date, delivered by the Borrower to the Trustee, the Significant Bondholder, the Servicer, the Financial Monitor, and the Issuer pursuant to Section 6.02(e).

“*Closing Date*” means November 21, 2016, the date on which the Bonds are delivered to the Initial Purchaser.

“*Code*” or “*Internal Revenue Code*” means the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder, or any successor to the Internal Revenue Code of 1986, as amended. Reference to any particular Code section shall, in the event of such successor Code, be deemed to be reference to the successor to such Code section.

“*Collateral Assignments*” means, collectively, the Assignment of the Development Agreement, and the Assignment of Management Agreement, the Assignment of the Right to Receive Tax Credits, Capital Contributions and Partnership Interests, each in form and substance satisfactory to the Significant Bondholder and the Financial Monitor and as each may be amended or supplemented from time to time with the prior written consent of the Significant Bondholder.

“*Condemnation Award*” means the total condemnation proceeds actually paid by the condemnor as a result of the condemnation of all or any part of the property subject to the Mortgage less all expenses (including attorneys’ fees and any extraordinary fee of the Trustee) incurred in the realization thereof.

“*Costs of Issuance*” means all expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including, without limitation, fees of the Initial Purchaser or its affiliates, discount and expenses, counsel and advisor fees (including Bond Counsel, Initial Purchaser’s counsel, Trustee’s counsel, Issuer’s counsel and financial advisor, Borrower’s counsel (excepting portions thereof that are capitalized for federal tax purposes), as well as any other specialized counsel fees incurred in connection with the issuance of the Bonds), the Issuer’s issuance fee of \$12,500, costs and accountant fees related to the issuance of the Bonds and the initial \$4,000 Ongoing Issuer Fee payable at closing, printing costs of the Bonds, costs incurred in connection with the required public approval process and costs of engineering and feasibility studies necessary to the issuance of the Bonds (as opposed to studies related to acquisition, rehabilitation, improvement, and completion of the Project, but not to the Bond financing), mortgage banking fees, initial Trustee, Registrar and Paying Agent fees.

“*Default Rate*” means an annual interest rate equal to the applicable interest rate on the Notes plus 10%, but in no case in excess of the Maximum Interest Rate.

“*Determination of Taxability*” means the occurrence of any of the following:

(a) The entry of a final decree or judgment of any federal court, not subject to appeal, or a final action of the Internal Revenue Service, not subject to appeal, that determines that interest paid or payable on any Bond is or was includable in the gross income of an Owner for federal income tax purposes (other than interest on any Bond for a period during which such Bond is held by a “substantial user” of any facility financed with the proceeds of the Bonds or a “related person,” as such terms are used in Section 147(a) of the Code);

(b) The receipt by any present or former owner of a Bond, the Trustee or the Issuer of a “notice of deficiency” issued by the Internal Revenue Service or any similar notice assessing a tax in respect of any interest on Bonds on the basis that such interest was includable in gross income (other than interest on any Bond for a period during which such Bond is held by a “substantial user” of any facility financed with the proceeds of the Bonds or a “related person,” as such terms are used in Section 147(a) of the Code), if no longer subject to any contest or appeal; or

(c) The execution of a settlement agreement between the Internal Revenue Service and any present or former Owner, the Trustee, or the Issuer under which a tax, penalty or interest in respect of any interest on the Bonds is to be assessed on the basis that such interest was includable in gross income (other than interest on any Bond for a period during which such Bond is held by a “substantial user” of any facility financed with the proceeds of the Bonds or a “related person,” as such terms are used in Section 147(a) of the Code);

provided, however, that no such decree, action, agreement or notice will be considered a “*Determination of Taxability*” for any purpose hereunder unless the Borrower has been given written notice and, if it is so desired and is permitted by law, has been afforded the opportunity to contest the same, either directly or in the name of any Owner of a Bond, and until conclusion of any appellate reviews, including judicial decisions and appeals therefrom as may be sought and legally available.

“*DTC*” means The Depository Trust Company, New York, New York, as initial Securities Depository for the Bonds pursuant to Section 2.10 hereof or its successors.

“*Eligible Investments*” means any of the following which at the time of investment are legal investments under the Act and the laws of the State for the money proposed to be invested therein: (i) Federal Securities; (ii) certificates of deposit or time deposits of any bank, as defined by the Act (including without limitation the Trustee or any of its affiliates), except that investments may be made only in certificates of deposit or time deposits which are (A) insured by the Bank Insurance Fund or the Savings Association Insurance Fund as administered by the Federal Deposit Insurance Corporation, if then in existence; (B) continuously and fully secured by securities described above, which have a value, exclusive of accrued interest, at all times at least equal to the principal amount of such certificates of deposit or time deposits; or (C) issued by a bank whose outstanding unsecured long-term debt is rated at the time of issuance in any of the three (3) highest rating categories by two (2) nationally recognized rating agencies;

(iii) short-term obligations of corporations organized in the United States of America with assets exceeding \$500,000,000, if (A) such obligations are rated on the date of purchase and at any time held by the Trustee within one of the three (3) highest rating classifications established by at least two (2) nationally recognized rating services (without regard to any rating refinement or gradation by numerical or other modifier), and which mature not later than 180 days from the date of purchase, (B) such purchases do not exceed ten percent (10%) of such corporations' outstanding obligations, and (C) no more than one-third of the money relating to the Bonds is so invested; (iv) interests in money market mutual funds registered under the Investment Borrower Act of 1940, as from time to time amended; provided, that the governing instrument or order directs, requires, authorizes or permits investment in Federal Securities; provided further, that the portfolio of any such money market fund is limited to Federal Securities or to repurchase agreements fully collateralized by such Federal Securities; (v) short-term discount obligations of the Federal National Mortgage Association; (vi) bonds, notes or other obligations issued by any state, unit of local government or school district, which obligations are rated on the date of purchase and at any time held by the Trustee within one of the two (2) highest rating classifications (without regard to rating refinement or gradation by numerical or other modifier) by a nationally recognized rating service; (vii) investment agreements constituting an obligation of a bank, as defined by the Act (including the Trustee or any of its affiliates), whose outstanding unsecured long-term debt is rated at the time of such agreement in any of the three (3) highest rating categories by two (2) nationally recognized rating agencies; and (viii) any other investments permitted by law if such investments are rated on the date of purchase and at any time held by the Trustee within one of the two (2) highest classifications (without regard to rating refinement or gradation by numerical or other modifier) established by a nationally recognized rating service.

“*Environmental Indemnity*” means the Environmental Indemnity made by Borrower for the benefit of the Issuer and the Trustee.

“*Escrow Fund*” means the fund by that name established pursuant to Section 5.13.

“*Event of Default*” means any of the events described in Section 8.01.

“*Favorable Opinion of Bond Counsel*” means, with respect to any action the taking of which requires such an opinion, an unqualified opinion of Bond Counsel to the effect that such action will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes (subject to the inclusion of any exceptions contained in the opinion delivered upon the original issuance of the Bonds).

“*Financial Monitor*” means Burlington Capital Real Estate, LLC, a Nebraska limited liability company, its successors and assigns, and any successor Financial Monitor engaged by the Trustee in accordance with Section 5.05 of the Loan Agreement.

“*Financial Monitor Fee*” means any fee payable under the Financial Monitoring Agreement to the Disbursing Agent, Financial Monitor or Construction Monitor as such terms are defined therein.

“*Financial Monitoring Agreement*” means the Financial Monitoring and Disbursing Agreement dated as of November 1, 2016, by and among the Borrower, the Trustee and the Financial Monitor, as amended, modified, supplemented or restated from time to time or any agreement entered into in substitution therefor.

“*Financing Statements*” means the UCC-1 or equivalent statements to be filed with the appropriate offices for the perfection of a security interest in the Project.

“*Fiscal Year*” means the fiscal year of the Borrower which commences each January 1 and ends on December 31.

“*Fitch*” means Fitch Ratings, its successors and assigns, and, if such corporation shall for any reason no longer perform the functions of a securities rating agency, shall be deemed to refer to any other nationally recognized rating agency selected by the Borrower and approved by the Issuer.

“*Government Securities*” means direct obligations of, and obligations the principal of and interest on which are unconditionally guaranteed as to timely payment by, the United States of America.

“*Guaranty*” means the Guaranty of Completion and Repayment Obligations in respect of the Series E-2 Bonds entered into by the Guarantor.

“*Guarantor*” means Highridge Costa Housing Partners, LLC, a Delaware limited liability company.

“*Highest Rating Category*” means, with respect to an Eligible Investment, that the Eligible Investment is rated by each Rating Agency in the highest rating given by that Rating Agency for that general category of security. If at any time the Bonds are not rated (and, consequently, there is no Rating Agency), then the term “Highest Rating Category” means, with respect to an Eligible Investment, that the Eligible Investment is rated by S&P or Moody’s in the highest rating given by that rating agency for that general category of security. By way of example, the Highest Rating Category for tax-exempt municipal debt established by S&P is “A-1+” for debt with a term of one year or less and “AAA” for a term greater than one year, with corresponding ratings by Moody’s of “MIG-1” (for fixed rate) or “VMIG-1” (for variable rate) for three months or less and “Aaa” for greater than three months. If at any time (a) the Bonds are not rated, (b) both S&P and Moody’s rate an Eligible Investment and (c) one of those ratings is below the Highest Rating Category, then such Eligible Investment will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency. For example, an Investment rated “AAA” by S&P and “Aa3” by Moody’s is rated in the Highest Rating Category. If, however, the lower rating is more than one full rating category below the Highest Rating Category of that rating agency, then the Eligible Investment will be deemed to be rated below the Highest Rating Category. For example, an Eligible Investment rated “AAA” by S&P and “A1” by Moody’s is not rated in the Highest Rating Category.

“*Initial Purchaser*” means America First Multifamily Investors, L.P., a Delaware limited partnership.

“*Insurance and Condemnation Proceeds Fund*” means the fund by that name established pursuant to Section 6.04.

“*Insurance Proceeds*” means the total proceeds of insurance actually paid or payable by an insurance company in respect of casualty and other nonliability insurance on the Project, less all expenses (including attorneys’ fees and any extraordinary fees of the Trustee) incurred in the realization thereof.

“*Interest Account*” means the account by that name within the Bond Fund established pursuant to Section 5.02.

“*Interest Payment Date*” means the first day of each month, commencing January 1, 2017, or with respect to any Series of the Bonds called for redemption or subject to tender for purchase, the date of redemption or purchase and the maturity date of any Bond.

“*Interest Period*” means initially the period from, the Closing Date, to, but not including, the first Interest Payment Date and thereafter the period from and including each Interest Payment Date to but not including the next Interest Payment Date.

“*Interest Requirement*” means, with respect to each series of Bonds, an amount equal to the interest due and payable on the Interest Payment Date next succeeding the date of determination (assuming that no principal of Bonds is paid or redeemed between such date and the next succeeding Interest Payment Date).

“*Issuer*” means the Golden State Finance Authority, a joint exercise of powers agency duly organized and validly existing under the laws of the State of California, and any successor body to the duties or functions of the Issuer.

“*Issuer Documents*” means this Indenture and the Loan Documents to which the Issuer is a party.

“*Issuer Fee*” means (i) the Issuer’s initial fee payable in accordance with the Issuer’s current fee schedule and (ii) the Ongoing Issuer Fee.

“*Limited Partnership Agreement*” means the Amended and Restated Agreement of Limited Partnership of Borrower dated as of November 1, 2016.

“*Loan*” means the loan of the proceeds of the Bonds from the Issuer, as lender, to the Borrower, as Borrower, with respect to the Project, evidenced by the Notes and secured by the Mortgage and certain other Loan Documents, for the purpose of financing the acquisition, rehabilitation and equipping of the Project.

“*Loan Agreement*” means the Loan Agreement dated as of November 1, 2016, between the Issuer and the Borrower, as amended, modified, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

“*Loan Documents*” means the Loan Agreement, the Servicing Agreement, the Financial Monitoring Agreement, the Notes, the Mortgage, the Financing Statements, the Regulatory



Agreement, the Collateral Assignments, the Environmental Indemnity, the Guaranty and the Tax Certificate.

“*Manager*” means WinnResidential California, L.P., a California limited partnership, as manager of the Project under that certain Property Management Agreement between Agent and Manager dated as of November 21, 2016, or such other management company selected by the Agent and acceptable to the Servicer.

“*Maturity Date*” means (i) December 1, 2033, with respect to the Series E-1 Bonds, and (ii) December 1, 2018, with respect to the Series E-2 Bonds.

“*Maximum Annual Debt Service*” means as of any date of calculation the highest principal and interest payment requirements with respect to all Outstanding Bonds for any succeeding Bond Year except the Bond Year in which the Bonds mature and the year in which any mandatory tender for purchase of the Bonds occurs.

“*Maximum Interest Rate*” means the interest rate equal to the lesser of: (a) 15% per annum, or (b) the maximum interest rate permitted under California law.

“*Moody’s*” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns, and, if such corporation shall for any reason no longer perform the functions of a securities rating agency, Moody’s shall be deemed to refer to any other nationally recognized rating agency selected by the Borrower and approved by the Issuer.

“*Mortgage*” means, collectively, the Senior Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing and Subordinate Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, each dated as of November 1, 2016, from the Borrower to the deed of trust trustee named therein for the benefit of the Trustee, as amended, modified, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

“*Net Casualty Proceeds*” means, when used with respect to any Insurance Proceeds or Condemnation Award, the gross proceeds from such Insurance Proceeds or Condemnation Award, less all expenses (including attorneys’ fees and any extraordinary fee of the Trustee) incurred in the realization thereof.

“*Net Project Revenues*” means the Project Revenues minus Operating Expenses.

“*Notes*” means, collectively, the Series E-1 Note and the Series E-2 Note.

“*Notice Address*” means the following:

As to the Issuer:

Golden State Finance Authority  
1215 K Street, Suite 1650  
Sacramento, CA 95814

Attention: Executive Director

As to the Borrower:

Harmony Bakersfield AR, L.P.  
c/o HCHP Affordable Multi-Family, LLC  
330 West Victoria Street  
Gardena, CA 90248  
Attention: Legal Department

with a copy to:

WCH Affordable XXI, LLC  
151 Kalmas Drive, Suite J-5  
Costa Mesa, CA 92626  
Attention: Graham Espley-Jones

with a copy to:

Chernove & Associates  
16027 Ventura Boulevard, Suite 660  
Encino, CA 91436  
Attention: Sheldon B. Chernove

and

Cox, Castle & Nicholson LLP  
50 California Street, Suite 3200  
San Francisco, CA 94111  
Attention: Ofer Elitzur

As to the Trustee:

Wilmington Trust, National Association  
650 Town Center Drive, Suite 600  
Costa Mesa, CA 92626-7121  
Attention: Corporate Trust Service

As to the Servicer and Financial Monitor:

Burlington Capital Real Estate, LLC  
1004 Farnam Street, Suite 400  
Omaha, Nebraska 68102  
Attention: Andy Grier

As to the initial Significant Bondholder:

America First Multifamily Investors L.P.  
One Burlington Place, Suite 400  
1004 Farnam Street  
Omaha, Nebraska 68102  
Attention: Michelle Lage

“*Ongoing Issuer Fee*” means the Issuer’s annual fee in the amount as set forth in and in accordance with and pursuant to the provisions of the Loan Agreement and Section 20 of the Regulatory Agreement.

“*Operating Budget*” means an operating budget for the Project prepared in accordance with Section 5.10 of the Loan Agreement.

“*Operating Expenses*” means, for any period, expenses incurred in connection with the operation and maintenance of the Project, including the Issuer Fee, the Trustee Fee, the Financial Monitor Fee, the Servicer Fee, the Rebate Analyst Fee, payments of the developer fee and any Property Manager Fee payable by Borrower (determined on an accrual basis) during such period, but excluding (a) Debt Service Requirements, (b) any loss resulting from any extraordinary items, (c) Capital Expenditures budgeted for such period and Capital Expenditures in excess thereof paid from Net Casualty Proceeds and/or from insurance proceeds or reserves or from the Replacement Reserve Fund, (d) payments made from the Escrow Fund, or (e) any Property Manager Fee payable by Agent.

“*Operating Reserve*” means any operating reserve for the Project required to be maintained pursuant to the terms of the Limited Partnership Agreement.

“*Opinion of Counsel*” means an opinion from an attorney or firm of attorneys, acceptable to the Issuer, the Trustee, the Financial Monitor, and the Significant Bondholder with experience in the matters to be covered in the opinion.

“*Outstanding*,” “*Outstanding under this Indenture*” or “*Outstanding hereunder*” means, when used with reference to the Bonds, as of any particular date, the aggregate of all Bonds authenticated and delivered under this Indenture, except:

- (a) Bonds canceled or surrendered to the Trustee for cancellation on or prior to such date;
- (b) Bonds for the redemption of which money shall have been theretofore deposited with the Trustee; provided, however, that notice of such redemption shall have been given as provided in ARTICLE IV;
- (c) Bonds for the payment of which money or Government Securities shall have been theretofore deposited with the Trustee in an amount sufficient to pay when due the principal amount thereof and interest thereon; and
- (d) Bonds otherwise deemed to be paid in accordance with this Indenture.

In determining whether the Owners of a requisite aggregate principal amount of Outstanding Bonds have concurred in any request, demand, authorization, direction, notice, consent or waiver under the provisions of this Indenture, Bonds which are owned or held by or for the account of the Borrower shall be disregarded and deemed not to be Outstanding under this Indenture for the purpose of any such determination unless all Bonds are owned or held by or for the account of the Borrower. In determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which are registered in the name of or known by the Trustee to be held for the account of the Borrower shall be disregarded.

“*Owner*” or “*Owners*” or “*Bondholders*” or “*Bondowners*” means the registered owner, or owners, of the Bonds.

“*Paying Agent*” means, initially, Wilmington Trust, National Association, and any successor Paying Agent.

“*Principal Account*” means the account by that name in the Bond Fund established pursuant to Section 5.02.

“*Principal Requirement*” means an amount equal to the regularly scheduled principal that is due and payable on the Interest Payment Date next succeeding the date of determination, whether by maturity or by mandatory sinking fund redemption; provided that with respect to the Subordinate Bonds, Principal Requirement shall mean the respective principal amounts of such bonds.

“*Project Completion Date*” means the date of actual completion of the acquisition and rehabilitation of all buildings constituting the Project and delivery of a Certificate of Completion by the Borrower, but such date shall not be later than permitted under the Financial Monitoring Agreement and in no event later than December 1, 2017 (as such date may be extended with the consent of the Financial Monitor as provided in the Financial Monitoring Agreement).

“*Project Condition Report*” means a structural and capital needs assessment report prepared by an independent qualified entity acceptable to the Significant Bondholder, if any, or if there is no Significant Bondholder, the Financial Monitor, evaluating the physical condition of the Project and the adequacy of the Replacement Reserve Requirement.

“*Project Costs*” means costs of the Project authorized under the Act including for the acquisition, rehabilitation and equipping of the Project or any portion thereof, and paying the Costs of Issuance (which, to the extent paid from Bond proceeds, shall not exceed two percent (2%) of the Bond proceeds).

“*Project Fund*” means the fund by that name established pursuant to Section 6.02.

“*Project Revenues*” means, for any period, all cash operating and non-operating revenues of the Project, less (a) any extraordinary and nonrecurring items, (b) income derived from the sale of assets not in the ordinary course of business which is permitted under the Loan Documents, (c) security deposits of tenants (other than those forfeited), and (d) Insurance Proceeds or Condemnation Awards, but including as Project Revenues any Net Casualty

Proceeds resulting from business interruption insurance or other insurance or condemnation proceeds retained by the Borrower.

“*Property Manager Fee*” means any fee for property management services payable to the Agent or the Manager under the Managing Agent Agreement dated as of November 21, 2016, or the Property Management Agreement dated as of November 21, 2016.

“*Purchased Bond*” means any Bond during the period from and including the date of its purchase by the Trustee on behalf of and as agent for the Borrower, to, but excluding, the date on which such Bond is remarketed to any person other than the Borrower.

“*Purchaser Letter*” means a purchaser letter in the form of *Exhibit F-1* or *F-2* of this Indenture.

“*Qualified Project Costs*” means “Good Costs” as such term is defined in the Tax Certificate.

“*Rating Agency*” or “*Nationally Recognized Rating Agency*” means any one and each of S&P, Moody’s and Fitch, then rating any of the Bonds or any other nationally recognized statistical rating agency then rating any of the Bonds, which has been approved by the Significant Bondholder.

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

“*Rebate Analyst Fee*” means the annual fee of the Rebate Analyst.

“*Rebate Fund*” means the fund by that name established pursuant to Section 5.10.

“*Record Date*” means the close of business on the fifteenth day of the month next preceding any Interest Payment Date.

“*Redemption Fund*” means the fund by that name established pursuant to Section 5.07.

“*Registrar*” means, initially, Wilmington Trust, National Association, and any successor Registrar.

“*Regulations*” means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

“*Regulatory Agreement*” means Regulatory Agreement and Declaration of Restrictive Covenants dated as of November 1, 2016, among the Issuer, the Trustee and the Borrower, as amended, modified, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

“*Replacement Reserve Fund*” means the fund by that name established pursuant to Section 5.11.

“*Replacement Reserve Fund Requirement*” means commencing on the fifteenth day of the month following the month in which the Project Completion Date occurs, the amount of \$300 per unit per year.

“*Second Highest Rating Category*” means, with respect to an Eligible Investment, that the Eligible Investment is rated by each Rating Agency in the second highest rating category given by that Rating Agency for that general category of security. If at any time the Bonds are not rated (and, consequently, there is no Rating Agency), then the term “Second Highest Rating Category” means, with respect to an Eligible Investment, that the Eligible Investment is rated by S&P or Moody’s in the second highest rating category given by that rating agency for that general category of security. By way of example, the Second Highest Rating Category for tax-exempt municipal debt established by S&P is “AA” for a term greater than one year, with corresponding ratings by Moody’s of “Aa2.” If at any time (a) the Bonds are not rated, (b) both S&P and Moody’s rate an Eligible Investment and (c) one of those ratings is below the Second Highest Rating Category, then such Eligible Investment will not be deemed to be rated in the Second Highest Rating Category. For example, an Investment rated “AA” by S&P and “A1” by Moody’s is not rated in the Second Highest Rating Category.

“*Senior Bonds*” means the Series E-1 Bonds and any additional bonds that are issued as on a senior lien basis.

“*Series E-1 Bond*” or “*Series E-1 Bonds*” means any of the Issuer’s Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-1.

“*Series E-1 Note*” means the Promissory Note related to the Series E-1 Bonds dated as of November 1, 2016, from the Borrower, as maker, to the Issuer, as payee thereunder and the initial holder thereof, evidencing the portion of the Loan financed with proceeds of the Series E-1 Bonds.

“*Series E-2 Bond*” or “*Series E-2 Bonds*” means any of the Issuer’s Subordinate Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-2.

“*Series E-2 Note*” means the Promissory Note related to the Series E-2 Bonds dated as of November 1, 2016, from the Borrower, as maker, to the Issuer, as payee thereunder and the initial holder thereof, evidencing the portion of the Loan financed with proceeds of the Series E-2 Bonds.

“*Series of Bonds*” or “*Series*” means the Series E-1 Bonds or the Series E-2 Bonds, as applicable.

“*Servicer*” means Burlington Capital First Real Estate, LLC, its successors and assigns, and any successor Servicer engaged by the Trustee in accordance with Section 5.15 of the Loan Agreement; provided that references to the Servicer in this Indenture and the other Bond Documents shall only be effective and applicable during periods while a Servicer has been designated and is serving in such capacity.

“*Servicer Fee*” means the compensation payable under the Servicing Agreement to the Servicer.

“*Servicing Agreement*” means the Servicing Agreement, dated as of November 1, 2016, by and among the Borrower, the Trustee and the Servicer, as amended, modified, supplemented or restated from time to time or any agreement entered into in substitution thereof.

“*Significant Bondholder*” means the following:

(a) For the purpose of consent, approval and any other right of action accorded to the “Significant Bondholder,” (i) one beneficial owner that owns more than 50% of the aggregate principal amount of the Senior Bonds, and when no Senior Bonds remain Outstanding, the Subordinate Bonds Outstanding or (ii) one or more “Qualified Institutional Buyers” (as such term is defined in Rule 144A as promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended) that are “Investment Companies” registered as such under the Investment Company Act of 1940, as amended, with a common registered “Investment Advisor” (within the meaning of the Investment Advisors Act of 1940, as amended) that in the aggregate own more than 50% of the aggregate principal amount of the Senior Bonds and when no Senior Bonds remain Outstanding, the Subordinate Bonds Outstanding; and

(b) For purposes of notice and receipt of any information to be disseminated, any Owner who owns in the aggregate either: (i) more than 50% of the aggregate principal amount of the Bonds Outstanding; or (ii) \$1,000,000 or more in principal amount of the Bonds Outstanding.

“*S&P*” means Standard & Poor’s Rating Services, a Standard & Poor’s Financial Services LLC business, a corporation organized and existing under the laws of the State of New York, its successors and assigns, and, if such corporation shall for any reason no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency selected by the Borrower and approved by the Issuer.

“*State*” means the State of California.

“*Subordinate Bonds*” means the Series E-2 Bonds and any additional bonds issued on a subordinate lien basis.

“*Subordinate Loan*” has the meaning assigned to such term in the Loan Agreement.

“*Subordinate Loan Documents*” has the meaning assigned to such term in the Loan Agreement.

“*Tax Certificate*” means the Tax Certificate and Agreement executed between the Issuer and the Borrower, as in effect on the Closing Date and as the same may be supplemented or amended from time to time in accordance with its terms.

“*Trustee*” means, initially, Wilmington Trust, National Association and its successors in trust hereunder.

“*Trustee Fee*” means an initial fee of \$1,400, due and payable on the Closing Date, and the annual administration fees and expenses of the Trustee, as Trustee, Bond Registrar and Paying Agent, for the ordinary services of the Trustee rendered under this Indenture during each 12-month period which shall be \$3,000 per annum, payable annually in advance on each November 21, commencing with the Closing Date.

“*Trust Estate*” means all of the money, properties and rights described in Clauses A through D of the Granting Clauses hereof, including without limitation payments of or in respect of principal or interest on the Notes.

**Section 1.02. Construction.** In this Indenture, unless the context otherwise requires:

(a) Articles and Sections referred to by number shall mean the corresponding Articles and Sections of this Indenture unless another document is specifically referenced.

(b) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms refer to this Indenture, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of execution of this Indenture.

(c) Words of the masculine gender shall mean and include correlative words of the female and neuter genders, and words importing the singular number shall mean and include the plural number, and vice versa.

(d) Words importing the redemption of a Bond or the calling of a Bond for redemption do not include or connote the payment of such Bond at its stated maturity or the purchase of such Bond.

(e) References in this Indenture to particular sections of the Code, the Act or any other legislation shall be deemed to refer also to any successor sections thereto or other redesignations for codification purposes.

(f) Wherever an item or items are listed after the word “including,” such listing is not intended to be a listing that excludes items not listed.

(g) References to the Bonds as “tax-exempt” or to the “tax-exempt status” of the Bonds, refer to the exclusion of interest on the Bonds from gross income for federal income tax purposes pursuant to Section 103(a) of the Code, irrespective of such forms of taxation as alternative minimum tax, environmental tax, or branch profits tax on foreign corporations, as is consistent with the approach taken in Section 59(i) of the Code.



## ARTICLE II

### SOURCE OF PAYMENTS, GENERAL TERMS AND PROVISIONS OF THE BONDS

#### Section 2.01. Source of Payment.

(a) **THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE REVENUES AND OTHER FUNDS AND MONEYS PLEDGED AND ASSIGNED UNDER THE INDENTURE. NEITHER THE ISSUER, ANY OF ITS PROGRAM PARTICIPANTS, THE STATE OF CALIFORNIA (THE "STATE"), NOR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER, TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE) NOR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS SET FORTH IN THE INDENTURE, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE ISSUER HAS NO TAXING POWER.**

(b) No recourse under or upon any obligation, covenant or agreement contained in the Indenture or in any Bond, or under any judgment obtained against the Issuer or any of its program participants, or the enforcement of any assessment, or any legal or equitable proceedings by virtue of any constitution or statute or otherwise, or under any circumstances under or independent, or any claim based thereon or otherwise in respect thereof shall be had against the Issuer, any of its program participants, or any incorporator, member, director, officer, employee, agent or counsel as such, past, present or future of the Issuer or any of its program participants, either directly or through the Issuer, the Trustee or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the Owner of any Bond issued hereunder, or otherwise, of any sum that may be due and unpaid by the Issuer upon any such Bond. Any and all personal liability of every nature whether at common law or in equity or by statute or by constitution or otherwise of any such incorporator, member, director, officer, employee, agent or counsel, as such, to respond by reason of any act or omission on his part or otherwise, for the payment for or to the Owner of any Bond issued hereunder or otherwise of any sum that may remain due and unpaid upon the Bond hereby secured or any of them is, by the acceptance hereof, expressly waived and released as a condition of and in consideration for the execution and the issuance of the Bonds.

(c) The Issuer shall not be required to take any action not expressly provided for herein. In addition, the Issuer shall have no obligation to review, control or oversee the activities of the Trustee in (i) collecting any amounts payable pursuant to the Loan Agreement, or (ii) making any payments on the Bonds. Furthermore, the Issuer shall not be obligated to take any action or execute any document which might in its reasonable judgment involve it in any expense or liability unless it shall have been furnished with assurance of payment or reimbursement for any expense and with reasonable indemnity for liability of the Issuer, any of its program participants, and their officers, directors, employees, agents and counsel.

(d) No agreements or provisions contained in this Indenture nor any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issuer in connection with the Project or the issuance, sale and delivery of the Bonds shall give rise to any pecuniary liability of the Issuer, any of its program participants, or any of its or their officers or directors or a charge against its or their general credit, or shall obligate the Issuer, any of its program participants, or any of its or their officers or directors financially in any way except with respect to the Issuer under the Loan Agreement and the application of revenues therefrom that have been pledged to the payment of the Bonds and the proceeds of the Bonds. No failure of the Issuer to comply with any term, condition, covenant or agreement herein shall subject the Issuer, any of its program participants, its incorporators, officers, employees, agents and counsel to liability for any claim for damages, costs or other financial or pecuniary charge except to the extent that the same can be paid or recovered from the Loan Agreement or revenues therefrom that have been pledged to payment of the Bonds or proceeds of the Bonds. Nothing herein shall preclude a proper party in interest from seeking and obtaining, to the extent permitted by law, specific performance against the Issuer for any failure to comply with any term, condition, covenant or agreement herein; provided, that no costs, expenses or other monetary relief shall be recoverable from the Issuer, any of its program participants, or their incorporators, officers, directors, employees, agents and counsel except as may be payable from the Loan Agreement or revenues therefrom that have been pledged to payment of the Bonds or the proceeds of the Bonds.

**Section 2.02. Medium and Place of Payment.** The principal of, premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America. Principal of the Bonds at maturity or at earlier redemption is payable to the Owner upon presentation and surrender of the Bond at the designated corporate trust office of the Trustee, provided that payments of principal pursuant to a mandatory sinking fund redemption (other than the final installment due at maturity) or other partial redemption shall be made without presentation and surrender of the Bonds. Interest on the Bonds shall be computed on the basis of a 360-day year comprised of twelve 30-day months. Interest on the Bonds shall be payable by check or draft mailed to the respective Owners thereof at the address shown on the registration books kept by the Registrar, except in the case of Owners of \$1,000,000 or more in aggregate principal amount of Bonds, to which interest may be payable by wire transfer to an account within the United States upon written instruction to

the Trustee made prior to a Record Date by such Owner together with CUSIP number identification (if any) with appropriate dollar amounts for each CUSIP number.

**Section 2.03. Execution, Authentication, Retirement.** The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of the Chair of the Issuer or the manual signature of any Authorized Signatory, and attested by the manual or facsimile signature of the Secretary of the Issuer or the manual signature of any Authorized Signatory. In case any officer of the Issuer whose signature or whose facsimile signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until such delivery, and also any Bond may be signed by such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

The Bonds shall, unless requested by the holders of all of the Senior Bonds then Outstanding to be immobilized in a book-entry system, be delivered as registered bonds in physical form, substantially in the forms set forth in *Exhibit A* and *Exhibit B*, respectively, with such variations, omissions and insertions as may be required by the circumstances, be permitted or required by this Indenture, or be consistent with this Indenture and necessary or appropriate to conform to the rules and requirements of any governmental agency or any usage or requirement of law with respect thereto.

Only such Bonds as shall have endorsed thereon a certificate of authentication manually executed by the Trustee substantially in the form set forth in *Exhibit A* and *Exhibit B*, respectively, shall be entitled to any security or benefit hereunder. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until such certificate of authentication shall have been executed by the Trustee, and such executed certificate of authentication of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered hereunder. Said certificate of authentication on any Bond shall be deemed to have been executed by the Trustee if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder.

**Section 2.04. Form of Bonds.** The Series E-1 Bonds and the Series E-2 Bonds shall be substantially in the forms set forth in *Exhibit A* and *Exhibit B*, respectively, hereto with such variations, omissions and insertions as are permitted or required by this Indenture.

The Bonds shall be issuable only as fully registered Bonds without coupons, in Authorized Denominations. The Bonds shall be registered and shall be numbered from RE-1-1 and RE-2-1, as applicable, upwards in chronological order of delivery.

**Section 2.05. Ownership.** The Issuer, the Trustee, and any other person shall treat the person in whose name any Bond is registered as of the Record Date as the absolute Owner of such Bond for the purpose of making and receiving payment of the principal thereof and interest and premium, if any, thereon and neither the Issuer, the Paying Agent, the Registrar, nor the Trustee shall be bound by any notice or knowledge to the contrary. All payments made to the

person deemed to be the Owner of any Bond in accordance with this Section 2.05 shall be valid and effectual and shall discharge the liability of the Issuer, the Paying Agent, the Registrar and the Trustee upon such Bond to the extent of the sums paid.

### **Section 2.06. Registration and Transfer.**

(a) The Trustee is hereby appointed as the Registrar for the Bonds. So long as any Bonds remain Outstanding, the Registrar shall keep at its designated corporate trust office a register in which, subject to such reasonable regulations as it may prescribe, the Registrar shall provide for the registration and transfer of Bonds in accordance with the terms of this Indenture. At reasonable times and under reasonable regulations established by the Registrar and subject to applicable law providing to the contrary, such list may be inspected and copied by the Issuer, the Owners or the Borrower (or a designated representative thereof).

(b) Subject to any applicable transfer restrictions set forth in Section 2.10, each Bond shall be transferable only by presenting it at the designated corporate trust office of the Registrar for transfer purposes duly endorsed for transfer and accompanied by an assignment duly executed by the registered Owner or his duly authorized representative in the form included in the form of Bond.

(c) All Bonds shall be exchangeable upon the presentation and surrender thereof at the designated corporate trust office of the Registrar for transfer purposes for a Bond or Bonds of the same maturity and interest rate and in any Authorized Denomination, in an aggregate principal amount equal to the unpaid principal amount of the Bond presented for exchange. All Bonds delivered in exchange for other Bonds shall be dated so that neither gain nor loss in interest shall result from such exchange. The Registrar shall be and is hereby authorized to authenticate and deliver exchange Bonds in accordance with the provisions of this Section 2.06. Each exchange Bond delivered in accordance with this Section 2.06 shall constitute a contractual obligation of the Issuer and shall be entitled to the benefits and security of this Indenture to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.

(d) The Owner shall bear costs of any tax or other governmental charge imposed in connection with transfer or exchange of its Bonds. The Issuer or the Trustee may impose a charge against an Owner for the reimbursement of any governmental charge required to be paid in the event that the Owner fails to provide a correct taxpayer identification number to the Trustee. The Trustee may deduct this amount from amounts otherwise payable to such Owner hereunder or under the Bonds.

(e) The Registrar shall not be required to transfer any Bond on any date which is during the period from a Record Date to the next ensuing Bond Payment Date, or during any period beginning 10 days prior to the selection by the Trustee of Bonds to be redeemed prior to maturity and ending on the date of such redemption.

**Section 2.07. Cancellation.** All Bonds paid or redeemed in accordance with this Indenture (excluding Bonds purchased in lieu of redemption pursuant to Section 4.09) and all Bonds in lieu of which replacement Bonds are authenticated and delivered in accordance with this Indenture, shall be canceled and destroyed upon the making of proper records. The Registrar shall furnish the Issuer upon request with certificates of destruction of such Bonds.

**Section 2.08. Replacement Bonds.**

(a) Upon receipt by the Registrar of evidence satisfactory to it of the loss, theft, destruction or mutilation of any Bond and of indemnity, if required, reasonably satisfactory to the Trustee, the Issuer and the Borrower and upon surrender and cancellation of such Bond, if mutilated, the Issuer shall execute, and the Registrar shall authenticate and deliver, a new Bond of the same maturity and like tenor and bearing a different number, in lieu of such lost, stolen, destroyed or mutilated Bond. Such new Bond may bear such endorsement or distinguishing mark as may be agreed upon by the Issuer and the Registrar. The Issuer, the Trustee and/or the Registrar may require the payment of a sum sufficient to reimburse it for all reasonable expenses and fees incurred by it in connection with the issuance of each new Bond under this Section 2.08, including any indemnity required by the Issuer, the Trustee and/or the Registrar, reasonable fees and expenses of counsel and the charges of the Registrar.

(b) Bonds executed by the Issuer and authenticated and delivered by the Registrar in lieu of any lost, stolen or destroyed Bonds shall evidence and represent the identical obligations which, prior thereto, were evidenced and represented by the Bond with respect to which they are executed, authenticated and delivered, all without novation of any rights, obligations or liens pertaining thereto.

(c) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Registrar in its discretion may, instead of issuing a replacement Bond, direct the Paying Agent to pay such Bond.

**Section 2.09. [Reserved].**

**Section 2.10. Completion of Bond Form.** The respective numbers, maturity dates, interest provisions and other applicable terms and provisions with respect to the Bonds, shall be inserted in the form of Bond.

**Section 2.11. Transfer Restrictions.** The following shall apply to the initial sale of the Bonds on the Closing Date and to subsequent transfers of the Bonds:

(a) If held by a trust which delivers a Purchaser Letter in the form of *Exhibit F-2*, the Bonds may be held in a book-entry only system;

(b) Each Series of Bonds shall be sold or transferred in Authorized Denominations;

(c) The Initial Purchaser on the Closing Date shall execute and deliver a purchaser letter in the form of *Exhibit F-1* to this Indenture, with any revisions thereto reasonably acceptable to Bond Counsel, which revisions shall be deemed to be acceptable upon the delivery of the opinion of Bond Counsel on the Closing Date; and

(d) The Bonds may be transferred in whole or in part by any Owner that executes a Purchaser Letter, and only to any “accredited investor” (as defined in Rule 501(a)(1), (2), (3), or (7) of Regulation D promulgated under the Securities Act of 1933), or (ii) any Qualified Institutional Buyer (as defined in Rule 144A promulgated under the Securities Act of 1933). The Trustee shall be entitled to rely, without any further inquiry, on any Purchaser Letter delivered to it and shall be fully protected in registering any transfer or exchanges of any Bonds in reliance on any such Purchaser Letter which appears on its face to be correct and of which the Trustee has no actual knowledge otherwise. For purposes of this Section, “actual knowledge” means the fact of knowledge without any duty to investigate.

THE TRUSTEE IS AUTHORIZED AND DIRECTED TO PUT A STOP ORDER ON THE BOND REGISTRY IN REGARD TO THE FOREGOING RESTRICTIONS ON THE TRANSFER OF THE BONDS.

Notwithstanding the foregoing, the transfer restrictions of this Section 2.11 as to a series of Bonds shall no longer apply upon the Borrower’s, the Issuer’s and the Trustee’s receipt of evidence of a current rating of the related series of Bonds of “A” or higher by a Nationally Recognized Rating Agency.

**Section 2.12. Book-Entry Only System of Registration.**

(a) The Bonds will initially be issued in the form of one fully-registered bond for the aggregate principal amount of such series of Bonds of each maturity, which Bonds shall be registered in the name of the Initial Purchaser or subsequent owner thereof; provided that, after the Closing Date, the Bonds of a series, at the request of the holder of 100% of the Bonds of such series that such Bonds be immobilized in a book-entry system, may be issued in the form of one fully-registered bond for the aggregate principal amount of such series of Bonds of each maturity, in which case such Bonds shall be registered in the name of Cede & Co., as nominee of DTC. Except as provided in paragraphs (e) and (f) below, once requested by the holders of 100% of the Bonds of a series, all of the Bonds of that series shall be registered in the Bond Register in the name of Cede & Co., as nominee of DTC, provided that if DTC shall request that the Bonds be registered in the name of a different nominee, the Trustee shall exchange all or any portion of such Bonds for an equal aggregate principal amount of Bonds registered in the name of such nominee or nominees of DTC. Once so registered, no Person other than DTC or its nominee or any “FAST” agent for DTC shall be entitled to receive from the Issuer or the Trustee either a Bond or any other evidence of ownership of the Bonds, or any right to receive any payment in respect thereof unless DTC or its nominee shall transfer record ownership of all or any portion of the Bonds on the Bond Register in connection with discontinuing the book entry system as provided in paragraph (f) below or otherwise.

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

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

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

(e) In connection with any notice or other communication to be provided to Owners pursuant to this Indenture by the Issuer or the Trustee with respect to any consent or other action to be taken by Owners, DTC shall consider the date of receipt of notice requesting such consent or other action as the record date for such consent or other action, provided that the Issuer or the Trustee may establish a special record date for such consent or other action. The Issuer or the Trustee shall give DTC notice of

such special record date not less than 15 calendar days in advance of such special record date to the extent possible.

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

The book-entry system for registration of the ownership of the Bonds shall be discontinued in the event that the Bonds are purchased in lieu of redemption pursuant to Section 4.09 hereof. In such event, the Bonds shall be in the form of a single registered Bond, subject to transfer only upon execution and delivery by the transferee of a Purchaser Letter in the form attached hereto as *Exhibit F-1* or *F-2*.

**Section 2.13. Subordination of Subordinate Bonds.** The Subordinate Bonds shall be and hereby are subordinated in priority, right and time of payment to (a) amounts due and payable on the Senior Bonds, and (b) amounts due and payable on the Senior Bonds upon redemption or acceleration of the Bonds and in any event following an Event of Default hereunder or under the Notes. The Issuer, the Trustee and Owners of the Subordinate Bonds, by acceptance thereof, expressly agree and acknowledge that for so long as any Senior Bonds remain Outstanding and any other amount senior in priority to the payment of Subordinate Bonds, as set forth in this Indenture, is due and remains unpaid: (a) no payment shall be made on or with respect to the Subordinate Bonds and no Event of Default shall exist with respect to the Subordinate Bonds if the Trustee or the Paying Agent does not hold sufficient funds to pay amounts then due and payable with respect to Senior Bonds and other senior-in-priority obligations as aforesaid, (b) no remedy shall be available to Owners of Subordinate Bonds if a default in payment of the principal of, premium, if any, or interest on, the Subordinate Bonds then exists, and (c) no payment shall be made on or with respect to the Subordinate Bonds during any period in which an Event of Default with respect to the Senior Bonds exists.

In the event and to the extent that Net Project Revenues held in the Bond Fund, after payment of principal and interest on the Senior Bonds, are insufficient to pay the principal of and interest on the Subordinate Bonds when due hereunder, such Subordinate Bonds shall continue to bear interest until paid. Such Subordinate Bonds shall be paid on such later date or dates from Net Project Revenues available after making the required payments under Section 5.02(a)(ii)(A) - (G) hereof, with such Net Project Revenues credited first to accrued



but unpaid interest on such Subordinate Bonds and then to unpaid principal then due on such Subordinate Bonds.

### ARTICLE III

#### AUTHORIZATION AND ISSUANCE OF BONDS

**Section 3.01. Exclusive Provisions and Limitation on Further Liens.** Except as provided in the Loan Agreement and the Mortgage, no liens of any nature or kind shall ever be placed or permitted by the Borrower, the Trustee or the Issuer on the Trust Estate (other than the lien created by this Indenture, the Mortgage and the Subordinate Loan Documents), and no Bonds shall be authenticated and delivered under this Indenture other than the Bonds described in Section 3.02.

**Section 3.02. Bonds.**

(a) The Bonds are hereby authorized to be issued under and secured by this Indenture. The Series E-1 Bonds shall be issued in the principal amount of \$3,730,000. The Series E-2 Bonds shall be issued in the principal amount of \$1,997,000. No additional bonds shall be authorized or issued under this Indenture. The Bonds shall be issued for the purpose of making the Loan by the deposit of the proceeds from the sale of the Bonds in the Accounts of the Project Fund pursuant to Section 6.01.

(b) Interest on the Bonds is payable on each Interest Payment Date. Payment of principal, premium, if any, and interest on the Bonds shall be as provided in Section 2.02. The Bonds shall be subject to redemption as provided in ARTICLE IV. The Bonds shall bear interest at the interest rate set forth below from the Closing Date, or, in the case of transfer or exchange, from the most recent Interest Payment Date to which interest has been paid or provided for under this Indenture, provided that if a Senior Bond is authenticated on or after a Record Date and before the related Interest Payment Date, interest shall accrue on such bond from that Interest Payment Date. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

(c) [Reserved].

(d) The Series E-1 Bonds shall mature on December 1, 2033 and bear interest at the annual interest rate of 5.00%. The Series E-2 Bonds shall mature on December 1, 2018 and shall bear interest: (i) at all times from and after the Closing Date through and including November 30, 2017, at the annual interest rate of 5.50%; and (ii) at all times from and after December 1, 2017 until (but excluding) the Maturity Date thereof, at the annual interest rate of 8.00%. Interest on the Bonds will include, as applicable, additional interest payable by the Borrower pursuant to Section 4.02(e) of the Loan Agreement on delinquent Loan payments due under Section 4.01(a) of the Loan Agreement; provided, however, that in no event shall such additional interest result in the interest rate of the Bonds being in excess of the Maximum Interest Rate.

**Section 3.03. Preconditions to Authentication and Delivery of Bonds.** The Trustee shall authenticate the Bonds and deliver them to the purchaser or purchasers as the Trustee is directed in writing by the Issuer as provided in this Section. Prior to the delivery by the Trustee of any of the definitive Bonds there shall be filed with the Trustee, each in form and substance acceptable to the Initial Purchaser:

- (a) Executed counterparts of this Indenture and the Loan Documents;
- (b) A copy of the Bond Resolution;
- (c) Evidence of the payment of the purchase price of the Bonds in the amount of \$5,727,000 and payment of the Borrower Contribution;
- (d) An opinion of Bond Counsel, subject to customary exceptions and qualifications, substantially to the effect that the Bonds constitute legal, valid and binding limited obligations of the Issuer;
- (e) An opinion of Bond Counsel, subject to customary exceptions and qualifications, substantially to the effect that under existing statutes, regulations, published rulings and judicial decisions, the interest on the Bonds is excludable from gross income for federal income tax purposes except with respect to the interest on any Bond for any period during which such Bond is held by a “substantial user” of the Project or a “related person,” as those terms are defined for purposes of Section 147(a) of the Code;
- (f) A certificate of the appropriate official of the Issuer attesting to the incumbency of the directors, officers or members of the Issuer and to such other matters as Bond Counsel may require;
- (g) Evidence that the Issuer’s closing fee has been paid or duly provided for;
- (h) Internal Revenue Service Form 8038 with respect to the Bonds, completed by the Issuer based upon information submitted by the Borrower;
- (i) An opinion of counsel for the Borrower to the effect that the Loan Documents and the Subordinate Loan Documents have been duly authorized, executed and delivered by the Borrower and are valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms subject to customary qualifications and exceptions and in form and substance acceptable to the Significant Bondholder, such acceptance to be evidence by the payment of the purchase price of the Bonds provided in subsection (c) above;
- (j) A request and authorization to the Trustee on behalf of the Issuer and signed by an authorized representative of the Issuer to authenticate and deliver the Bonds in such specified denominations as permitted herein to the initial purchaser or purchasers therein identified upon payment to the Trustee, but for the account of the Issuer, of a specified sum of money;

(k) The commitment to issue or a pro forma policy of title insurance required under the Mortgage with the original title policy to follow as soon as thereafter possible;

(l) Written agreement by the title company that there are no conditions to recording the Mortgage except receipt of the purchase price of the tracts of land described in *Exhibit A* to the Mortgage on which the Project is located;

(m) An executed counterpart of the Purchaser Letter set forth in *Exhibit F-1*;

(n) A fully executed copy of the Limited Partnership Agreement;

(o) Fully executed copies of the Subordinate Loan Documents and the Collateral Assignments; and

(p) Any other documents or opinions which the Trustee, the Issuer or Bond Counsel may reasonably require, which requirement shall be deemed to be satisfied upon the delivery of the opinion of Bond Counsel on the Closing Date.

#### ARTICLE IV

### BOND REDEMPTION AND MANDATORY REDEMPTION PROVISIONS

#### Section 4.01. Sinking Fund Redemption.

(a) The Series E-1 Bonds are subject to mandatory sinking fund redemption in part on each sinking fund payment date in a principal amount of the Series E-1 Bonds as set forth in *Exhibit C*. The principal amount of the Series E-1 Bonds to be redeemed on any particular sinking fund payment date shall be reduced by (i) the principal amount of any Bonds of the same series that (A) have been purchased (other than pursuant to Section 4.09) by the Borrower or, at the Borrower's written direction, the Trustee and canceled by the Trustee at least sixty (60) days prior to such sinking fund payment date and (B) have not previously formed the basis for such reduction, and (ii) the principal amount of any Bonds which (A) have been redeemed other than pursuant to mandatory sinking fund redemption and (B) have not previously formed the basis for such reduction.

(b) [Reserved].

(c) The redemption price for any such redemption shall be 100% of the principal amount of the Bonds or portions thereof so redeemed, plus accrued and unpaid interest, if any, to the sinking fund payment date, and without premium. The particular Bonds of a series or portions thereof to be redeemed on each particular sinking fund payment date shall be selected by the Trustee by lot or by such other random means as the Trustee shall determine in its discretion, in any case, to the extent possible, in a manner that results in Bonds that remain Outstanding to be in Authorized Denominations of not less than \$100,000.

(d) It shall not be necessary to surrender a Bond for payment of principal due upon a mandatory sinking fund redemption other than the final installment due at maturity, but the Bonds shall have the remaining principal balance set forth upon the Bond register maintained by the Registrar, which entry upon the Bond register shall be deemed conclusive in the absence of clear and convincing evidence to the contrary.

(e) [Reserved].

#### **Section 4.02. Optional Redemption.**

(a) The Series E-1 Bonds are subject to optional redemption prior to maturity on or after December 1, 2030, and the Series E-2 Bonds are subject to optional redemption without premium or penalty prior to maturity on or after March 1, 2017, at the direction of the Borrower (a) in whole on any date, or in part at a minimum of an Authorized Denomination on any Bond Payment Date, from amounts prepaid on the Loan pursuant to the Loan Agreement solely to the extent of any optional prepayment by the Borrower of the Notes, or (b) in whole on any date, from proceeds of refunding bonds or otherwise from other sources, in each case at the redemption price of 100% of the principal amount thereof, plus accrued and unpaid interest to the date of redemption. If the Bonds are optionally redeemed in part, the Borrower will designate the applicable Series being redeemed with the Senior Bonds being redeemed in full before the optional redemption of any Subordinate Bonds. With respect to the Series E-1 Bonds, no notice of optional redemption shall be mailed to Owners of Bonds until money sufficient to pay the optional redemption price (including accrued and unpaid interest and premium, if any) of the Bonds to be prepaid shall have been deposited with the Trustee. With respect to the Series E-2 Bonds, Borrower shall provide prior notice as required under Section 4.07 of the Indenture.

(b) The Bonds being redeemed before maturity in accordance with subsection (a) of this Section 4.02 shall be redeemed at a redemption price equal to the principal amount of the Bonds being redeemed, together with accrued interest to the date of redemption.

**Section 4.03. Mandatory Redemption From Excess Bond Proceeds.** The Bonds are subject to mandatory redemption, in whole or in part, unless the Significant Bondholder agrees otherwise, in the event that the amount on deposit in the Bond Proceeds Subaccount of the Project Fund are transferred to the Redemption Fund pursuant to Section 6.02(f) or Section 6.02(g), on the first Business day following such transfer for which 30 days' notice of redemption can be given. If so called for redemption, the Bonds shall be redeemed at a redemption price equal to 100% of the principal amount thereof, without premium, plus accrued and unpaid interest to the date fixed for redemption. Senior Bonds shall be selected for redemption first, and then Subordinate Bonds.

#### **Section 4.04. Extraordinary Mandatory Redemption.**

(a) The Bonds are subject to extraordinary mandatory redemption:

(i) [Reserved];

(ii) [Reserved];

(iii) In whole or in part, in the event the Project or any portion of it is damaged or destroyed or is taken in a condemnation proceeding to the extent of any Insurance Proceeds or Condemnation Award not used for the repair or restoration of the Project, as further described below;

(iv) In whole or in part, in the event of prepayment of the Loan at the direction of a trustee in bankruptcy for the Borrower; and

(v) In whole, when any amounts in the Bond Fund not being held therein to redeem Bonds for which notice of redemption has previously been given, is sufficient to pay any unpaid amounts required to be paid by ARTICLE V and to redeem all Outstanding Bonds.

(b) The Bonds called for redemption pursuant to subparagraphs (a)(iii) through (a)(v) inclusive shall be redeemed on the first Business day for which 30 days' notice of redemption can be given at a redemption price equal to 100% of the principal amount thereof, without premium, plus accrued and unpaid interest to the date fixed for redemption.

(c) If the Project or any part thereof is damaged or destroyed as a result of fire or other casualty, or condemned or acquired for public use, the Borrower is required to repair or restore the Project in accordance with requirements of the Mortgage and Section 5.04 of the Loan Agreement. The Trustee, within five Business days of receipt of written notice of such damage, destruction or condemnation, shall provide written notice to the Borrower, the Issuer, the Significant Bondholder, each Owner requesting the same at the address supplied to the Trustee by such Owner or its authorized representative, and the Servicer, and the Servicer shall confirm that the Borrower has complied with the provisions of the Mortgage and the Loan Agreement applicable to such occurrence. If the conditions for repair or restoration of the Project, as provided in Section 5.04 of the Loan Agreement, are not satisfied and the Trustee receives written notice from the Borrower of such insufficiency of the insurance proceeds or award in accordance with Section 5.04 of the Loan Agreement, the Trustee will apply the Net Casualty Proceeds of any casualty insurance or condemnation to the reduction of indebtedness under the Notes. In such event, the Trustee shall deposit such Net Casualty Proceeds in the Redemption Fund and apply such money to the redemption of Bonds in accordance with subparagraph (a)(i) above.

**Section 4.05. Mandatory Redemption Resulting From Event of Default or Determination of Taxability.**

(a) The Bonds shall be subject to mandatory redemption in whole at the direction of the Trustee, pursuant to the exercise of remedies under the Loan Documents, at the earliest time for which notice hereunder can be given upon the occurrence of an Event of Default as set forth in Section 8.01 or an "Event of Default"

as set forth in Section 7.01 of the Loan Agreement at a redemption price equal to the principal amount of Bonds Outstanding plus the accrued and unpaid interest due thereon, from a distribution of the Trust Estate as a result of the realization by the Trustee of its rights and remedies hereunder with respect to the Trust Estate, in accordance with Section 8.04. Upon the giving of notice of redemption of the Bonds under this Section 4.05(a), the Bonds shall become payable on the date specified in such notice of redemption and in the amount specified in the preceding paragraph.

(b) At the written direction of the Significant Bondholder, the Bonds shall be subject to mandatory redemption on the next occurring Bond Payment Date in the event of a Determination of Taxability in whole at a redemption price equal to 105% of the outstanding principal amount of the Bonds plus accrued and unpaid interest on the Bonds to the redemption date, provided that if the Trustee receives an opinion of Bond Counsel stating that such redemption was not caused by any action of the Borrower, or by failure on the part of the Borrower to take action within its control, the redemption price will be equal to 100% of the outstanding principal amount of the Bonds to be redeemed plus accrued and unpaid interest to the redemption date. The payment of the redemption price of the Bonds as aforesaid shall be in addition to any amounts due and owing to the Owners under the Bond Documents and/or the Loan Documents whether under the Loan Agreement or otherwise. Notwithstanding any mandatory redemption of Bonds pursuant to this Section, a Determination of Taxability shall constitute an Event of Default hereunder.

(c) The Trustee will give notice not more than ten Business days after the Trustee's receipt of the written direction of the Significant Bondholder pursuant to Section 4.05(b) to the Borrower, the Issuer, and each Owner requesting the same at the address supplied to the Trustee by such Owner or its authorized representative stating the aggregate redemption price which will be due on the redemption date, the total of all funds held by the Trustee which are available to pay the redemption price of the Bonds, and the difference between the two amounts. The Borrower will promptly, and in any event within six months of the date on which the Borrower receives such notice, pay to the Trustee any shortfall in the funds available to pay the redemption price of the Bonds. The Trustee will give notice of such redemption to Owners upon the earlier of (i) receipt of any such required funds from the Borrower and (ii) 30 days prior to the date on which such six-month period would expire. Other than the premium provided for in this Section 4.05, the Owners shall not be entitled to any penalty or supplemental or additional interest of any nature in connection with a Determination of Taxability.

**Section 4.06. [Reserved].**

**Section 4.07. Notice of Redemption.**

(a) Subject to Section 4.02 in the case of optional redemptions and Section 4.05(b) in the case of a mandatory redemption in the event of a Determination of Taxability, notice of redemption shall be given by the Trustee in writing to the Issuer and the Owners by first class mail not less than (i) with respect to the Series E-1 Bonds, 30 days, but not more than 45 days prior to, the date fixed for redemption, and

(ii) with respect to the Series E-2 Bonds, not less than 10 days prior to the date fixed for redemption. Receipt of such notice of redemption shall not be a condition precedent to such redemption and failure to mail such notice to any such registered Owners shall not affect the validity of the proceedings for the redemption of Bonds with respect to which no such failure occurred. Such notice shall be given in the name of the Issuer, shall be dated, shall set forth the Bonds Outstanding which shall be called for redemption and shall specify the redemption date and the redemption price. If less than all of the Bonds then Outstanding shall be called for redemption, the notice shall state the distinctive numbers and letters and CUSIP numbers, if any, of such Bonds to be redeemed and the portion of the principal amount thereof to be redeemed. Such notice shall further state that on the redemption date the Bonds called for redemption will be payable at the designated corporate trust office of the Paying Agent and from such date interest shall cease to accrue.

(b) Notice of redemption having been given as provided in subsection (a) of this Section 4.07 and all conditions precedent specified in such notice, if any, having been satisfied, the Bonds or portions thereof to be redeemed shall become due and payable on the date fixed for redemption at the redemption price specified herein plus any accrued and unpaid interest to the redemption date, and upon presentation and surrender thereof at the place specified in such notice. On and after the redemption date (unless the payment of the redemption price and accrued and unpaid interest payable on the redemption date is not made), (i) such Bonds (or portion thereof) shall cease to bear interest, and (ii) such Bonds (or portion thereof) shall no longer be considered as Outstanding under this Indenture.

#### **Section 4.08. Selection of Bonds To Be Redeemed.**

(a) If less than all of the Bonds are to be redeemed, the particular Bonds or portions of Bonds to be redeemed shall be selected by the Trustee, (i) with respect to redemptions pursuant to Section 4.04 and Section 4.05, on a pro rata basis based as nearly as practicable on the Outstanding principal amount of Bonds, and (ii) with respect to redemptions pursuant to Section 4.02 and Section 4.03, by lot in such manner as the Trustee in its discretion may deem fair and appropriate, in each case, to the extent possible, in a manner that results in Bonds that remain Outstanding to be in Authorized Denominations with Senior Bonds selected for redemption first, and then Subordinate Bonds and provided that, at no time shall the entity owning a majority of the Bonds prior to such partial redemption become an Owner of 50% or less of the Outstanding Bonds after such partial redemption solely because of such partial redemption

(b) In making such selection by lot, the Trustee may treat each Bond to be redeemed as representing that number of Bonds of the lowest Authorized Denominations as is obtained by dividing the principal amount of such Bond by such denomination.

**Section 4.09. Purchase in Lieu of Redemption.** Notwithstanding anything in this Indenture to the contrary, at any time the Bonds are subject to redemption in whole pursuant

to Section 4.02, Section 4.04(a)(iv) and Section 4.05, all (but not less than all) of the Bonds may be purchased by the Trustee, at the direction of the Borrower, on the date which would be the redemption date if such Bonds were redeemed rather than purchased in lieu thereof. The purchase price will be equal to the redemption price that would have been applicable to such Bonds on the redemption date. Upon such purchase the Bonds will be held for the account of and at the written direction of the Borrower. The Borrower shall give the Trustee written notice at least 10 days prior to the scheduled redemption date accompanied by a Favorable Opinion of Bond Counsel addressed to the Issuer and the Trustee. If the Trustee is so directed to purchase Bonds in lieu of redemption, no notice to the Owners of Bonds to be so purchased (other than the notice of redemption otherwise required hereunder) shall be required, and the Trustee shall be authorized to apply to such purchase the funds which would have been used to pay the redemption price for such Bonds if such Bonds had been redeemed rather than purchased. Purchased Bonds shall not be canceled or discharged and shall be registered in the name of the Borrower or such other person or persons as shall be designated by the Borrower which executes and delivers a Purchaser Letter. Bonds to be purchased under this Section 4.09 that are not delivered to the Trustee on the purchase date shall be deemed to have been so purchased and not redeemed on the purchase date and shall cease to accrue interest as to the former Owner on the purchase date.

## **ARTICLE V**

### **PAYMENT OF BONDS; FUNDS AND ACCOUNTS**

**Section 5.01. Funds and Accounts.** The Trustee is hereby directed to create and maintain the following funds and accounts, all as further described in this ARTICLE V:

- (a) Bond Fund, and within the Bond Fund, the Interest Account, the Administrative Expenses Account and the Principal Account;
- (b) Redemption Fund;
- (c) Rebate Fund;
- (d) Escrow Fund; and
- (e) Replacement Reserve Fund.

**Section 5.02. Bond Fund.**

(a) The Trustee shall establish and maintain so long as any of the Bonds are Outstanding a separate fund to be known as the Bond Fund, and separate accounts therein to be known as the Interest Account, the Administrative Expenses Account and the Principal Account. Immediately on the Closing Date, there shall be deposited to the designated accounts of the Bond Fund all funds received by the Trustee pursuant to Section 6.01 hereof in such accounts so designated. The Borrower's payment under the Loan Agreement shall be paid no later than the fifteenth (15th) day of each month. There shall be deposited to the Bond Fund immediately upon receipt all money received by the Issuer or the Trustee pursuant to Section 4.02 of the Loan Agreement,



the Mortgage and the Notes including payments of interest and principal on the Notes, and investment earnings on certain Funds and Accounts as provided in Section 6.06.

(i) The Trustee shall:

(A) On the sixteenth day of each month (or the next Business day if such day is not a Business day), calculate the Cash Flow Deficiency in the Bond Fund, if any, as of the date of such calculation. The Trustee shall provide telephonic notice to the Borrower of the amount of the Cash Flow Deficiency, if any, on the date such calculation is made, which notice shall be promptly confirmed in writing. The Borrower shall pay an amount equal to the Cash Flow Deficiency in immediately available funds within three Business days of such notice, as provided in Section 4.02 of the Loan Agreement and the Trustee shall deposit such amounts in the Bond Fund; and

(B) Immediately (but in any event no later than three Business days after such occurrence) notify the Borrower of any failure by the Borrower to make a required monthly payment of principal of or interest on the Loan pursuant to the Notes or a required payment of an amount in respect of a Cash Flow Deficiency, as described in the immediately preceding paragraph.

(ii) Prior to the Project Completion Date, amounts on deposit in the Bond Fund and available for such purpose shall be disbursed, transferred or deposited on the Business day immediately prior to each Bond Payment Date in the following order of priority:

(A) To the Escrow Fund, amounts for taxes and insurance in accordance with Section 4.02(b)(iii) of the Loan Agreement;

(B) To the Interest Account, an amount which, together with amounts already on deposit therein and in the Redemption Fund for such purpose, is sufficient to pay the interest past due on the Senior Bonds or coming due on such Bond Payment Date;

(C) The Bonds being redeemed before maturity in accordance with Section 4.02(b) of this Indenture shall be redeemed at a redemption price equal to the principal amount of the Bonds being redeemed, together with accrued interest to the date of redemption.

(D) Commencing on the Business day prior to the first Bond Payment Date on which principal is due, to the Principal Account an amount which, together with amounts already on deposit therein, is sufficient to pay the principal of any Senior Bonds past due or coming due (whether at maturity or by operation of the mandatory sinking fund redemption) on such Payment Date;

(E) To the Replacement Reserve Fund, payments in accordance with Section 5.11 hereof;

(F) To the Administrative Expenses Account, all fees, indemnification amounts and other amounts payable to and for the account of the Trustee;

(G) To the Administrative Expenses Account, an amount sufficient to pay the portion of the Administrative Expenses accrued pursuant to Section 5.05;

(H) To the Interest Account, an amount which, together with amounts already on deposit therein and in the Redemption Fund for such purpose, is sufficient to pay the interest past due on the Subordinate Bonds or coming due on such Bond Payment Date;

(I) Commencing on the Business day prior to the first Bond Payment Date on which principal is due, to the Principal Account an amount which, together with amounts already on deposit therein, is sufficient to pay the principal of any Subordinate Bond past due or coming due (whether at maturity or by operation of the sinking fund redemption) on such Payment Date;

(J) To the Redemption Fund, in the event of redemption of the Bonds pursuant to Section 4.02, Section 4.04 or Section 4.05, any amounts remaining;

(K) To the Administrative Expenses Account, all fees, indemnification amounts and other amounts payable to and for the account of the Issuer in excess of the Issuer Fee, including, to the extent incurred in accordance with this Indenture and the Loan Agreement, any expenses of the Issuer for extraordinary services and any expenses of Counsel to the Issuer for extraordinary services; and

(L) To be retained in the Bond Fund and used to cure any deficiency in amounts required by clauses (A) through (K) above, the balance, provided that, except as provided in Section 5.10 with respect to transfers to the Rebate Fund, on each Bond Payment Date, any amounts remaining in the Bond Fund on such date after the foregoing transfers have been made shall be transferred to the Borrower.

(b) From and after the Project Completion Date, amounts on deposit in the Bond Fund and available for such purpose shall be disbursed as follows:

(i) [Reserved];

(ii) Money on deposit in the Bond Fund will be disbursed by the Trustee not later than the fifteenth day of each month (or the immediately

preceding Business day if such day is not a Business day) in the following order of priority:

(A) To the Interest Account, an amount equal to the Interest Requirement for the current calendar month for the Bonds;

(B) To the Principal Account, amounts equal to the applicable Principal Requirement for the Bonds;

(C) To the Administrative Expenses Account, all fees, indemnification amounts and other amounts payable to and for the account of the Trustee, including an amount sufficient to pay in equal monthly amounts that portion of the Trustee Fee due on the next Bond Payment Date pursuant to Section 5.05;

(D) To the Escrow Fund, amounts for taxes and insurance in accordance with Section 4.02(b) of the Loan Agreement;

(E) To the Administrative Expenses Account, an amount sufficient to pay that the accrued monthly portion of the Administrative Expenses (other than the Trustee Fee) pursuant to Section 5.05;

(F) To the Replacement Reserve Fund, payments in accordance with the Replacement Reserve Fund Requirement;

(G) To the Redemption Fund, in the event of redemption of the Bonds pursuant to Section 4.02, Section 4.04 or Section 4.05, any amounts remaining;

(H) To the extent incurred in accordance with this Indenture and the Loan Agreement and not provided for by clause (A) above, any expenses of the Issuer for extraordinary services and any expenses of Counsel to the Issuer for extraordinary services;

(I) The balance to be retained in the Bond Fund and used to cure any deficiency in amounts available to make the transfers required by clauses (A) through (H) above until such time as the conditions set forth in Section 7.05 of the Loan Agreement have been met and the Loan has been repaid in full, at which time the balance in the Bond Fund shall be transferred to the Borrower.

(c) Upon the payment in full of the Bonds and the fees and expenses that are due or will be due to the Issuer, the Trustee, the Paying Agent and the Registrar and all amounts owing pursuant to Section 12.01, and the payment of amounts payable to the United States pursuant to Section 5.10, any amounts remaining in the Bond Fund shall be paid as provided in Section 5.12. Money in the Bond Fund shall be invested in accordance with Section 6.05 with such maturities as shall be necessary to provide cash to make the transfers required hereby.

(d) Notwithstanding anything to the contrary in this Section 5.02, in the event and to the extent that the Trustee has notice that a premium on insurance required by Section 5.14 of the Loan Agreement or that taxes, assessments or charges required by Section 5.13 of the Loan Agreement are due and there is insufficient money in the Escrow Fund to pay such amounts when due, and not later than the earlier of (i) 10 days after a written request to the Borrower for payment of such amounts or (ii) the date on which failure to pay such amounts would result in cancellation of the related policy or foreclosure of the Project, as applicable, the Trustee shall pay such amounts, first from money on deposit in the Replacement Reserve Fund and then from money on deposit in the Bond Fund.

**Section 5.03. Interest Account.** The Issuer hereby directs the Trustee to establish and maintain so long as any of the Bonds are Outstanding a separate account within the Bond Fund to be held by the Trustee to be known as the Interest Account. There shall be deposited in the Interest Account amounts required by Section 5.02. Money on deposit in the Interest Account shall be applied by the Trustee to pay interest on the Bonds as it becomes due. The Borrower has no right, title or interest in any funds on deposit in the Interest Account.

**Section 5.04. Principal Account.** The Issuer hereby directs the Trustee to establish and maintain so long as any of the Bonds are Outstanding a separate account within the Bond Fund to be held by the Trustee to be known as the Principal Account. There shall be deposited in the Principal Account amounts required by Section 5.02. Money on deposit in the Principal Account shall be applied by the Trustee to pay principal on the Bonds as it becomes due (whether at maturity or by operation of the mandatory sinking fund redemption). The Borrower has no right, title or interest in any funds on deposit in the Principal Account.

**Section 5.05. Administrative Expenses Account.** The Issuer hereby directs the Trustee to establish and maintain so long as any of the Bonds are Outstanding a separate account within the Bond Fund to be known as the Administrative Expenses Account. The Trustee shall deposit to the Administrative Expenses Account those amounts required by Section 5.02 and Section 6.01. On each Bond Payment Date, the Trustee shall pay from the Administrative Expenses Account, to the extent such amounts are then payable (a) to the Trustee, the Trustee Fee, (b) to the Issuer, the Issuer Fee, (c) to the Servicer, the Servicer Fee, (d) to the Rebate Analyst, the Rebate Analyst Fee, and (e) to the Financial Monitor, the Financial Monitor Fee. Extraordinary expenses shall be disbursed immediately upon receipt by the Trustee and the Borrower of evidence of such extraordinary expenses to the extent funds for payment thereof have been deposited therein. Money in the Administrative Expenses Account shall be invested in accordance with Section 6.05 with such maturities as shall be necessary to provide cash to make the transfers required hereby. To the extent the Trustee invests money pursuant to instruction by the Borrower, the Trustee shall have no responsibility to determine maturities of investments.

**Section 5.06. [Reserved].**

**Section 5.07. Redemption Fund.** The Issuer hereby directs the Trustee to establish and maintain so long as any of the Bonds are Outstanding a separate fund to be held by the Trustee to be known as the Redemption Fund.

(a) The Trustee shall deposit in the Redemption Fund, all money paid to it for optional redemption by the Borrower pursuant to the provisions of Section 4.05 of the Loan Agreement. Money shall be paid by the Trustee to the Owners of Bonds called for redemption in accordance with the provisions of Section 4.02.

(b) The Trustee shall deposit in the Redemption Fund, all money paid to it by the Borrower or transferred from other Funds and Accounts as specifically provided for in this Indenture, for the mandatory redemption of Bonds pursuant to Section 4.03, Section 4.04 and Section 4.05, sufficient (together with money available for such purpose in the Interest Account) to pay the redemption price of Bonds called for redemption. Money shall be paid by the Trustee to the Owners of Bonds called for redemption in accordance with the provisions of Section 4.03, Section 4.04 and Section 4.05, respectively.

**Section 5.08. Temporary Funds and Accounts.** The Trustee is hereby authorized to establish and maintain for as long as is necessary, one or more temporary funds and accounts under this Indenture.

**Section 5.09. Money Held for Particular Bonds; Non-Presentation of Bonds.**

(a) The amounts held by the Trustee for payment of the interest, principal or redemption price due on any date with respect to particular Bonds shall, pending such payment, be set aside and held in trust by it for the Bondholders entitled to such payment and, for the purposes of this Indenture, such interest, principal or redemption price, after the due date of payment, shall no longer be considered to be unpaid.

(b) In the event any Bonds are not presented for payment when the principal thereof becomes due, either at maturity or at the date fixed for redemption thereof or otherwise, if funds sufficient to pay such Bonds have been made available to the Trustee for the benefit of the owner thereof, it shall be the duty of the Trustee to hold such funds for the Bondowners without liability for interest. If such funds shall have remained unclaimed for four years after such principal or interest has become due and payable, such funds shall be paid to the Borrower without liability for interest on the funds, provided all amounts owed to Trustee hereunder shall have been paid. All liability of the Trustee to the owner for the payment of such Bond will forthwith cease, determine and be completely discharged. The obligations of the Trustee under this Section to pay any such funds to the Borrower shall be subject to any provisions of law applicable to the Trustee or to such funds providing other requirements for disposition of unclaimed property. Any money received by the Borrower will not be held in trust for the benefit of the Bondowner. The Borrower is not liable for interest on the Bonds from the due date if funds sufficient to pay such Bonds have been made available to the Trustee for the benefit of the Owner thereof.

**Section 5.10. Rebate Fund.**

(a) The Trustee will deposit in the Rebate Fund such amounts as are required to be deposited therein pursuant to Section 2.07 of the Loan Agreement and

the Tax Certificate. Subject to the payment provisions provided in subsection (b) below, all amounts on deposit at any time in the Rebate Fund will be held by the Trustee in trust, to the extent required to pay arbitrage rebate to the United States of America, and the Issuer, the Borrower and the Bondowners shall not have any rights in or claim to such money. All amounts held in the Rebate Fund will be applied as provided in this Section and the Tax Certificate. The Borrower, at its own expense, shall engage the Rebate Analyst to make the calculations required by Section 2.07(b) of the Loan Agreement.

(b) Pursuant to the Loan Agreement and the Tax Certificate, the Trustee will remit all arbitrage rebate and a final rebate payment to the United States of America. The Trustee has no obligation to rebate any amounts required to be rebated pursuant to this Section and the Tax Certificate, other than from money held in the Funds and Accounts created under this Indenture or from other money provided to the Trustee by the Borrower.

(c) Notwithstanding any other provision of this Indenture, including in particular ARTICLE IX, the obligation to pay the arbitrage rebate to the United States of America and to comply with all other requirements of this Section, Section 2.07 of the Loan Agreement and the Tax Certificate shall survive the defeasance or payment in full of the Bonds.

(d) In order to provide for the administration of this Section, the Issuer and the Trustee may, but are not required to, provide for the employment of the Rebate Analyst compensated on such reasonable basis as the Trustee (or the Issuer or the Borrower) may deem appropriate, and in addition to and without limitation of the provisions of this Section, the Trustee may rely conclusively upon and shall be fully protected from all liability in relying upon the opinions, calculations, determinations, directions and advice of the Rebate Analyst.

(e) If at any time during the term the Issuer, the Trustee, or the Borrower desires to take any action which would otherwise be prohibited by the terms of this Section, such Person shall be permitted to take such action if it shall first obtain and provide to the other Persons named herein an opinion of Bond Counsel to the effect that such action shall not adversely affect the exclusion of interest on the Bonds from gross income of the holders thereof for federal income tax purposes and shall be in compliance with the laws of the State of California and the terms of this Indenture.

#### **Section 5.11. Replacement Reserve Fund.**

(a) The Issuer hereby directs the Trustee to establish and maintain so long as any of the Bonds are Outstanding, the Replacement Reserve Fund. Pursuant to Section 5.02, the Trustee shall deposit monthly into the Replacement Reserve Fund from money paid to the Trustee pursuant to the Loan Agreement and Section 5.02 hereof an amount equal to one-twelfth of the Replacement Reserve Fund Requirement. Investment earnings on the Replacement Reserve Fund shall be retained therein and applied to the purposes of such fund.

(b) Except as otherwise provided in this Section, the Trustee shall make payments from the Replacement Reserve Fund upon receipt of a written requisition approved by the Servicer which approval shall not be unreasonably withheld, conditioned or delayed (upon which the Trustee may conclusively rely) that such requisitioned work is in place (unless the Servicer determines that such amounts may be advanced prior to the work being in place), stating with respect to each payment to be made for the Project: (i) the requisition number, (ii) the name and address of the person, firm or corporation to whom payment is due, (iii) the amount to be paid, (iv) that each obligation mentioned therein has been or will be properly incurred, is a proper charge against the Replacement Reserve Fund and has not been the basis of any previous withdrawal, (v) that the amount to be paid is presently due and payable or has previously been paid by the Borrower, and (vi) that no Event of Default exists under the Loan Agreement.

(c) [Reserved].

**Section 5.12. Release of Funds Upon Payment of Bonds.** Any amounts remaining in any funds or accounts created hereunder after payment in full of the Bonds or provision therefor in accordance with Section 12.01, the Administrative Expenses, any amounts required to be paid to the United States of America and all other amounts required to be paid pursuant to Section 12.01 or under the Loan Agreement, shall be deposited to the Bond Fund for disbursement as provided in Section 5.01(b)(ii)(I) above.

**Section 5.13. Escrow Fund.**

(a) The Issuer hereby directs the Trustee to establish and maintain, so long as any of the Bonds are Outstanding, the Escrow Fund. Pursuant to Section 5.02, there shall be deposited to the Escrow Fund, a portion of each monthly Loan payment made by the Borrower as provided in the Loan Agreement and amounts as provided in Section 5.02 and Section 5.11. At the written direction of the Borrower, the Trustee shall disburse amounts in the Escrow Fund to make payments when due for amounts required in connection with real estate taxes, fire or property insurance for the Project, or other similar payments in the following order of priority: (i) real estate taxes for the Project; and (ii) insurance for the Project.

(b) If the Trustee has notice that a premium on insurance required by Section 5.14 of the Loan Agreement or that taxes, assessments or charges required by Section 5.13 of the Loan Agreement are due and there are insufficient money in the Escrow Fund to pay such amounts when due, and not later than the earlier of (i) 10 days after a written request to the Borrower for payment of such amounts or (ii) the date on which failure to pay such amounts would result in cancellation of the related policy or foreclosure of the Project, as applicable, the Trustee shall pay such amounts, first from money on deposit in the Replacement Reserve Fund, then from money on deposit in the Bond Fund.

## **ARTICLE VI**

### **DEPOSIT OF BOND PROCEEDS; PROJECT FUND**

#### **Section 6.01. Deposits.**

(a) A portion of the proceeds from the sale of the Series E-1 Bonds in the amount of \$1,590,131.00 received on the Closing Date were sent directly from the Initial Purchaser to the title company to be held on behalf of the Trustee and will be used to acquire the Project.

(b) The proceeds from the sale of the Series E-2 Bonds in the amount of \$1,997,000 received on the Closing Date were sent directly from the Initial Purchaser to the title company to be held on behalf of the Trustee and will be used to acquire the Project.

(c) A portion of the proceeds from the sale of the Series E-1 Bonds in the amount of \$1,967,275.00 received on the Closing Date shall be deposited in the Bond Proceeds Subaccount of the Project Fund.

(d) A portion of the proceeds from the sale of the Series E-1 Bonds in the amount of \$58,054.00 received on the Closing Date shall be deposited in the Interest Subaccount of the Bond Fund.

(e) [Reserved].

(f) A portion of the proceeds from the sale of the Series E-1 Bonds in the amount of \$114,540.00 received on the Closing Date and a portion of the Borrower Contribution in the amount of \$142,495.02 shall be deposited to the Administrative Expenses Account of the Bond Fund and be used to pay Costs of Issuance.

The Trustee shall deposit any additional money it receives from the Borrower on the Closing Date into the Borrower Contribution Subaccount of the Project Fund which has not been accounted for in Section 6.01 hereof.

#### **Section 6.02. Project Fund.**

(a) The Issuer hereby directs the Trustee to establish and maintain the Project Fund. The Project Fund shall consist of the Bond Proceeds Subaccount, the Borrower Contribution Subaccount. The Project Fund shall be maintained until the transfer of all funds from the Project Fund.

(b) [Reserved].

(c) Proceeds from the sale of the Bonds shall be deposited in the Bond Proceeds Subaccount of the Project Fund as set forth in Section 6.01. The Borrower Contribution shall be deposited in the Borrower Contribution Subaccount as set forth in Section 6.01. Proceeds from the sale of the Bonds and the Borrower Contribution



shall be used for the purpose of paying Project Costs in accordance with the procedures stated in this Indenture, the Financial Monitoring Agreement, the Servicing Agreement and the Loan Agreement. Borrower shall contribute funds to be used to pay Costs of Issuance with respect to the Bonds. Money representing the Borrower Contribution held in the Administrative Expenses Account to pay Costs of Issuance sixty (60) days after closing the sale of the Bonds shall be released by Trustee to Borrower. On the fifteenth day of each month, investment income on money in the Borrower Contribution Subaccount of the Project Fund shall be transferred to the Bond Fund.

(d) The Trustee shall make payments from the Project Fund upon receipt of a written requisition, in the form attached as *Exhibit D*, approved by the Financial Monitor (which approval shall not be unreasonably withheld, conditioned or delayed) and in the case of any Costs of Issuance in the form attached as *Exhibit E*. The Borrower must certify in such requisition that the money to be disbursed from the Bond Proceeds Subaccount of the Project Fund shall be applied only to the payment of Project Costs such that at least 97% of Net Proceeds of the Bonds expended to date, have been expended for Qualified Project Costs. No disbursement from the Bond Proceeds Subaccount may be used for any purpose other than the payment of, or reimbursement for the payment of, Project Costs. The Trustee may conclusively rely on the representations of the Borrower contained in such requisitions as approved by the Financial Monitor and the Trustee shall be relieved of all liability with respect to payments made in accordance with such requisitions without inspection of the Project or any other investigation. In addition, the Trustee shall make payments from the Administrative Expenses Account to pay Costs of Issuance upon receipt of a written requisition, in the form attached as *Exhibit E*.

(e) As soon as practicable after completion of the Project, the Borrower shall furnish to the Significant Bondholder, the Issuer, the Servicer, the Financial Monitor, and the Trustee a Certificate of Completion containing the following:

(i) The Borrower's statement that all material terms and conditions under the Financial Monitoring Agreement have been satisfied or waived and all documents required thereunder have been delivered;

(ii) The Borrower's statement that the Project has been completed and is ready and available for occupancy as of a specified date and the evidence of completion required pursuant to the Financial Monitoring Agreement;

(iii) The Borrower's statement of the aggregate amount disbursed from the Project Fund upon the Project Completion Date and the additional amount, if any, expected to be required from the Project Fund to pay the remaining Project Costs;

(iv) The Borrower's certification that all of the amounts disbursed from the Bond Proceeds Subaccount have been or will be applied to pay or reimburse Project Costs and that none of the amounts disbursed from the Bond

Proceeds Subaccount have been or will be applied to pay or reimburse costs or expenses other than Project Costs; and

(v) The Borrower's certification that at least 97% the Net Proceeds of the Bonds were applied to pay or reimburse Qualified Project Costs; that not more than 1% (3% upon the Trustee's receipt of a Favorable Opinion of Bond Counsel) of the Net Proceeds of the Bonds were applied to pay or reimburse Project Costs other than Qualified Project Costs; and that no more than 2% of the proceeds of the Bonds (face amount of the Bonds, less original issue discount, if any) were used to pay Costs of Issuance.

(f) Upon the prepayment of the Notes in full for any reason prior to the Project Completion Date, all money and investments in the Project Fund (other than money held to pay costs required to be paid but not yet payable as approved in writing by the Financial Monitor) shall be transferred to the Redemption Fund and applied to the mandatory redemption of the Bonds in accordance with Section 4.03. Any excess shall be paid in accordance with Section 5.12.

(g) Upon the earlier of (i) the date which is twelve months after the Project Completion Date, or (ii) the second anniversary of the Closing Date (as such date may be extended by delivery to the Issuer and the Trustee of a Favorable Opinion of Bond Counsel), any money remaining on deposit in the Bond Proceeds Subaccount of the Project Fund shall, with the prior consent of the Significant Bondholder, be transferred to the Redemption Fund to be applied to the payment of the redemption of the Bonds then Outstanding as selected by the Significant Bondholder in accordance with Section 4.03.

(h) Money remaining in the Borrower Contribution Subaccount of the Project Fund following the Project Completion Date shall be applied as follows:

(i) First, upon written request of the Borrower to the payment of any remaining Project Costs which have not previously been paid or reimbursed; and

(ii) Second, to the Borrower.

(i) The Trustee may rely fully on the representations contained in any written order by the Borrower, the Financial Monitor or the Servicer or in any supporting certificate delivered pursuant to this Indenture and the Loan Agreement and shall not be required to make any investigation or inspection of the Project in connection therewith.

**Section 6.03. Requisitions.** The Trustee shall retain in its possession all requisitions received by it as herein required, subject to the inspection of the Borrower and the Owners of Bonds and their representatives at all reasonable times.

**Section 6.04. Insurance and Condemnation Proceeds Fund.**

(a) The Borrower will deposit money representing a Condemnation Award or Insurance Proceeds that exceed \$10,000 with the Trustee. The Trustee will deposit these funds into the Insurance and Condemnation Proceeds Fund established at that time by the Trustee. The Trustee shall give notice of such deposit to the Servicer. Such account need not be created until required. Earnings on investments held in the Insurance and Condemnation Proceeds Fund shall be retained therein to be applied in accordance with this Section 6.04.

(b) To the extent there has been a determination pursuant to the Mortgage and the Loan Agreement to restore the Project, the Condemnation Award or Insurance Proceeds shall be expended in accordance with the provisions of the Loan Agreement and the Mortgage and Section 3 of the Servicing Agreement. Amounts on deposit in the Insurance and Condemnation Proceeds Fund shall be disbursed by the Trustee for the repair or replacement of the Project upon the receipt by the Trustee from the Borrower of:

(i) requisitions, accompanied by the written approval of the Significant Bondholder and the Financial Monitor;

(A) specifying the requisition number, the amount requested, and the names and addresses of the persons to which such amounts shall be paid; and

(B) certifying that:

(1) the amounts requested were made or incurred or financed and were necessary for the Project and were made or incurred in substantial accordance with the construction contracts, plans and specifications, if any, theretofore in effect;

(2) the amount paid or to be paid, as set forth in such requisition, represents a part of the amount due and payable for the cost of repairing or replacing the Project and such payment was not paid in advance of the time, if any, fixed for payment and is being made in accordance with the terms of any contracts applicable to the Project and in accordance with usual and customary practice under existing conditions;

(3) no part of the amounts requisitioned in such requisition has been included within amounts referred to in any requisition previously filed with the Trustee from such Condemnation Award or Insurance Proceeds, as the case may be, under the provisions of this Section 6.04;

(4) the amount remaining in the Insurance and Condemnation Proceeds Fund, together with expected

investment earnings on the Insurance and Condemnation Proceeds Fund and not required to be deposited into the Rebate Fund and other funds available to the Borrower, after payment of the amount requested in such requisition, will be sufficient to pay the entire cost of repairing or replacing the Project, as the case may be, substantially in accordance with the construction contracts, plans and specifications and building permits therefor, if any, currently in effect;

(5) no event of default has occurred and is continuing under the Loan Agreement, the Regulatory Agreement, the Mortgage or the Notes and nothing has occurred to the knowledge of the Borrower that would prevent the performance of its obligations under the Indenture, the Loan Agreement, the Regulatory Agreement, the Mortgage or the Notes; and

(6) the Borrower is current in the provision of information required by Section 5.09 and Section 5.10 of the Loan Agreement;

*provided, however,* that the requirements in subsections (5) and (6) above shall be waived upon written direction of the Financial Monitor and the Significant Bondholder.

(ii) invoices or bills evidencing the amounts due in connection with such requisition; and

(iii) if such net proceeds exceed \$250,000:

(A) an architect's certificate stating that such repairs or replacements are practical and necessary, have been completed in accordance with plans and specifications previously provided to the Trustee, the Significant Bondholder, and the Financial Monitor and that such repairs or replacements comply with all applicable statutes, codes and regulations; and

(B) applicable lien waivers (subject to Borrower's right to contest liens diligently and in good faith, as may be provided in the other Loan Documents).

If at any time during the restoration, the Condemnation Award or Insurance Proceeds are less than the estimated costs to repair or restore the Project, the Borrower shall be responsible for paying all amounts of such shortfall. If after completion of any such repairs or replacements, any funds remain in the Insurance and Condemnation Proceeds Fund, the remaining funds shall be transferred by the Trustee to the Redemption Fund and used to prepay the Loan and to redeem Bonds pursuant to Section 4.04; provided, however, such remaining funds shall first be paid to the Borrower in an amount not to exceed the amount paid by the Borrower, if any, to cover

any shortfall. Notwithstanding the above provisions, all proceeds of business interruption insurance shall be collected and deposited by the Trustee into the Bond Fund created under this Indenture.

In the event there is a determination pursuant to the Mortgage and the Loan Agreement not to restore the Project, such Condemnation Award or Insurance Proceeds shall be transferred to the Redemption Fund and applied to the extraordinary mandatory redemption of Bonds in accordance with Section 4.04.

**Section 6.05. Money Held in Trust; Investment of Money.**

(a) All money from time to time received by the Trustee and held in the funds and accounts created hereby (other than the Rebate Fund, and the Administrative Expenses Account), shall be held in trust as security for the benefit of the Owners of the Bonds. All such money shall be invested in Eligible Investments as directed in writing by the Borrower and as provided in this Indenture and the Tax Certificate.

(b) Any such investments shall be held by or be under the control of the Trustee. The Trustee will liquidate a sufficient amount of such investments whenever the cash balance in the applicable fund or account is insufficient to pay amounts required to be paid therefrom, whether or not the same results in a loss. Any money held as a part of any fund or account herein shall be invested or reinvested in Eligible Investments at the request of and as directed in writing by the Borrower. The Trustee may conclusively rely on any investment directed by the Borrower as being permitted by the Tax Certificate. In the absence of any such investment direction money held as part of any fund or account shall be uninvested.

(c) The value of the Eligible Investments shall be determined as of the end of each month and shall be calculated as follows:

(i) As to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times), the average of the bid and asked price for such investment published on or most recently prior to the date of determination or the bid price published by a nationally recognized pricing service;

(ii) As to investments (other than those described in (iii) below) the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times, the average bid price on the date of determination for such investment by any two nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time of making a market in such investments or the bid price published by a nationally recognized pricing service; and

(iii) As to certificates of deposit and bankers' acceptances, the face amount thereof, plus accrued and unpaid interest.

### **Section 6.06. Investment Earnings.**

(a) Earnings on investments held in all funds and accounts (except as provided below) shall be deposited to the Bond Fund and retained therein and applied in the manner prescribed by Section 5.02. Earnings on investments held in the Borrower Contribution Subaccount of the Project Fund shall be deposited to the Bond Fund as set forth in Section 6.02(c). Earnings on investments held in the Bond Proceeds Subaccount of the Project Fund (if any), the Bond Fund, the Rebate Fund and the Replacement Reserve Fund shall be retained in the respective fund or account and applied to the respective purposes thereof. Earnings on the Insurance and Condemnation Proceeds Fund shall be retained therein until applied as provided in Section 6.04.

(b) The Trustee shall keep separate records with respect to each fund, account and subaccount established under this Indenture for the purposes of accounting for all amounts earned on amounts therein, withdrawn therefrom and transferred thereto.

### **Section 6.07. Tax Covenants Related to Bonds.** The Issuer agrees:

(a) it shall neither make nor direct the Trustee to make any investment or other use of the proceeds of the Bonds that would cause the Bonds to be “arbitrage bonds” as that term is defined in Section 148(a) of the Code and that it shall comply with the requirements of the Code throughout the term of the Bonds;

(b) it (i) shall take, or use its best efforts to require to be taken, all actions that may be required of the Issuer for the interest on the Bonds to be and remain not included in gross income for federal income tax purposes and (ii) shall not take or authorize to be taken any actions within its control that would adversely affect that status under the provisions of the Code; and

(c) it shall enforce or cause to be enforced all obligations of the Borrower under the Regulatory Agreement in accordance with its terms and seek to cause the Borrower to correct any violation of the Regulatory Agreement within a reasonable period after any such violation is first discovered.

In furtherance of the covenants in this Section, the Issuer and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which is by this reference incorporated into this Indenture and made a part of this Indenture, and by its acceptance of this Indenture the Trustee acknowledges receipt of the Tax Certificate, acknowledges its incorporation into this Indenture by this reference and agrees to follow any investment instructions given by the Borrower or the Issuer pursuant thereto.

## ARTICLE VII

### SPECIAL COVENANTS

**Section 7.01. Enforcement of Obligations.** The Issuer agrees that it will cooperate with the Trustee to enforce all obligations of the Borrower under the Loan Documents. Subject to the terms and conditions of Section 9.05, the Trustee, acting jointly with or independently of, but, if necessary, in the name of, the Issuer, shall have, and is hereby assigned and granted the full and complete right and power to enforce all obligations of the Borrower under the Loan Agreement and all other documents and instruments relating to the issuance, payment and security of the Bonds, and to act in the name, place and stead of the Issuer for that purpose.

**Section 7.02. Amendments to Agreement; Assignments.** Subject to Section 11.06, Section 11.09 and Section 11.11, the Issuer will not enter into any agreement with the Borrower amending the Loan Agreement or any of the other Loan Documents or waive any provision thereof except in accordance with this Indenture and with the prior written consent of the Owners of a majority of aggregate principal amount of the Outstanding Bonds (unless such amendment is required by applicable law in the opinion of Bond Counsel or if required pursuant to Section 8 of the Regulatory Agreement) and any other purported amendment or waiver shall be void and of no force and effect; and, except for the assignments to the Trustee herein, the Issuer will not sell, transfer or otherwise dispose, assign or encumber its interest in any part or all of the Trust Estate (including without limitation the Loan Documents) and any such purported sale, transfer or other disposition, assignment or encumbrance shall be void and of no force and effect.

**Section 7.03. Further Instruments and Actions.** The Issuer will from time to time execute and deliver such further instruments and take such further actions as may be reasonably required to perfect the security interests herein granted and to carry out the purposes hereof.

**Section 7.04. Financial Statements.** The Borrower shall provide to the Trustee, the Financial Monitor, the Significant Bondholder and each Owner at the Borrower's expense financial statements in accordance with the requirements of the Loan Agreement. Not later than 10 Business days after each March 31, the Trustee shall deliver to the Financial Monitor, the Significant Bondholder and each Owner, according to its written direction at the address supplied to the Trustee by each or its authorized representative, an annual statement of transactions and holdings as of December 31 of the prior year. Within five Business days of each payment by the Trustee of principal on the Bonds the Trustee will notify the Issuer via mutually acceptable electronic means, with receipt confirmed by sender of the aggregate principal amount of Bonds that remain Outstanding or that no Bonds remain Outstanding.

**Section 7.05. [Reserved].**

**Section 7.06. Instruments of Further Assurance.** The Issuer covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and

transfers as the Trustee may reasonably require for the better assuring, transferring, pledging, assigning and confirming to the Trustee all and singular the rights assigned hereby and the amounts pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds. The Issuer covenants and agrees that, except as herein and in the Mortgage provided, neither it nor the Borrower will sell, convey, assign, pledge, encumber or otherwise dispose of any part of the Trust Estate.

#### **Section 7.07. Recording and Filing; Further Instruments.**

(a) The Trustee hereby agrees to prepare, request that the Borrower execute (if such execution is required for any such filing) and file in a timely manner (if received from the Borrower in a timely manner, if execution by the Borrower is necessary) any and all continuation statements as might be required under the Uniform Commercial Code in order to continue the security interests granted or assigned to the Trustee in the Mortgage. The Borrower shall be responsible for and shall pay any reasonable expenses, including legal fees incurred under this Section.

(b) Notwithstanding anything to the contrary contained herein, the Trustee shall not be responsible for any initial filings of any financial statements or the information contained therein (including the exhibits thereto), the perfection of any such security interests, or the accuracy or sufficiency of any description of collateral in such filings, and unless the Trustee shall have been notified by the Borrower that any such initial filing or description of collateral was or has become defective, the Trustee shall be fully protected in relying on such initial filing and descriptions in filing any financing or continuation statement(s) pursuant to this Section.

### **ARTICLE VIII**

#### **DEFAULTS AND REMEDIES**

##### **Section 8.01. Events of Default.**

(a) Each of the following events is hereby declared an Event of Default:

(i) the failure to pay the principal (whether due at maturity, or otherwise) or redemption or purchase price of or sinking fund requirement or interest on the Senior Bonds when due or to redeem or purchase Senior Bonds on the date on which such redemption or purchase is required to be made;

(ii) default in the performance or observance of any other covenant, agreement or obligation of the Issuer or the Borrower contained in the Loan Documents or this Indenture (except a failure by the Borrower to pay sums due for deposit in the Administrative Expenses Account, other than the Trustee's fees), after written notice thereof has been given to the Issuer or the Borrower, as applicable, by the Trustee or the Significant Bondholder, if any, or the Financial Monitor, in accordance with Section 8.01(b);



(iii) under the provisions of any law for the relief or aid of debtors, any court of competent jurisdiction assumes custody or control of the whole or any substantial part of the Project, and such custody or control is not terminated within 90 days from the date of assumption of such custody or control;

(iv) following payment in full of the Senior Bonds, the failure to pay the principal (whether due at maturity or otherwise) or redemption or purchase price of or sinking fund requirement or interest on the Subordinate Bonds when due or to redeem or purchase Subordinate Bonds on the date on which such redemption or purchase is required to be made, unless such failure is due to insufficient Net Project Revenues;

(v) the occurrence of any event of default (however denominated) under the Subordinate Loan Documents or any of them after the expiration of all applicable notice and cure periods, but only after written notice thereof has been given to the Issuer and the Trustee by the Significant Bondholder and the Financial Monitor in accordance with Section 8.01(b); or

(vi) the failure of the Borrower to meet the requirement of Section 2.02(oo) of the Loan Agreement.

(b) Anything herein to the contrary notwithstanding, no default under Section 8.01(a)(ii) shall constitute an Event of Default until (i) notice of such default shall have been given by the Trustee to the Issuer, the Borrower, the Financial Monitor and the Significant Bondholder, if any, or the Owners of a majority in principal amount of Outstanding Senior Bonds (and following payment in full of the Senior Bonds, the Owners of a majority in principal amount of Outstanding Subordinate Bonds) and (ii) the Borrower shall have had 30 days after receipt of such notice by the Borrower to correct such default or cause such default to be corrected, and shall not have corrected such default or caused such default to be corrected within the applicable period; provided, however, if the default shall be such that it cannot be corrected within the applicable period (other than violations of the Regulatory Agreement or the Tax Certificate bearing on the tax-exempt status of the Bonds, in which case any additional time for cure shall be only as allowed by the Regulatory Agreement or the Tax Certificate, as applicable), it shall not constitute an Event of Default if corrective action is instituted by the Issuer or the Borrower within the applicable period and diligently pursued until the default is corrected; provided, further that, in any case, such corrective period shall not exceed 90 days after receipt of such notice by the Borrower.

(c) The Significant Bondholder, if any, or the Owners of a majority of the aggregate principal amount of Senior Bonds Outstanding (and following payment in full of the Senior Bonds, the Owners of a majority of the aggregate principal amount of Outstanding Subordinate Bonds) may waive any Event of Default hereunder and upon such waiver the occurrence of such event shall not be deemed an Event of Default hereunder. No waiver shall be effective unless in writing and signed by the party making the waiver. In the event any agreement contained in this Indenture should be

breached and thereafter waived, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

(d) [Reserved].

**Section 8.02. Rescission of Event of Default.** If within 15 days of the occurrence of an Event of Default, other than under Section 8.01(a)(i) or (iv), and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such Event of Default, or before the completion of the enforcement of any other remedy under this Indenture, (a) money sufficient to pay the principal of all Bonds then matured, purchased or called for redemption (except by virtue of declaration of the acceleration of the maturity of the Bonds) and all arrears of interest, if any, upon Bonds then Outstanding (except by virtue of such declaration and the interest accrued on Bonds since the last Bond Payment Date) has accumulated in the Bond Fund, (b) all amounts then payable by the Issuer hereunder have been paid or a sum sufficient to pay the same has been deposited with the Trustee, and (c) every other default in the observance or performance of any covenant, condition, agreement or provision contained in the Bonds or in this Indenture (other than a default in the payment of the Bonds then due only because of an acceleration pursuant to Section 8.03) has been remedied to the satisfaction of the Trustee then and in every such case the Trustee may, and upon the written request of the Significant Bondholder, if any, or the Owners of not less than a majority in aggregate principal amount of the Outstanding Senior Bonds not then due (and following payment in full of the Senior Bonds, the Owners of not less than a majority in aggregate principal amount of Outstanding Subordinate Bonds) except by virtue of such Event of Default shall, by written notice to the Issuer and the Borrower rescinds and annuls such Event of Default and its consequences, but no such rescission or annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

**Section 8.03. Remedies.**

(a) Upon the happening and continuance of any Event of Default specified in Section 8.01(a) which has not been rescinded as provided in Section 8.02, then and in every such case the Trustee (unless such action is rescinded pursuant to Section 8.02 and except as provided in the last sentence of this Section 8.03(a)), subject to Section 9.05, may proceed, and upon the happening and continuance of any Event of Default specified in Section 8.01(a)(iii) or upon the written request of the Significant Bondholder, if any, or the Owners of not less than a majority of the aggregate principal amount of the Senior Bonds then Outstanding (and following payment in full of the Senior Bonds, the Owners of not less than a majority of the aggregate principal amount of Outstanding Subordinate Bonds) (unless such action is rescinded pursuant to Section 8.02), subject to Section 9.05, shall proceed, subject to the provisions of the succeeding paragraph of this Indenture, to protect and enforce its rights and the rights of the Owners under applicable laws and under this Indenture:

(i) by such suits, actions or special proceedings in equity, under contract, or at law, or by proceedings in the office of any board or officer having jurisdiction, for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the

enforcement of any proper legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights;

(ii) exercise any rights and remedies with respect to the Trust Estate as may be available to a secured party under the Uniform Commercial Code or other applicable law in effect in the State; and

(iii) by notice in writing to the Owners, the Borrower, and the Issuer, declare the entire Outstanding principal amount of the Bonds to be immediately due and payable, and upon any such declaration the same shall become and shall be immediately due and payable.

In addition, the Trustee may exercise any and all remedies afforded the Issuer under the Loan Documents in its name or the name of the Issuer without the necessity of joining the Issuer. Neither the Trustee, in its capacity as Trustee for the Subordinate Bonds, nor any Owners of the Subordinate Bonds (for as long as any Senior Bond remains Outstanding) shall have any right to enforce any remedy with respect to the Subordinate Bonds or to accelerate payment of the Subordinate Bonds by declaring the principal of any of the Subordinate Bonds and the interest accrued thereon to be due and payable in advance of scheduled due dates until such time as the Senior Bonds have been paid or deemed paid (within the meaning of this Indenture) in full.

(b) Except as provided in Section 8.03(c), in the enforcement of any remedy under this Indenture the Trustee shall be entitled to sue for, enforce payment of, and receive any and all unpaid amounts then or during any default becoming, and at any time remaining, due from the Borrower for principal, redemption price, interest or otherwise under any of the provisions of this Indenture or of the Notes or the Bonds, with interest on overdue payments of principal, at the Maximum Interest Rate together with any and all costs and expenses of collection and of all proceedings hereunder and under such Notes or the Bonds, without prejudice to any other right or remedy of the Trustee or of the Owners, and to recover and enforce any judgment or decree against the Borrower, but solely as provided herein and in such Bonds, for any portion of such amounts remaining unpaid and interest costs and expenses as above provided, and to collect (but solely from money in the funds and accounts pledged to secure the Bonds under the provisions of this Indenture and any other money available for such purpose) in any manner provided by law, the money adjudged or decreed to be payable.

(c) Notwithstanding any provision or obligation to the contrary herein set forth and except as otherwise provided in the Loan Documents, including, but not limited to Section 8.12(b) of the Loan Agreement, commencing on the Project Completion Date, (i) the liability of the Borrower, and others described in Section 8.12 of the Loan Agreement under this Indenture and under any other agreement executed and delivered in connection with the Bonds or the Project shall be limited to its interest in the Project, and the parties hereto shall look exclusively thereto and to such other security as may from time to time be given for payment of the obligations hereunder, and any judgment rendered against the Borrower and others described in Section 8.12

of the Loan Agreement under this Indenture shall be limited to the Project and any other security so given for satisfaction thereof; and (ii) no deficiency or other personal judgment, nor any order or decree of specific performance shall be rendered against the Borrower and others described in Section 8.12 of the Loan Agreement, their heirs, personal representatives, successors, transferees or assigns, as the case may be, in any action or proceeding arising out of this Indenture, or any judgment, order or decree rendered pursuant to any such action or proceeding.

**Section 8.04. Occurrence of Event of Default.** Following the occurrence of an Event of Default and recovery of money under this Indenture, the Trustee shall, subject to the requirements of Section 9.02 and the conditions set forth in Section 9.05, apply money in all funds and accounts (except the Rebate Fund, and the Administrative Expenses Account), together with amounts recovered under the Notes or in connection therewith, insofar as necessary to make timely payments of principal of and premium, if any, and interest on the Bonds to the Owners as scheduled under the Bonds and as provided in Section 5.02(a) or (b), as applicable, or, if the Bonds have been accelerated, to pay all principal, premium, if any, and interest payable on the Bonds as a result of such acceleration, such amounts to be applied as follows and in the following order of priority:

(a) To the payment of the costs and expenses of the Issuer and the Trustee, including, but not limited to, reasonable attorneys' fees, in connection with any sale of the Project and the payment of all taxes or assessments prior to the lien of the Mortgage, except any taxes, assessments, liens, or other charges, subject to which the Project shall have been sold or disposed;

(b) To the payment to the Issuer and the Trustee of all fees, expenses and indemnification due and owing to the Issuer and the Trustee by the Borrower under this Indenture and the Loan Documents;

(c) To the payment of the whole amount then due, owing and unpaid upon first the Senior Bonds and then the Series E-2 Bonds, for principal, premium, if any, and interest; and in case such proceeds shall be insufficient to pay in full the whole amount so due, owing and unpaid upon the Bonds, then payment shall be made pursuant to Section 8.05;

(d) To reimburse the Owners for any amounts advanced to the Trustee pursuant to Section 8.08 and Section 9.05; and

(e) To the payment of any other sums required to be paid by the Borrower pursuant to the provisions of this Indenture or the Loan Documents.

COMMENCING ON THE PROJECT COMPLETION DATE, SUCH PAYMENT TO THE OWNERS SHALL CONSTITUTE FULL SATISFACTION OF THE AMOUNTS DUE UNDER THE BONDS.

### **Section 8.05. Application of Funds.**

(a) Anything in this Indenture to the contrary notwithstanding, but subject to Section 8.04, Section 9.02 and Section 9.05 and only in instances of an Event of Default, if at any time the money in the funds and accounts established hereunder is not sufficient to pay the interest on and the principal and redemption price of the Bonds as the same become due and payable (either by their terms, by redemption or by acceleration), such money (excluding any proceeds of the Bonds which shall only be used for the purposes provided in the SECOND and THIRD clauses below), together with any money then available or thereafter becoming available for such purposes, whether through the exercise of the remedies provided for in this ARTICLE VIII or otherwise, shall be applied as follows:

FIRST, to the payment of costs and expenses of suit or settlement, if any, and the reasonable compensation of the Trustee and the Issuer (including the Trustee Fee and the Issuer Fee) its agents, attorneys, experts and advisors actually incurred, and of all proper expenses, liabilities and advances incurred or made hereunder by the Trustee or the Issuer and of all taxes, assessments or liens superior to the lien of the Mortgage, except any taxes, assessments or other superior liens subject to which sale of the Project may have been made;

SECOND, to the payment to the persons entitled thereto of all installments of interest then due first on the Senior Bonds until paid in full and then on the Subordinate Bonds until paid in full, in the direct order of the maturity of the installments of such interest and, if the amounts available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege, except that payments will be made first on the Senior Bonds and then on the Subordinate Bonds;

THIRD, to the payment to the persons entitled thereto of the unpaid principal and premium, if any, first on any of the Senior Bonds until paid in full and then on the Subordinate Bonds until paid in full, which shall have become due (other than Bonds which have matured or otherwise become payable prior to such Event of Default and money for the payment of which are held in the Bond Fund or otherwise held by the Trustee) and, if the amount available shall not be sufficient to pay in full the amount of principal and premium, if any, due on any particular date, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto, without any discrimination or privilege, except that payments will be made first on the Senior Bonds and then on the Subordinate Bonds;

FOURTH, to the payment of Administrative Expenses (other than those provided for by FIRST above);

FIFTH, with respect to any excess foreclosure proceeds, to any subordinate lienholders, if any, as their interests may appear, and the balance of such foreclosure

proceeds, if any, together with any amounts remaining in the Replacement Reserve Fund and the Escrow Fund, to the Borrower; and

SIXTH, the remainder shall be paid to the Borrower.

(b) All payments to be made to the Owners pursuant to this Section 8.05 shall be made ratably to the persons entitled thereto, without discrimination or preference, and except that if there are insufficient funds to make any payment of interest or principal then due, the amount to be paid in respect of principal or interest, as the case may be, on each Bond shall be determined by multiplying the aggregate amount of the funds available for such payment by a fraction, the numerator of which is the amount then due as principal or interest, as the case may be, on each Bond and the denominator of which is the aggregate amount due in respect of all interest or all principal, as the case may be, on all Bonds and provided further that all payments shall be made to the Owners of the Senior Bonds until paid in full and then to the Owners of the Subordinate Bonds.

(c) Notwithstanding the provisions of this Section 8.05, if the time for the payment of any interest shall be extended upon the written approval of all Owners of the Senior Bonds, and after payment in full of the Senior Bonds the written approval of all Owners of the Subordinate Bonds, such interest so extended shall not be entitled in case of an Event of Default hereunder to the benefit or security of this Indenture except subject to the prior payment in full of the principal and premium, if any, of all Senior Bonds then Outstanding and after payment in full of the Senior Bonds, the prior payment in full of the principal and premium, if any, of all Subordinate Bonds then Outstanding, of the written approval of all Owners of the Bonds, and of all interest the time for the payment of which has not been extended.

(d) Whenever money is to be applied by the Trustee pursuant to the provisions of this Section 8.05, (i) such money shall be applied by the Trustee at such times, and from time to time, as the Trustee in its sole discretion determines, having due regard for the amount of such money available for such application and the likelihood of additional money becoming available for such application in the future; and (ii) the Trustee shall incur no liability whatsoever to the Issuer, to any Owner or to any other person for any delay in applying any such money so long as the Trustee acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions of this Indenture as may be applicable at the time of application by the Trustee. Whenever the Trustee exercises such discretion in applying such money, it shall fix the date (which shall be an Interest Payment Date unless the Trustee deems another date more suitable) upon which such application is to be made, and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date, and shall not be required to make payment to the Owner of any Bond until such Bond is surrendered to the Trustee for appropriate endorsement, or for cancellation if fully paid.

**Section 8.06. Effect of Discontinuance of Proceedings.** If any proceeding taken by the Trustee or Owners on account of any Event of Default is discontinued or abandoned for any reason, then and in every such case the Issuer, the Borrower, the Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no such proceeding had been taken.

**Section 8.07. Control of Proceedings by Owners; Limitation on Exercise by Issuer and Trustee.** Anything in this Indenture to the contrary notwithstanding, but subject to the provisions of Section 8.03, the Owners of a majority of the Senior Bonds then Outstanding (and following payment in full of the Senior Bonds, the owners of a majority of the Subordinate Bonds then Outstanding) hereunder shall have the right, subject to the provisions of Section 9.02 and Section 9.05, by an instrument or concurrent instruments in writing, executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee hereunder, provided that such direction shall not be otherwise contrary to law or provisions of this Indenture. Notwithstanding the foregoing, the Trustee shall not be required, after making such determinations, to foreclose the Mortgage or take, in its name, a deed in lieu of foreclosure, including environmental audits, if it determines in its judgment that taking title or possession of the Project would expose it to environmental liability; provided, however, the Significant Bondholder or the Financial Monitor may remove the Trustee pursuant to Section 9.11 and Section 9.12 hereof in order to proceed with such right of foreclosure.

The Issuer and the Trustee hereby agree that, upon the occurrence of an Event of Default hereunder or a default under the Loan Agreement or the Regulatory Agreement, neither shall seek, in any manner, to: (a) cause or direct acceleration of the Loan or the Notes; (b) enforce the Notes; (c) foreclose on the Mortgage; (d) cause redemption of the Bonds or declare the principal of the Bonds and the interest accrued on the Bonds to be immediately due and payable; or (e) take any other action under any of the Loan Documents or any other documents which action would or could have the effect of achieving any one or more of the actions, events or results described in the preceding clauses (a) through (d), without the prior written consent of the Owners of a majority of the Senior Bonds then Outstanding (and following payment in full of the Senior Bonds, the owners of a majority of the Subordinate Bonds then Outstanding); provided that the Issuer or the Trustee may seek specific performance by the Borrower of the terms of the Loan Agreement or the Regulatory Agreement or enjoin acts which may be in violation of the terms of the Loan Agreement or Regulatory Agreement or which are unlawful.

**Section 8.08. Restrictions Upon Action by Individual Owners.** Except as provided in Section 8.07, no Owner shall have any right to institute any suit, action or proceeding in equity or at law on any Bond or for the execution of any trust hereunder or for any other remedy hereunder unless such Owner previously has (a) given to the Trustee written notice of the Event of Default on account of which such suit, action or proceeding is to be instituted, (b) together with the Owners of not less than 25% in aggregate principal amount of the Senior Bonds then Outstanding (and following payment in full of the Senior Bonds, the Owners of not less than 25% in aggregate principal amount of the Subordinate Bonds then Outstanding) made written request of the Trustee to exercise such powers or right of action after such right has accrued,

(c) afforded the Trustee a reasonable opportunity either to proceed to exercise the powers hereinabove granted or to institute such action, suit or proceeding in its or their name, and (d) offered to the Trustee reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee has refused or neglected to comply with such request within a reasonable time. Such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture or to any other remedy hereunder. It is understood and intended that no one or more Owners hereby secured have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Indenture or to enforce any right hereunder except in the manner herein provided, that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all Owners of such Outstanding Bonds, and that any individual right of action or other right given to one or more of such Owners by law is restricted by this Indenture to the rights and remedies herein provided. So long as any Senior Bond remains Outstanding hereunder, the Owners of the Subordinate Bonds shall have no right, individually or collectively, to direct the Trustee to exercise any remedies hereunder or under the Loan Agreement or the Mortgage or to cause an acceleration of the Bonds without the prior written consent of the Owners of 100% of the Senior Bonds then Outstanding.

**Section 8.09. Actions by Trustee.** All rights of action under this Indenture or under any of the Bonds secured hereby, enforceable by the Trustee, may be enforced by it without the possession of any of the Bonds or the production thereof at the trial or other proceeding relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the benefit of all of the Owners of such Bonds, subject to the provisions of this Indenture.

**Section 8.10. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder.

**Section 8.11. Delay Not a Waiver.** No delay or omission of the Trustee or of any Owner to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee and to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. The Trustee may, and upon written request of the Significant Bondholder, if any, or the Owners of a majority of the aggregate principal amount of Senior Bonds Outstanding (and following payment in full of the Senior Bonds, the Owners of a majority of the aggregate principal amount of Outstanding Subordinate Bonds) shall, waive any Event of Default, but no such waiver shall extend to or affect any other existing or any subsequent Event of Default or impair any rights or remedies consequent thereon. All waivers under this Indenture shall be in writing and a copy thereof shall be delivered to the Issuer and the Borrower.

**Section 8.12. Notice of Event of Default.** The Trustee shall mail to all Owners at their addresses as they appear on the registration books maintained by the Trustee, written



notice of the occurrence of any Event of Default within five Business days after the Trustee has notice (pursuant to the provisions of Section 9.08) that any such Event of Default has occurred which notice shall include a description of any cure undertaken by or on behalf of the Borrower and any remedy commenced by the Trustee. The Trustee shall mail a copy of such notice to the Borrower, provided that failure to provide such notice shall not subject the Trustee to any liability nor limit any of the remedies available to it. The Trustee shall not, however, be subject to any liability to any Owner by reason of its failure to mail any such notice.

### **Section 8.13. Trustee May File Proofs of Claim.**

(a) In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Issuer or the Borrower or any other obligor upon the Bonds or the property of the Issuer, the Trustee (irrespective of whether the principal of the Bonds shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Issuer and/or the Borrower for the payment of overdue principal or interest) shall be entitled and empowered, and shall, at the written direction of the Significant Bondholder, if any, by intervention of such proceeding or otherwise,

(i) To file and prove a claim for the whole amount of principal, premium, if any, and interest owing and unpaid in respect of the Bonds then Outstanding and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Owners allowed in such judicial proceeding; and

(ii) To collect and receive any money or other property payable or deliverable on any such claims and to distribute the same;

and any receiver, assignee, trustee, liquidator, sequestrator (or other similar official) in any such judicial proceeding is hereby authorized by each Owner to make such payments to the Trustee, and, in the event that the Trustee shall consent to the making of such payments directly to the Owners, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agent and counsel.

(b) The Trustee is hereby appointed, and the successive respective Owners of the Bonds, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee, the true and lawful attorney in fact of the respective Owners of the Bonds, with authority to make or file, in the respective names of the Owners of the Bonds or on behalf of all Owners of the Bonds, as a class, any proof of debt, amendment to proof of debt, petition or other documents and to execute any other papers and documents and to do and perform any and all acts and things for and on behalf of all Owners of the Bonds as a class, as may be necessary or advisable in the

opinion of the Trustee, in order to have the respective claim of the Owners of the Bonds against the Trust Estate, the Borrower or any other obligor allowed in receivership, insolvency, liquidation, bankruptcy or other proceeding, to which the Issuer, the Borrower or any other obligor, as the case may be, shall be a party. The Trustee shall have full power of substitution and delegation in respect of any such powers.

## **ARTICLE IX**

### **THE TRUSTEE, REGISTRAR AND PAYING AGENT**

**Section 9.01. Acceptance of Trusts.** Subject to the provisions of this ARTICLE X, the Trustee hereby accepts the trusts imposed upon it by this Indenture and the duties placed upon the Trustee by the Loan Agreement, and agrees to perform the same. The Trustee has examined the Loan Agreement and approves the form and substance of, and agrees to be bound by, to the extent therein provided, its terms. The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts, powers or otherwise.

#### **Section 9.02. Responsibilities of Trustee.**

(a) The recitals of fact contained herein and in the Bonds (other than the certificate of authentication) shall be taken as the statements of the Issuer and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of any Bonds issued hereunder or as to the security afforded by this Indenture or the tax-exempt status of the Bonds, and Trustee shall be under no responsibility or duty with respect to the application of any money paid to it except as provided herein or as otherwise expressly agreed by the Trustee. Notwithstanding any other provision hereof, the Trustee shall be under no obligation or duty to perform any act that would involve it in expense or liability or to institute or defend any suit in respect of this Indenture or relating to the issuance, offering, sale or delivery of the Bonds or the rehabilitation, design, occupancy, maintenance, ownership or use of the Project or to advance any of its own money, unless indemnified by the Owners or the Borrower to its reasonable satisfaction. Subject to the provisions of subsection (b) of this Section 9.02, the Trustee shall not be liable in connection with the performance of its duties under this Indenture except only for its own gross negligence, willful misconduct, or criminal activity.

(b) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default that may have occurred, undertakes to perform such duties and only such duties that are specifically set forth in this Indenture. No implied covenants or obligations shall be read into this Indenture against the Trustee. In case an Event of Default has occurred (and has not been cured within any applicable grace period) the Trustee shall exercise such of the rights and powers vested in it by this Indenture. Any provisions of this Indenture relating to action taken or to be taken by the Trustee or to evidence upon which the Trustee may rely shall be subject to the provisions of this Section 9.02.

(c) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder, except failure by the Borrower to make or cause to be made any of the payments to the Trustee required to be made hereunder or under the Loan Agreement or any other default with respect to which an officer in the Trustee's corporate trust department responsible for the administration of the trust created by this Indenture has actual notice, unless the Trustee shall be specifically notified in writing of such default by the Borrower or by the Owners of at least 10% in aggregate principal amount of Outstanding Bonds, and all notices or other instruments required by this Indenture to be delivered to the Trustee, must, in order to be effective, be delivered at the designated corporate trust office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no default except as aforesaid.

(d) The Trustee shall have no duty or responsibility to assure that the Financial Monitor or the Servicer (notwithstanding any appointment of such Servicer by the Trustee pursuant to Section 5.15 of the Loan Agreement) performs and observes, or causes to be performed and observed, any of their respective duties and obligations.

(e) In performing its duties as Trustee, Paying Agent and Registrar hereunder, and its duties under the Loan Agreement, the Regulatory Agreement, the Servicing Agreement, the Financial Monitoring Agreement, the Mortgage and any other agreement or instrument pertaining to the Bonds, the Trustee shall be entitled to all of the rights, protections and immunities accorded to it as Trustee under this Indenture.

(f) The Trustee is not required to take any action the Trustee reasonably believes may subject the Trustee to liability for any environmental damages or cause a violation of any environmental requirements for which the Trustee may be held responsible.

**Section 9.03. Performance Through Attorneys, Agents, Receivers or Employees.**

The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, receivers, or employees, and shall be entitled to advice of counsel concerning all matters of trust and its duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers, or employees, as may reasonably be employed in connection with the trust hereof. The Trustee may act upon the opinion or advice of counsel approved by the Trustee. The Trustee shall not be answerable for the exercise of any discretion with the trusts hereby created except only for its own willful misconduct, negligence, or criminal activity.

**Section 9.04. Fees, Expenses, Charges and Other Disbursements.** Payment shall be made to the Trustee, solely from the Administrative Expenses Account as provided by Section 5.05, for the Trustee Fee and extraordinary expenses incurred in and about the administration and execution of the trusts hereby created and the performance of its powers and duties hereunder. From and after the declaration of an Event of Default, if such payment has not been made, the Trustee may deduct the same from any money coming into the hands

of the Trustee (except from money designated for payment to the United States of America for rebatable arbitrage) and shall be entitled to a preference in payment over any of the Bonds Outstanding hereunder. No provision of this Indenture 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, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it. In the event that the Trustee incurs expenses or renders services after the occurrence of any event described in Section 7.01(j) of the Loan Agreement, then, in addition to any other rights of the Trustee, the Trustee Fee and such expenses are intended to constitute expenses of administration under any applicable federal or state bankruptcy, reorganization, insolvency, conservatorship, arrangement, moratorium, reorganization or other debtor relief law.

**Section 9.05. Obligation to Take Action.** Except as provided in Section 9.02(b), the Trustee shall be under no obligation to take any action in respect of any Event of Default, or to institute, appear in or defend any suit or other proceedings in connection therewith, unless requested in writing so to do by the Significant Bondholder, if any, or the Owners of a majority of the aggregate principal amount of Senior Bonds Outstanding (and following payment in full of the Senior Bonds, the Owners of a majority of the aggregate principal amount of Outstanding Subordinate Bonds) if in its opinion such action may tend to involve it in expense or liability, unless furnished, from time to time as often as it may require, with security and indemnity satisfactory to it; but the foregoing provisions are intended only for the protection of the Trustee, and shall not affect any discretion or power given by any provisions of this Indenture to the Trustee to take action in respect of any Event of Default without such notice or request from the Owners, or without such security or indemnity. The permissive rights of the Trustee under this Indenture shall not be construed as duties and the Trustee shall not be answerable for other than its gross negligence, willful default, or criminal activity.

**Section 9.06. Reliance by Trustee.** The Trustee, the Registrar and the Paying Agent shall be protected and shall incur no liability in acting or proceeding in good faith upon any resolution, notice, telegram, request, consent, waiver, certificate, statement, affidavit, voucher, bond, requisition or other paper or document which they shall in good faith believe (a) to be genuine, (b) to have been passed or signed by the purported proper board, body or person, and (c) to have been prepared and furnished pursuant to any of the provisions of this Indenture or the Loan Agreement, and they 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, the Registrar and the Paying Agent shall not be bound to recognize any person as an Owner of any Bond to take any action at his request unless such Bond shall be deposited with the entity being requested to take such action or evidence satisfactory to the Registrar of the ownership of such Bond shall be furnished to the entity being requested to take such action. Notwithstanding any provision herein, the Trustee is hereby authorized to follow the directions of the Servicer, the Financial Monitor and the Initial Purchaser, and rely on the approvals and consents of the Servicer, the Financial Monitor and the Initial Purchaser, given in compliance with the requirements of the Servicing Agreement and Financial Monitoring Agreement.

**Section 9.07. Monthly Statement from Trustee.** In addition to the statements required to be delivered pursuant to other Sections hereof, it shall be the duty of the Trustee, within 10 days after the end of each calendar month after the delivery of the Bonds to file with the Issuer (upon its request) and mail to the Borrower, the Initial Purchaser, the Servicer, the Financial Monitor and the Significant Bondholder a statement setting forth in respect of such month:

(a) The amount withdrawn or transferred by it from, and the amount deposited in, each fund or account held by it under the provisions of this Indenture;

(b) The amount on deposit in each fund or account at the end of such month;

(c) A brief description of all obligations held by it as an investment of money in each fund or account and the income or loss, if any, that was charged to each fund or account in such month; and

(d) The amount applied to the payment or redemption of Bonds hereunder and a description of the Bonds or portion of Bonds so paid, purchased or redeemed.

**Section 9.08. Notice of Event of Default.** The Trustee shall immediately give notice to the Issuer, and the Significant Bondholder, with a copy to the Borrower of any Event of Default specified in Section 8.01(a)(i). With respect to any other Event of Default, the Trustee shall give notice to the Issuer and the Significant Bondholder, with a copy to the Borrower, as soon as the Trustee is notified or takes notice of such other Event of Default. The Trustee shall not be liable to the Borrower for failure to give the notices described in this paragraph and such failure shall not limit or restrict the remedies available to the Trustee as a result of such Event of Default.

**Section 9.09. Trustee May Own Bonds.** The Trustee, either as principal or agent, or in any other commercial or banking capacity, may engage in or be interested in any financial or other transaction with the Issuer or the Borrower, and may act as depository, trustee, or agent for any committee or body of Owners of the Bonds secured hereby or other obligations of the Issuer as it were not Trustee hereunder.

**Section 9.10. Resignation by Trustee.** The Trustee may resign and be discharged of the trusts created by this Indenture by executing an instrument in writing resigning such trust and specifying the date when such resignation is expected to take effect, and filing the same with the Issuer and a copy thereof with Owners and the Borrower not less than 30 days before the date specified in such instrument when such resignation is expected to take effect. Upon receiving such notice of resignation, the Issuer shall appoint a successor trustee acceptable to the Issuer, the Servicer, the Financial Monitor and to the Significant Bondholder, if any, by written instrument, in duplicate, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor Trustee and the Borrower. Any resignation of the Trustee shall become

effective only upon acceptance of appointment by the successor Trustee. A resigning Trustee shall be entitled to retain from any funds in its custody (other than the Rebate Fund or funds representing proceeds of the Bonds), an amount equal to its unpaid fees and expenses incurred pursuant to this Indenture.

**Section 9.11. Removal of Trustee.** The Trustee (or Paying Agent or Registrar) may be removed for cause at any time, or without cause upon 15 days' written notice, by an instrument or concurrent instruments in writing delivered to the Trustee and the Borrower and signed by the Issuer with the consent of the Financial Monitor (which consent of the Financial Monitor shall not be unreasonably withheld and which approval shall be deemed given after 15 days if the Financial Monitor has not responded to a request from the Issuer for such approval). Removal shall not be effective until such time as a successor Trustee has been appointed and has accepted such appointment. The Issuer, the Borrower, the Financial Monitor, or the Significant Bondholder may at any time petition any court of competent jurisdiction for the removal for cause of the Trustee. If no successor Trustee has been appointed and has accepted appointment within 15 days following delivery of the required notices of removal, the removed Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

**Section 9.12. Appointment of Successor Trustee in the Event of Removal.**

(a) In the event the Trustee shall be removed, or be dissolved, or if its property or affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy or for any other reason, a vacancy shall forthwith and ipso facto exist in the office of Trustee and within a period of 60 days thereafter, a successor shall be appointed by the Owners of a majority of the aggregate principal amount of the Bonds then Outstanding and the Financial Monitor and such successor Trustee shall be approved in writing by the Issuer. If the Owners and the Financial Monitor fail to make such appointment within such period, the Issuer with the consent of the Borrower (provided an Event of Default does not exist) may make such appointment. Appointments made under this Section 9.12 shall be made, by an instrument or instruments in writing filed at the offices of the Issuer, signed by such Owners and the Financial Monitor or by their attorneys-in-fact duly authorized or by the Issuer, as the facts may require. Copies of each instrument shall be promptly delivered by the Issuer to the predecessor Trustee and to the Trustee so appointed and to the Borrower.

(b) Until a successor Trustee shall be appointed as herein authorized, the Issuer, by a written order filed among the records of the Issuer, may appoint a Trustee to fill such vacancy. Such appointment shall be effective upon the giving of notice in writing thereof to the Borrower, the Bondholders, and the Trustee to be removed. Any new Trustee so appointed by the Issuer shall immediately and without further act be superseded by a Trustee appointed in the manner above provided.

**Section 9.13. Qualifications of Successor Trustee.** Every successor in the trust hereunder appointed pursuant to the foregoing provisions shall be a trust company or a bank in good standing with trust powers and subject to examination by federal or state agency, having a combined capital and surplus of not less than \$75,000,000 and qualified to exercise trust powers in the State.

**Section 9.14. Concerning Successor Trustee.** Any successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Issuer an instrument accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become duly vested with all the estates, property, rights, powers, trusts, duties and obligations of its predecessor in the trust hereunder, with like effect as if originally named Trustee. Upon request of such successor Trustee, the Trustee ceasing to act and the successor Trustee shall execute and deliver an instrument prepared by the successor Trustee transferring to such successor Trustee all the estates, property, rights, powers and trusts hereunder of the Trustee so ceasing to act, and the Trustee so ceasing to act shall pay over or deliver to the successor Trustee all money, records and other assets at the time held by it hereunder, except amounts equal to its unpaid Trustee Fee and expenses incurred pursuant to this Indenture.

**Section 9.15. Merger of Trustee.** Any corporation into which any Trustee hereunder may be merged or with which it may be consolidated or which substantially all of its corporate trust assets or business have been sold or assigned, or any corporation resulting from any merger or consolidation to which any Trustee hereunder shall be a party, shall be a successor Trustee under this Indenture or a successor Registrar or Paying Agent (as the case may be), (a) in the case of a merger or consolidation, without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding, or (b) in the case of the sale or assignment of substantially all of the Trustee's corporate trust business, upon such corporation's delivering to the Issuer and the Borrower an instrument acknowledging its agreement to be bound by the terms hereof.

**Section 9.16. Intervention by Trustee.** In any judicial proceeding to which the Issuer is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners of the Bonds, the Trustee may intervene on behalf of the Owners of the Bonds and shall, upon receipt of indemnity satisfactory to it, do so if requested in writing by the Owners of a majority in principal amount of Bonds then Outstanding if permitted by the court having jurisdiction in the premises. Notwithstanding anything in this Indenture to the contrary, the Trustee shall not initiate or commence any proceeding for a declaratory judgment, interpleader or similar action to determine the rights and duties of the parties hereunder or of the Owners and holders of the Bonds, without prior written notice to the Issuer.

**Section 9.17. Duties Determined Solely by Indenture and Agreement.** The duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture and the duties of the Trustee to enforce the Loan Agreement on behalf of the Issuer shall be determined by the express provisions of the Loan Agreement, and the Trustee shall not be liable except for the performance of such duties and obligations

as are specifically set forth in this Indenture or the Loan Agreement, and no implied covenants or obligations shall be read into this Indenture or the Loan Agreement against the Trustee. Notwithstanding any provision herein, Trustee shall have no duty or obligation to the Borrower except as may be expressly set forth in this Indenture or the Loan Agreement.

**Section 9.18. Paying Agent.** The Issuer hereby appoints Wilmington Trust, National Association as Paying Agent under this Indenture and the Paying Agent hereby accepts such appointment. So long as any of the Bonds remain Outstanding, the Issuer shall cause a Paying Agent to perform the duties imposed upon the Paying Agent hereunder. The Paying Agent shall at all times be a corporation authorized to act as Paying Agent and be subject to supervision or examination by federal or state authority. If the Paying Agent resigns or is removed by the Issuer pursuant to Section 9.11, the Issuer shall appoint a successor Paying Agent, and shall cause such successor to mail notice of such appointment to all Owners of Bonds as the names and addresses of such Owners appear upon the registration books hereinabove provided for; provided, however, that the Paying Agent may not resign its duties hereunder unless and until a successor Paying Agent is appointed by the Issuer and approved by the Issuer hereunder. The Trustee shall pay the fees and expenses of the Paying Agent from amounts received by the Trustee in payment of the Trustee Fee and expenses hereunder. The provisions of this Indenture relating to the duties, responsibilities and standard of care as well as the protections and immunities of the Trustee are equally applicable to the Paying Agent.

**Section 9.19. Repair, Replacement or Reconstruction of Project.** In the event of any damage, destruction, taking or condemnation of the Project, the Trustee shall within five Business days of the Trustee's receipt of notice of such damage, destruction, taking or condemnation provide written notice to the Borrower, the Servicer, the Owners and the Issuer and take all actions required of the Trustee pursuant to Section 4.04 or Section 6.04, as the case may be, and the Mortgage.

**Section 9.20. Powers May Be Vested in Separate or Co-Trustee.**

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture, and in particular in case of the enforcement of an Event or Default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or to 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 9.20 are adapted to these ends.

(b) 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, interest and lien expressed or intended by this



Indenture 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 the 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.

(c) Should any instrument in writing from the Issuer be required by 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 instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. 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 9.21. Access to Books and Records of the Trustee.** The Servicer, the Financial Monitor and the Significant Bondholder, if any, shall be entitled to inspect the books and records of the Trustee related to the Bonds and the Project during normal business hours and upon 48 hours written notice.

**Section 9.22. Assignment of Rights of Action.** The Issuer has assigned to the Trustee its right, title and interest in and to certain of the Loan Documents and related instruments in connection with the issuance of the Bonds (the “Assigned Documents”). The Trustee is also a party to the Servicing Agreement and Financial Monitoring Agreement relating to the Bonds. The Trustee shall have the right to enforce the rights of the Issuer under the Assigned Documents and the right to enforce the obligations of the other parties to the Assigned Documents on behalf of the Issuer. The Trustee shall take such actions with respect to the Assigned Documents, the Servicing Agreement and the Financial Monitoring Agreement only at the direction (and subject to the Trustee’s right to indemnity), of the Significant Bondholder, if any, or the Owners of a majority in aggregate principal amount of the Bonds then Outstanding.

**Section 9.23. Registrar.** The Issuer hereby appoints Wilmington Trust, National Association as Registrar under this Indenture and the Registrar hereby accepts such appointment. So long as any of the Bonds remain Outstanding, the Issuer shall cause a Registrar to perform the duties imposed upon the Registrar hereunder. The Registrar shall at all times be a corporation authorized to act as Registrar and be subject to supervision or examination by federal or state authority. If the Registrar resigns or is removed pursuant to Section 9.11, the Issuer shall appoint a successor Registrar, and shall cause such successor to mail notice of such appointment to all Owners of Bonds as the names and addresses of such Owners appear upon the registration books hereinabove provided for; provided, however, that the Registrar may not resign its duties hereunder unless and until a successor Registrar is appointed hereunder. The Trustee shall pay the fees and expenses of the Registrar from the Trustee Fee received by the Trustee in

payment of the Trustee's fees and expenses hereunder. The provisions of this Indenture relating to the duties, responsibilities and standard of care as well as the protections and immunities of the Trustee are equally applicable to the Registrar.

## **ARTICLE X**

### **INSTRUMENTS EXECUTED BY OWNERS**

**Section 10.01. Proof of Ownership.** Any request, direction, consent or other instrument in writing required or permitted by this Indenture to be signed or executed by Owners may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Owners in person or by agent appointed by an instrument in writing. Proof of the execution of any such instrument and of the ownership of Bonds shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee with regard to any action taken by it under such instrument if made in the following manner: The fact and date of the execution by any person of any such instrument may be proved by the certificate of any officer in any jurisdiction who, by the laws thereof, has power to take acknowledgments within such jurisdiction, to the effect that the person signing such instrument acknowledged before him the execution thereof, or by an affidavit of a witness to such execution.

**Section 10.02. Effect of Execution.** Nothing contained in this ARTICLE X shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which it may deem sufficient. Any request or consent of the Owner of any Bond shall bind every future Owner of the same Bond in respect of anything done by the Trustee in pursuance of such request or consent.

## **ARTICLE XI**

### **MODIFICATION OF INDENTURE AND AGREEMENT**

**Section 11.01. Modification.** This Indenture shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of this ARTICLE XI. An executed copy of each modification or amendment of this Indenture or of any other Loan Document which required the consent of Owners in accordance with Section 11.03 or Section 11.06, as the case may be, shall be distributed to the Significant Bondholder and each Owner requesting the same at the address supplied to the Trustee by such Owner or its authorized representative.

**Section 11.02. Supplemental Indenture.** The Issuer may, with the approval of the Trustee from time to time and at any time, without the consent of any Owners of Bonds (but with a copy thereof to Significant Bondholder and each Owner requesting the same at the address supplied to the Trustee by such Owner or its authorized representative), execute and deliver indentures supplemental to this Indenture for the following purposes:

(a) To specify and determine any matters and things relative to Bonds which are not contrary to or inconsistent with this Indenture and which, as determined by the Trustee, shall not adversely affect the interests of the Owners of Bonds, which may be based on an opinion of counsel;

(b) To cure any defect, omission, conflict or ambiguity in this Indenture;

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

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

(e) To confirm, as further assurance, any pledge under, and the subjection to any claim, lien or pledge created or to be created by this Indenture of the revenues arising from the pledge of any money, securities, funds or other parts of the Trust Estate;

(f) To implement secondary market disclosure provisions regarding the Bonds, the Project and the Borrower;

(g) To comply with regulations or rulings issued with respect to the Code, to the extent determined necessary or desirable in Bond Counsel's opinion;

(h) To make any change herein that is required by any Rating Agency in order to obtain a rating by such Rating Agency on any of the Bonds; or

(i) Amend, alter, modify or supplement this Indenture in a manner necessary or desirable in connection with either the use or maintenance of the Book-Entry System for the Bonds, or the issuance of certificated Bonds following the termination of the Book-Entry System for the Bonds.

Before the Issuer shall enter into any supplemental indenture pursuant to this Section 11.02, a Favorable Opinion of Bond Counsel shall have been filed with the Trustee and the Issuer.

**Section 11.03. [Reserved].**

**Section 11.04. Consent of Owners.**

(a) Subject to the terms and provisions contained in this Section 11.04 and not otherwise, the Owners of a majority of the aggregate principal amount of Bonds then Outstanding of each series of Bonds affected by such amendment, shall have the right from time to time to consent to and approve the execution and

delivery by the Issuer and the acceptance by the Trustee, with the consent of the Borrower if required pursuant to Section 11.05, of any supplemental indenture as shall be deemed necessary or desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture; provided, however, that nothing herein contained shall permit, or be construed as permitting without the consent of the Owners of all Bonds then Outstanding which would be affected by such proposed change (i) a change in the times, amounts or currency of payment of the principal of, premium, if any, or interest on any Outstanding Bond, or a reduction in the principal amount or redemption or tender price, or the dates or terms of redemption of any Outstanding Bond, or the rate of interest thereon, or (ii) the creation of a claim or lien upon, or a pledge of, the revenues derived from the Borrower under the Loan Agreement or other part of the Trust Estate or (iii) a change to the preference or priority of any Bond or Bonds over any other Bond or Bonds, or (iv) any change adversely affecting the tax-exempt status of any Bond, or (v) a reduction in the aggregate principal amount of the Bonds required for consent under this Indenture, or (vi) the release of the lien of the Trust Estate or any portion thereof prior to the payment of all Bonds Outstanding.

(b) If at any time the Issuer and the Trustee shall determine to execute and deliver any supplemental indenture for any of the purposes of this Section 11.04, unless waived by the Owners of a majority of the aggregate principal amount of Bonds then Outstanding, the Trustee shall cause notice of the proposed supplemental indenture to be provided to the Owners at the expense of the Borrower.

(c) Within six months after the date of such notice or at such other period as is specified in such notice, the Issuer may execute and deliver and the Trustee may accept such supplemental indenture in substantially the form described in such notice only if there shall have first been filed with the Trustee (i) the written consents of Owners of not less than the percentage of Bonds required by Section 11.04(a), (ii) the written consent of the Borrower, and (iii) a Favorable Opinion of Bond Counsel. A written consent by any Owner of any Bond executed on or subsequent to the date of such notice shall be binding upon any subsequent Owner of such Bond.

(d) If the Owners of not less than the percentage of Bonds required by this Section 11.04 shall have consented to and approved the adoption thereof as herein provided, no Owner of any Bond shall have any right to object to the execution, delivery and acceptance of such supplemental indenture, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Issuer from adopting the same or from taking any action pursuant to the provisions thereof.

**Section 11.05. Effect of Supplemental Indenture.** Upon the execution, delivery and acceptance of any supplemental indenture pursuant to the provisions of this ARTICLE XI, this Indenture shall be, and be deemed to be, modified, amended or supplemented in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Issuer, the Trustee and all Owners of Bonds then Outstanding shall be thereafter determined, exercised and enforced under this Indenture subject in all respects to such modifications and amendments.

**Section 11.06. Consent of the Borrower.** Except as otherwise provided in Section 11.02, anything herein to the contrary notwithstanding, any supplemental indenture under this ARTICLE XI shall not become effective unless and until the Borrower shall have consented in writing to such supplemental indenture, and to such revisions of the Loan Documents to be effected, if any, which approval shall not be unreasonably withheld or delayed; provided, however, during any period as to which an Event of Default under any Loan Document has occurred and is continuing, the foregoing consent right of the Borrower shall not be required unless such supplemental indenture affects the rights, powers or obligations of the Borrower under the Loan Documents.

**Section 11.07. Consent to Modifications of Loan Documents.** The Issuer, the Trustee and the Borrower may, without the consent of the Owners (but with a copy thereof to the Significant Bondholder and each Owner requesting the same at the address supplied to the Trustee by such Owner or its authorized representative), consent to any amendment, change or modification of the Loan Documents as may be required (a) for the purpose of curing any ambiguity or formal defect or omission, (b) in connection with any other change therein if, in the determination of the Trustee, which may be based upon an opinion of counsel, such change does not adversely affect the interests of the Owners of the Bonds, or (c) pursuant to Section 2.10 of the Loan Agreement or Section 8 of the Regulatory Agreement. Any amendment to the Loan Documents governed by this ARTICLE XI shall be accompanied by a Favorable Opinion of Bond Counsel.

**Section 11.08. [Reserved].**

**Section 11.09. Notice and Approval by Owners.** Except as provided in Section 7.02, Section 11.07 and Section 11.11, the Issuer and the Trustee shall not consent to any amendment, change or modification of the Loan Documents without giving the notice and receiving the written approval or consent of the Owners of Bonds in the same manner and to the same extent as provided for in Section 11.04 with respect to supplemental indentures and the opinions of counsel required therein. If at any time the Issuer and the Borrower shall request the consent of the Trustee to any such proposed amendment, change or modification, the Trustee shall cause notice of such proposed amendment, change or modification to be given in the same manner as provided by Section 11.04 with respect to supplemental indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the designated corporate trust office of the Trustee for inspection by all Owners.

**Section 11.10. Discretion of Trustee To Execute Supplemental Indenture.** In each and every case provided for in this ARTICLE XI, the Trustee shall be entitled to exercise its reasonable discretion in determining whether or not to execute any proposed supplemental indenture, if the rights, obligations and interests of the Trustee would be adversely affected, and the Trustee shall not be under any responsibility or liability to the Issuer or to any Owner or to anyone whomsoever for its refusal in good faith to enter into any such supplemental indenture if such supplemental indenture is deemed by it to be contrary to the provisions of this ARTICLE XI.

**Section 11.11. Amendments, Etc., to Loan Documents Not Requiring Consent of Owners.** The Trustee shall without the consent of or notice to the Owners (but with a copy thereof to the Significant Bondholder and each Owner requesting the same at the address supplied to the Trustee by such Owner or its authorized representative), consent to any amendment, change or modification of Loan Documents (other than the Loan Agreement and the Regulatory Agreement) as may be required (a) by the provisions of the Loan Documents and this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission therein, (c) so as to more precisely identify the Project described in the Loan Documents and this Indenture or substitute or add additional improvements or equipment to the Project or additional rights or interests in property acquired in accordance with the provisions of the Loan Documents, (d) in connection with any amendment to this Indenture pursuant to Section 11.02, or (e) in connection with any other change therein which is not to the prejudice of Trustee or, in the determination of the Trustee, which may be based upon an opinion of counsel, not to the prejudice of the Owners.

## ARTICLE XII

### DISCHARGE OF INDENTURE

#### **Section 12.01. Cessation of Interest of Owners.**

(a) When (i) the Bonds secured hereby have become due and payable in accordance with their terms or otherwise as provided in this Indenture, and (A) absent an Event of Default, the whole amount of the principal, premium, if any, and the interest so due and payable upon all Bonds, or (B) upon an Event of Default, the amount specified in Section 8.04, in each case, has been paid or (ii) the Trustee holds money or Government Securities, or a combination of both, that are sufficient in the aggregate to pay all amounts owing on all Bonds then Outstanding to the maturity date or dates of such Bonds or to the date or dates specified for the redemption thereof, and (iii) in the case of either (i) or (ii), if the Bonds are due and payable by reason of a call for redemption, irrevocable instructions to call the Bonds for redemption shall have been given by the Trustee, and sufficient funds shall also have been provided or provisions made for paying all other obligations payable hereunder by the Issuer and the Borrower, including the Administrative Expenses, then and in that case the right, title and interest of the Trustee and Owners in the funds and accounts created by this Indenture, shall thereupon cease, terminate, and become void, and the Trustee

shall surrender the Trust Estate to the Borrower in accordance with Section 5.12 and shall deliver to the Borrower or such person, body or agency as may be entitled to receive the same, any balance remaining in any fund or account hereunder. Otherwise this Indenture shall be, continue and remain in full force and effect. Notwithstanding the foregoing, if money, Government Securities, or a combination of both, are deposited with and held by the Trustee, as hereinabove provided, and within 30 days after such money, Government Securities, or a combination of both have been deposited with such Trustee, the Trustee, in addition to observing the requirements of ARTICLE IV, causes a notice signed by the Trustee to be mailed to the Owners at their addresses as they appear on the books of the Trustee, which notice shall set forth: (x) the date designated for the redemption or payment of the Bonds or, if such date is more than 45 days prior to the date of such notice, that the Trustee has received an irrevocable direction to send notice of redemption for the date designated for the redemption or payment of the Bonds, (y) a description of the money and Government Securities so held by such Trustee, and (z) that this Indenture has been defeased in accordance with the provisions of this Section 12.01, the Trustee shall retain such rights, powers and privileges under this Indenture as may be necessary and convenient in respect of the Bonds for the payment of the principal, interest and any premium on which such money and/or Government Securities have been deposited and in and to the funds and accounts into which such money and/or Government Securities have been deposited.

(b) All money and Government Securities held by the Trustee pursuant to this Section 12.01 shall be held in trust and applied to the payment, when due, of the Bonds and obligations payable therewith. For purposes of this Article, Government Securities shall be deemed to be sufficient to pay or redeem Bonds on a specified date if the principal of and the interest on such Government Securities, when due, will be sufficient to pay on such date the principal of and the premium, if any, and interest on such Bonds due on such date, as verified by an independent certified public accountant selected by the Borrower and approved by the Significant Bondholder.

(c) Upon payment or provisions for payment in full of the Bonds and the other obligations in accordance with the provisions of this Section 12.01 and upon the Borrower's request, the Issuer and the Trustee, at the Borrower's expense, shall release the Borrower from any further obligation to make payment under the Loan Agreement and the other Loan Documents.

(d) Notwithstanding the payment in full of the Bonds, the discharge of the Indenture, and the termination or expiration of the Notes and the Loan Agreement, all provisions in this Indenture concerning the tax-exempt status of the Bonds (including, but not limited to provisions concerning rebate), the interpretation of this Indenture, the governing law, the forum for resolving disputes, the Trustee's and Issuer's right to rely on facts or certificates, the immunity of the Issuer's directors, officers, counsels, advisors, and agents, and

the Issuer's lack of pecuniary liability, shall survive and remain in full force and effect.

**Section 12.02. Trustee's Rights Reserved.** Any discharge under this ARTICLE XII shall be without prejudice to the right of the Trustee to be paid reasonable compensation for all services rendered by it hereunder and all its reasonable expenses, charges and other disbursements and those of its attorneys, agents and employees, incurred on and about the administration of the trusts hereby created and the performance of its powers and duties hereunder.

## **ARTICLE XIII**

### **MISCELLANEOUS**

**Section 13.01. Successors of the Issuer.** In the event of the dissolution of the Issuer, all the covenants, stipulations, promises and agreements contained in this Indenture by or on behalf of, or for the benefit of, the Issuer, shall bind or inure to the benefit of the successors of the Issuer from time to time and any entity, governing body, board, commission, agency or instrumentality to whom or to which any power or duty of the Issuer shall be transferred. In the event no successor shall exist, then all rights and duties of the Issuer may be exercised and such duties fulfilled by the Trustee, but the Trustee shall be under no obligation to exercise and fulfill such rights and duties.

**Section 13.02. Purpose; Exclusive Benefit.** Except as herein otherwise specifically provided, nothing in this Indenture expressed or implied is intended or shall be construed to confer upon any person, firm or agency, other than the Issuer, the Trustee, the Owners of the Bonds and the Borrower, any right, remedy or claim under or by reason of this Indenture, this Indenture being intended to be for the sole and exclusive benefit of such parties.

**Section 13.03. Severability.** In case any one or more of the provisions of this Indenture or of the Bonds for any reason, is held to be illegal or invalid such illegality or invalidity shall not affect any other provisions of this Indenture or the Bonds and this Indenture and the Bonds shall be construed and enforced to the end that the transactions contemplated hereby be effected and the obligations contemplated hereby be enforced as if such illegal or invalid provisions had not been contained therein.

**Section 13.04. Limitation of Liability of the Issuer and Its Directors, Officers, Employees and Agents.**

**(a) THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE REVENUES AND OTHER FUNDS AND MONEYS PLEDGED AND ASSIGNED UNDER THE INDENTURE. NEITHER THE ISSUER, ANY OF ITS PROGRAM PARTICIPANTS, THE STATE OF CALIFORNIA (THE "STATE"), NOR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER, TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE) NOR ANY PUBLIC AGENCY SHALL IN**



**ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS SET FORTH IN THE INDENTURE, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE ISSUER HAS NO TAXING POWER.**

(b) No covenant, agreement or obligation contained herein shall be deemed to be a covenant, agreement or obligation of any present or future director, officer, employee or agent of the Issuer in his individual capacity, and neither the directors of the Issuer nor any officer or employee thereof executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. No director, officer, employee or agent of the Issuer shall incur any personal liability with respect to any other action taken by him pursuant to this Indenture or the Act, provided such director, officer, employee or agent acts in good faith.

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

(d) No recourse shall be had for the payment of the principal of or premium or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in this Indenture against any past, present or future officer, director, employee or agent of the Issuer, or of any

successor public corporation, as such, either directly or through the Issuer or any successor public corporation, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, directors, employees or agents, as such, is hereby expressly waived and released as a condition of, and consideration for, the execution of this Indenture and the issuance of such Bonds.

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

(f) None of the directors of the Issuer, any officer of the Issuer, any person executing the Bonds shall be liable personally on the Bonds by reason of the issuance thereof. The Bonds are issued pursuant to the Act, and the Bonds shall so state on their face.

**Section 13.05. Governing Law.** The laws of the State shall govern the construction and enforcement of this Indenture and of all the Bonds issued hereunder.

**Section 13.06. Notices.**

(a) All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, postage prepaid, or dispatched by telegram or electronic transmission, addressed, unless notice of a different address is given as provided in this Section 13.06 to the applicable Notice Address as set forth in ARTICLE I or, in the case of Owners, to the address as shown in the register maintained by the Registrar as provided in Section 2.06. The Trustee shall notify the Borrower, the Servicer and the Financial Monitor of any change of Significant Bondholders and of each Owner that has requested notice of certain events under the Indenture and Loan Documents, together with the addresses of such Significant Bondholders or Owners requesting notice.

(b) The Trustee shall confirm each funds transfer instruction received in the name of a party by means of the security procedure selected by such party and communicated to the Trustee through a signed certificate in the form set forth in Schedule 1 hereto, which upon receipt by the Trustee shall become a part of this Indenture. Once delivered to the Trustee, Schedule 1 may be revised or rescinded

only by a writing signed by an authorized representative of the signing party. Such revisions or rescissions shall be effective only after actual receipt and following such period of time as may be necessary to afford the Trustee a reasonable opportunity to act on it. If a revised Schedule 1 or a rescission of an existing Schedule 1 is delivered to the Trustee by an entity that is a successor-in-interest to a party, such document shall be accompanied by additional documentation satisfactory to the Trustee showing that such entity has succeeded to the rights and responsibilities of the party under this Agreement.

The parties understand that the Trustee's inability to receive or confirm funds transfer instructions pursuant to the security procedure selected by such party may result in a delay in accomplishing such funds transfer, and agree that the Trustee shall not be liable for any loss caused by any such delay.

**Section 13.07. Payments Due on Saturday, Sunday and Holidays.** In any case where the date of maturity of interest on or principal of, the Bonds, or the date fixed for redemption of any Bonds, shall be a Saturday, Sunday, legal holiday or a day on which banking institutions are authorized by law to close, then payment of interest or principal or redemption price need not be made on such date but may be made on the next succeeding Business day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

**Section 13.08. Interest Not To Exceed Maximum Interest Rate.** The Issuer covenants that interest on the Bonds shall not be borne at a rate in excess of the Maximum Interest Rate; and if interest shall be borne at a rate in excess of the Maximum Interest Rate it shall be automatically reduced to such Maximum Interest Rate. Any excess interest paid shall be credited as a principal payment on the Bond. The Trustee shall have no responsibility to determine if the interest rate on the Bonds is in compliance with this Section 13.08.

**Section 13.09. Electronic Transactions.** The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, teletypes, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law. Any records maintained electronically must comply with Section 4.01 of Revenue Procedure 97-22.

**Section 13.10. Survival of Certain Provisions.** Notwithstanding anything in this Indenture to the contrary, any provisions of this Indenture which relate to the maturity of the Bonds, interest payments and dates therefor, optional and mandatory redemption provisions, credit against sinking fund payments, exchange, transfer and cancellation of the Bonds, replacement of mutilated, destroyed, lost or stolen Bonds, the safekeeping and cancellation of the Bonds, non-presentment of the Bonds, the holding of money in trust, and repayments to the Borrower and the Issuer from Indenture funds and accounts, and the rebate of amounts to the United States of America, then the rights, remedies and

duties of the Trustee and the Registrar in connection with all of the foregoing shall remain in effect and be binding upon the Trustee, the Registrar, the Paying Agent and the Owners notwithstanding the release and discharge of this Indenture. The provisions of this Section 13.10 shall survive the release, discharge and satisfaction of this Indenture.

**Section 13.11. Captions.** The captions or headings in this Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Indenture.

**Section 13.12. Counterparts.** This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Execution page follows]

IN WITNESS WHEREOF, the Golden State Finance Authority has caused this Indenture to be signed in its name and behalf, and to evidence its acceptance of the trusts hereby created, Wilmington Trust, National Association, as Trustee, has caused this Indenture to be signed in its name and behalf by its duly authorized officer, all as of the date first above written.

GOLDEN STATE FINANCE AUTHORITY,  
as Issuer

By: \_\_\_\_\_  
Authorized Signatory

[Issuer Signature Page to Trust Indenture – Harmony Court Bakersfield Apartments]

WILMINGTON TRUST,  
NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Authorized Officer

[Trustee Signature Page to Trust Indenture – Harmony Court Bakersfield Apartments]

**EXHIBIT A**

**[FORM OF SERIES E-1 BOND]**

RE-1-1

\$3,730,000

**THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. THE TRANSFERABILITY HEREOF IS RESTRICTED BY THE TERMS OF THE INDENTURE DESCRIBED HEREIN**

**GOLDEN STATE FINANCE AUTHORITY  
SENIOR HOUSING REVENUE BONDS  
(HARMONY COURT BAKERSFIELD APARTMENTS PROJECT)  
2016 SERIES E-1**

<b>Interest Rate</b>	<b>Maturity Date</b>	<b>Dated Date</b>	<b>CUSIP No.</b>
5.00%	December 1, 2033	November 21, 2016	[_____]

REGISTERED OWNER: AMERICA FIRST MULTIFAMILY INVESTORS, L.P.

PRINCIPAL AMOUNT: \$3,730,000

THREE MILLION SEVEN HUNDRED THIRTY THOUSAND DOLLARS

The **GOLDEN STATE FINANCE AUTHORITY** (the “Issuer”), a joint exercise of powers agency duly organized and validly existing under the laws of the State of California (the “State”), for value received, hereby promises to pay (but only out of the revenues and other assets hereinafter referred to) to the registered owner specified above or registered assigns (subject to any right of prior redemption hereinafter mentioned), on the Maturity Date specified above, the Principal Amount specified above, and to pay interest hereon from the initial date of delivery or, if this Bond has been authenticated subsequent to the first Interest Payment Date, from the most recent Interest Payment Date to which interest has been paid or provided for under the Indenture (provided that if this Bond is authenticated on or after a Record Date and before the related Interest Payment Date, interest shall accrue from that Interest Payment Date) at the Interest Rate per annum specified above, payable monthly on each Interest Payment Date, until paid at maturity or upon earlier redemption or acceleration, calculated on the basis of a 360-day year comprised of twelve 30-day months, all as further described in the Indenture, to the person whose name appears on the registration books as of the fifteenth day of the month next preceding any Interest Payment Date (a “Record Date”).

Principal of, and premium, if any, on this Bond are payable in such coin or currency of the United States as at time of payment is legal tender for payment of private and public debts (if this Bond is not held under a book-entry system described in the Indenture) upon presentation and surrender of this Bond at the designated corporate trust office of Wilmington Trust, National Association duly organized, existing and authorized under the laws of the United States of America, with trust powers, as trustee, registrar and paying agent, in Costa Mesa, California (the

“Trustee,” “Registrar” and “Paying Agent”), or its successor in trust, provided that payments of principal pursuant to a mandatory sinking fund redemption (other than the final installment due at maturity) shall be made without presentation and surrender of the Bond. Interest on this Bond shall be computed on the basis of a 360-day year comprised of twelve 30-day months. Payment of interest shall be made by check or draft mailed to the address of the person entitled thereto as such address shall appear on the registration books (hereinafter defined), except in the case of owners of \$1,000,000 or more in aggregate principal amount of Bonds, to whom interest may be payable by wire transfer upon written instruction to the Trustee prior to the Record Date preceding any Bond Payment Date.

This Bond is one of a duly authorized issue of revenue bonds of the Issuer, aggregating \$3,730,000 in principal amount, designated as Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-1 (the “Series E-1 Bonds”). Simultaneously with the issuance of the Series E-1 Bonds, the Issuer will issue and deliver \$1,997,000 aggregate principal amount of its Subordinate Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-2 (the “Series E-2 Bonds,” and together with the Series E-1 Bonds, the “Bonds” and each as a “Series”), as more fully set forth in the Indenture. The Bonds are issued under and pursuant to a Trust Indenture dated as of November 1, 2016 (as amended and supplemented from time to time, the “Indenture”), between the Issuer and the Trustee.

This Bond is senior in priority, right and time of payment to amounts due and payable on the Series E-2 Bonds (the “Subordinate Bonds”). For so long as any Bonds remain Outstanding under the Indenture and any other amount senior in priority to the payment of Subordinate Bonds, as set forth in the Indenture, is due and remains unpaid: (i) no payment shall be made on or with respect to the Subordinate Bonds and no Event of Default shall exist with respect to the Subordinate Bonds if the Trustee or the Paying Agent does not hold sufficient funds to pay amounts then due and payable with respect to the Senior Bonds and other senior-in-priority obligations as aforesaid, (ii) no remedy shall be available to Owners of Subordinate Bonds if a default in payment of the principal of, premium, if any, or interest on, the Subordinate Bonds then exists, and (iii) no payment shall be made on or with respect to the Subordinate Bonds during any period in which an Event of Default with respect to the Senior Bonds exists.

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



**CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE ISSUER HAS NO TAXING POWER.**

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

All capitalized terms used in this Bond and not defined herein shall have the meaning ascribed thereto in the Indenture.

This Bond is secured under the Indenture which assigns to the Trustee for the benefit of Owners all the right, title and interest of the Issuer in and under the Loan Agreement, the Notes, the Mortgage, certain funds and accounts held by the Trustee under the Indenture, payments made pursuant to the Loan Agreement and other funds and money initially or subsequently pledged as part of the trust estate (the "Trust Estate"), and any deed in lieu of foreclosure delivered pursuant to the Indenture.

**This Bond shall be subject to optional and mandatory redemption as set forth in the Indenture.**

Except as otherwise provided in the Indenture, notice of redemption is required to be given by first class mail, postage prepaid, not less than (i) with respect to the Series E-1 Bonds, 30 days, but not more than 45 days prior to, the date fixed for redemption, and (ii) with respect to the Series E-2 Bonds, not less than 10 days prior to the date fixed for redemption, to the registered Owners of the Bonds to be redeemed at the address of such registered Owners as shown on the bond register. Receipt of such notice of redemption shall not be a condition precedent to such redemption and failure so to notify the registered Owner shall not affect the validity of the proceedings for the redemption of Bonds with respect to which no such failure occurred. Such notice shall be given in the name of the Issuer, shall be dated, shall set forth the principal amount of the Bonds Outstanding which shall be called for redemption and shall specify the redemption date and the redemption price. If less than all of the Bonds shall be called for redemption, the notice shall set forth the required descriptive items as described in the Indenture and the Bonds Outstanding to be redeemed and the portion of the principal amount thereof to be redeemed. Such notice shall further state that on the redemption date the Bonds will be payable at the designated corporate trust office of the Paying Agent and from such date interest shall cease to accrue.

Notice of redemption having been given as provided in the preceding paragraph (or as otherwise provided in the Indenture) and all conditions precedent specified in such notice, if any,

having been satisfied, the Bonds or the portion thereof so to be redeemed shall become due and payable on the date fixed for redemption at the redemption price specified therein plus any accrued and unpaid interest to the redemption date, and upon presentation and surrender thereof at the place specified in such notice. On and after the redemption date (unless the payment of the redemption price and accrued and unpaid interest payable on the redemption date is not made), (i) such Bonds (or portion thereof) shall cease to bear interest and (ii) such Bonds (or portion thereof) shall no longer be considered as Outstanding under the Indenture.

The registered Owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default thereunder, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

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

This Bond may be exchanged, and its transfer may be effected, only by the registered Owner hereof in person or by his attorney duly authorized in writing at the designated corporate trust office of the Registrar, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon exchange or registration of such transfer a new registered bond or bonds of the same maturity and interest rate and of Authorized Denomination or Denominations for the same aggregate principal amount will be issued in exchange for this Bond.

The Issuer and the Trustee may deem and treat the person in whose name this Bond shall be registered on the bond register as the absolute Owner hereof for the purpose of receiving payment of or on account of principal hereof and premium and interest due hereon and for all other purposes, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

**THIS BOND MAY BE TRANSFERRED IN WHOLE OR IN PART BY THE OWNER ONLY AS PROVIDED IN SECTION 2.11 OF THE INDENTURE.**

Reference is hereby also made to the Loan Agreement, the Indenture and the Mortgage, including all supplements thereto, for a description of the property encumbered and assigned, the provisions, among others, with respect to the nature and extent of the security, the rights of the Issuer, and the rights, duties and obligations of the Borrower, the Trustee, and the Owners of the Bonds, and the terms upon which the Bonds are issued and secured.

This Bond shall be governed by and construed in accordance with the laws of the State without regard to the choice of law rules thereof.

The terms of this Bond are subject in all respects to the terms of the Indenture. If there is a conflict between the provisions of this Bond and the Indenture, the Indenture shall control.

**IT IS HEREBY CERTIFIED AND DECLARED** that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the

Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be duly executed by the manual or facsimile signature of its Chair or the manual signature of any Authorized Signatory and attested by the manual or facsimile signature of its Secretary or the manual signature of any Authorized Signatory all as of the Dated Date above.

GOLDEN STATE FINANCE AUTHORITY,  
as Issuer

By: \_\_\_\_\_  
[Chair] [Title of Authorized  
Signatory]

ATTEST:

\_\_\_\_\_  
[Secretary] [Title of Authorized Signatory]

CERTIFICATE OF AUTHENTICATION

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

Date of Registration and Authentication: \_\_\_\_\_.

WILMINGTON TRUST,  
NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Authorized Officer

ASSIGNMENT

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

---

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

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

---

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

Dated: \_\_\_\_\_

Signature Guaranteed:

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

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

**EXHIBIT B**

**[FORM OF SERIES E-2 BOND]**

RE-2-1

\$1,997,000

**THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. THE TRANSFERABILITY HEREOF IS RESTRICTED BY THE TERMS OF THE INDENTURE DESCRIBED HEREIN**

**GOLDEN STATE FINANCE AUTHORITY  
SUBORDINATE SENIOR HOUSING REVENUE BONDS  
(HARMONY COURT BAKERSFIELD APARTMENTS PROJECT)  
2016 SERIES E-2**

<b>Interest Rate</b>	<b>Maturity Date</b>	<b>Dated Date</b>
Closing Date: 5.50%	December 1, 2018	November 21, 2016
As of December 1, 2017: 8.00%		

REGISTERED OWNER: AMERICA FIRST MULTIFAMILY INVESTORS, L.P.

PRINCIPAL AMOUNT: \$1,997,000

ONE MILLION NINE HUNDRED NINETY SEVEN THOUSAND DOLLARS

The **GOLDEN STATE FINANCE AUTHORITY** (the “Issuer”), a joint exercise of powers agency duly organized and validly existing under the laws of the State of California (the “State”), for value received, hereby promises to pay (but only out of the revenues and other assets hereinafter referred to) to the registered owner specified above or registered assigns (subject to any right of prior redemption hereinafter mentioned), on the Maturity Date specified above, the Principal Amount specified above, and to pay interest on the outstanding principal amount thereof from and including the date of initial delivery of the Bonds or, if this Bond has been authenticated subsequent to the first Interest Payment Date, from the most recent Interest Payment Date to which interest has been paid or provided for under the Indenture (provided that if this Bond is authenticated on or after a Record Date and before the related Interest Payment Date, interest shall accrue from that Interest Payment Date) at the Interest Rate per annum specified above, payable monthly on each Interest Payment Date, until paid at maturity or upon earlier redemption or acceleration, calculated on the basis of a 360-day year comprised of twelve 30-day months, all as further described in the Indenture, to the person whose name appears on the registration books as of the fifteenth day of the month next preceding any Interest Payment Date (a “Record Date”).

Principal of, and premium, if any, on this Bond are payable in such coin or currency of the United States as at time of payment is legal tender for payment of private and public debts (if this Bond is not held under a book-entry system described in the Indenture) upon presentation and surrender of this Bond at the designated corporate trust office of Wilmington Trust, National

Association duly organized, existing and authorized under the laws of the United States of America, with trust powers, as trustee, registrar and paying agent, in Costa Mesa, California (the “Trustee,” “Registrar” and “Paying Agent”), or its successor in trust, provided that payments of principal pursuant to a mandatory sinking fund redemption (other than the final installment due at maturity) shall be made without presentation and surrender of the Bond. Interest on this Bond shall be computed on the basis of a 360-day year comprised of twelve 30-day months. Payment of interest shall be made by check or draft mailed to the address of the person entitled thereto as such address shall appear on the registration books (hereinafter defined), except in the case of owners of \$1,000,000 or more in aggregate principal amount of Bonds, to whom interest may be payable by wire transfer upon written instruction to the Trustee prior to the Record Date preceding any Bond Payment Date.

This Bond is one of a duly authorized issue of revenue bonds of the Issuer, aggregating \$1,997,000 in principal amount, designated as Subordinate Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-2 (the “Series E-2 Bonds”). Simultaneously with the issuance of the Series E-2 Bonds, the Issuer will issue and deliver \$3,730,000 aggregate principal amount of its Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-1 (the “Series E-1 Bonds,” and together with the Series E-2 Bonds, the “Bonds” and each as a “Series”), as more fully set forth in the Indenture. The Bonds are issued under and pursuant to a Trust Indenture dated as of November 1, 2016 (as amended and supplemented from time to time, the “Indenture”), between the Issuer and Wilmington Trust, National Association (the “Trustee”).

The Series E-2 Bonds (collectively, the “Subordinate Bonds”) are subordinated in priority, right and time of payment to (a) amounts due and payable on the Series E-1 Bonds, (b) amounts due and payable from the Bond Fund pursuant to the Indenture, and (c) amounts due and payable pursuant to certain remedies provisions of the Indenture. For so long as any Series E-1 Bonds remain Outstanding under the Indenture and any other amount senior in priority to the payment of Subordinate Bonds, as set forth in the Indenture, is due and remains unpaid: (i) no payment shall be made on or with respect to the Subordinate Bonds and no Event of Default shall exist with respect to the Subordinate Bonds if the Trustee or the Paying Agent does not hold sufficient funds to pay amounts then due and payable with respect to Series E-1 Bonds and other senior-in-priority obligations as aforesaid, (ii) no remedy shall be available to Owners of Subordinate Bonds if a default in payment of the principal of, premium, if any, or interest on, the Subordinate Bonds then exists, and (iii) no payment shall be made on or with respect to the Subordinate Bonds during any period in which an Event of Default with respect to the Series E-1 Bonds exists.

**THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE REVENUES AND OTHER FUNDS AND MONEYS PLEDGED AND ASSIGNED UNDER THE INDENTURE. NEITHER THE ISSUER, ANY OF ITS PROGRAM PARTICIPANTS, THE STATE OF CALIFORNIA (THE “STATE”), NOR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER, TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE) NOR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER**



**EXCEPT AS SET FORTH IN THE INDENTURE, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE ISSUER HAS NO TAXING POWER.**

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

All capitalized terms used in this Bond and not defined herein shall have the meaning ascribed thereto in the Indenture.

This Bond is secured under the Indenture which assigns to the Trustee for the benefit of Owners all the right, title and interest of the Issuer in and under the Loan Agreement, the Notes, the Mortgage, certain funds and accounts held by the Trustee under the Indenture, payments made pursuant to the Loan Agreement and other funds and money initially or subsequently pledged as part of the trust estate (the "Trust Estate"), and any deed in lieu of foreclosure delivered pursuant to the Indenture.

**This Bond shall be subject to optional and mandatory redemption as set forth in the Indenture.**

Except as otherwise provided in the Indenture, notice of redemption is required to be given by first class mail, postage prepaid, not less than (i) with respect to the Series E-1 Bonds, 30 days, but not more than 45 days prior to, the date fixed for redemption, and (ii) with respect to the Series E-2 Bonds, not less than 10 days prior to the date fixed for redemption, to the registered Owners of the Bonds to be redeemed at the address of such registered Owners as shown on the bond register. Receipt of such notice of redemption shall not be a condition precedent to such redemption and failure so to notify the registered Owner shall not affect the validity of the proceedings for the redemption of Bonds with respect to which no such failure occurred. Such notice shall be given in the name of the Issuer, shall be dated, shall set forth the principal amount of the Bonds Outstanding which shall be called for redemption and shall specify the redemption date and the redemption price. If less than all of the Bonds shall be called for redemption, the notice shall set forth the required descriptive items as described in the Indenture and the Bonds Outstanding to be redeemed and the portion of the principal amount thereof to be redeemed. Such notice shall further state that on the redemption date the Bonds

will be payable at the designated corporate trust office of the Paying Agent and from such date interest shall cease to accrue.

Notice of redemption having been given as provided in the preceding paragraph and all conditions precedent specified in such notice, if any, having been satisfied, the Bonds or the portion thereof so to be redeemed shall become due and payable on the date fixed for redemption at the redemption price specified therein plus any accrued and unpaid interest to the redemption date, and upon presentation and surrender thereof at the place specified in such notice. On and after the redemption date (unless the payment of the redemption price and accrued and unpaid interest payable on the redemption date is not made), (i) such Bonds (or portion thereof) shall cease to bear interest and (ii) such Bonds (or portion thereof) shall no longer be considered as Outstanding under the Indenture.

The registered Owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default thereunder, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

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

This Bond may be exchanged, and its transfer may be effected, only by the registered Owner hereof in person or by his attorney duly authorized in writing at the designated corporate trust office of the Registrar, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon exchange or registration of such transfer a new registered bond or bonds of the same maturity and interest rate and of Authorized Denomination or Denominations for the same aggregate principal amount will be issued in exchange for this Bond.

The Issuer and the Trustee may deem and treat the person in whose name this Bond shall be registered on the bond register as the absolute Owner hereof for the purpose of receiving payment of or on account of principal hereof and premium and interest due hereon and for all other purposes, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

**THIS BOND MAY BE TRANSFERRED IN WHOLE OR IN PART BY THE OWNER ONLY AS PROVIDED IN SECTION 2.11 OF THE INDENTURE.**

Reference is hereby also made to the Loan Agreement, the Indenture and the Mortgage, including all supplements thereto, for a description of the property encumbered and assigned, the provisions, among others, with respect to the nature and extent of the security, the rights of the Issuer, and the rights, duties and obligations of the Borrower, the Trustee, and the Owners of the Bonds, and the terms upon which the Bonds are issued and secured.

This Bond shall be governed by and construed in accordance with the laws of the State without regard to the choice of law rules thereof.

The terms of this Bond are subject in all respects to the terms of the Indenture. If there is a conflict between the provisions of this Bond and the Indenture, the Indenture shall control.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be duly executed by the manual or facsimile signature of its Chair or the manual signature of any Authorized Signatory and attested by the manual or facsimile signature of its Secretary or the manual signature of any Authorized Signatory all as of the Dated Date above.

GOLDEN STATE FINANCE AUTHORITY,  
as Issuer

By: \_\_\_\_\_  
[Chair] [Title of Authorized  
Signatory]

ATTEST:

\_\_\_\_\_  
[Secretary] [Title of Authorized Signatory]

CERTIFICATE OF AUTHENTICATION

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

Date of Registration and Authentication: \_\_\_\_\_.

WILMINGTON TRUST,  
NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Authorized Officer

ASSIGNMENT

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

---

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

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

---

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

Dated: \_\_\_\_\_

Signature Guaranteed:

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

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

**EXHIBIT C**  
**SINKING FUND SCHEDULES**

[ATTACHED]

## SERIES E-1 BONDS



**EXHIBIT D**

**FORM OF PROJECT FUND REQUISITION**

SENIOR HOUSING REVENUE BONDS  
(HARMONY COURT BAKERSFIELD APARTMENTS PROJECT)  
2016 SERIES E-1

and

SUBORDINATE SENIOR HOUSING REVENUE BONDS  
(HARMONY COURT BAKERSFIELD APARTMENTS PROJECT)  
2016 SERIES E-2

TO: Wilmington Trust, National Association, Trustee under the Trust Indenture dated as of November 1, 2016 (the "Trust Indenture"), with the Golden State Finance Authority.

You are requested to disburse funds from the [Bond Proceeds Subaccount] [Borrower Contribution Subaccount] of the Project Fund in the amount(s), to the person(s) and for the purpose(s) set forth in this requisition. The terms used in this requisition shall have the meanings ascribed to them in the Trust Indenture.

1. REQUISITION NO:

2. The name and address of the person, firm or corporation to whom each such payment is due and the purpose of such payment are (SEE ATTACHED INVOICES) (or, if such payment has been made by the Borrower, the Trustee is hereby requested to reimburse the Borrower directly for such payment).

3. AMOUNT TO BE DISBURSED: \$

4. The Borrower certifies that:

(a) the costs set forth in 3 above were made or incurred or financed and were necessary for the Project and were made or incurred in accordance with the construction contracts, plans and specifications heretofore in effect;

(b) the amount paid or to be paid, as set forth in this Requisition, represents a part of the amount due and payable for the Project Costs and such payment was not paid in advance of the time, if any, fixed for payment and is being made in accordance with the terms of any contracts applicable to the Project and in accordance with usual and customary practice under existing conditions;

(c) no part of the Project Costs requisitioned in this Requisition has been included within the Project Costs referred to in any Requisition previously filed with the Trustee under the provisions of the Indenture;

(d) \$\_\_\_\_\_ of the total amount requisitioned is a Project Cost, which is a proper charge against and properly payable from the Project Fund established under the Indenture;

(e) the amount remaining in the Project Fund, together with expected investment earnings on the Project Fund not required to be deposited into the Rebate Fund and other funds available to the Borrower (including capital contributions to be made by the Borrower's partners), after payment of the amount requested in this Requisition, will be sufficient to pay the entire construction cost (other than costs which have been agreed will be deferred and/or paid out of cash flow, if any) of completing the Project substantially in accordance with the construction contracts, plans and specifications and building permits therefor, if any, currently in effect;

(f) the full amount of each disbursement from the Bond Proceeds Subaccount will be applied to pay or to reimburse the Borrower for the payment of Project Costs and, after taking into account the proposed disbursement, at least 97% of the aggregate of all disbursements of Net Proceeds of the Bonds from the Bond Proceeds Subaccount will have been applied to pay or reimburse the Borrower for the payment of Qualified Project Costs;

(g) no event of default has occurred and is continuing under the Loan Agreement, the Regulatory Agreement, the Tax Certificate, the Mortgage or the Notes and nothing has occurred to the knowledge of the Borrower that would prevent the performance of its obligations under the Indenture, the Loan Agreement, the Regulatory Agreement, the Deed of Trust or the Notes;

(h) the Borrower is current in the provision of information required by Sections 5.05, 5.09 and 5.10 of the Loan Agreement; and

(i) the Borrower is in compliance with the Financial Monitoring Agreement.

Requested this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**HARMONY BAKERSFIELD AR, L.P.,**  
a California limited partnership

By: WCH Affordable XXI, LLC,  
a California limited liability company,  
Its Managing General Partner

By: Western Community Housing, Inc.,  
a California nonprofit public benefit corporation,  
its sole member and manager

By: \_\_\_\_\_  
Name: Graham Espley-Jones  
Title: President

By: HCHP Affordable Multi-Family, LLC,  
a California limited liability company,  
Its Administrative General Partner

By: \_\_\_\_\_  
Name: Robert W. Tetrault  
Title: Senior Vice President

APPROVED BY:

BURLINGTON CAPITAL REAL ESTATE, LLC,  
a Nebraska limited liability company

By: \_\_\_\_\_  
Name:  
Title:

[Signature Page – Project Fund Requisition – Harmony Court Bakersfield Apartments]

**EXHIBIT E**

**FORM OF COSTS OF ISSUANCE REQUISITION**

SENIOR HOUSING REVENUE BONDS  
(HARMONY COURT BAKERSFIELD APARTMENTS PROJECT)  
2016 SERIES E-1

and

SUBORDINATE SENIOR HOUSING REVENUE BONDS  
(HARMONY COURT BAKERSFIELD APARTMENTS PROJECT)  
2016 SERIES E-2

TO: Wilmington Trust, National Association, Trustee under the Trust Indenture dated as of November 1, 2016 (the "Trust Indenture"), with the Golden State Finance Authority.

This Requisition is made pursuant to ARTICLE VI of the Trust Indenture to pay the Costs of Issuance. The Trustee is hereby directed to pay sums out of the Administrative Expenses Account of the Bond Fund as follows:

**Payee**

**Amount**

Dated:

By: \_\_\_\_\_

## EXHIBIT F-1

### FORM OF PURCHASER LETTER (NON-CUSTODIAL INVESTOR)

Golden State Finance Authority  
Sacramento, CA

Wilmington Trust, National Association  
Costa Mesa, CA

Re: \$3,730,000 Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-1; and

\$1,997,000 Subordinate Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-2

Ladies and Gentlemen:

We have agreed to purchase, and the Golden State Finance Authority (the “Issuer”) has agreed to sell to us, all of the above captioned Obligations at the aggregate purchase price of \$5,727,000, with no accrued interest. Such Obligations will bear interest and have the terms, redemption provisions be subject to certain transfer restrictions, and be secured as described in that certain Trust Indenture, dated as of November 1, 2016 (the “Indenture”) between the Issuer and Wilmington Trust, National Association, as trustee (the “Trustee”), all subject to receipt by you and by us of such opinions, certificates, and other documents as disclosed in the Indenture or other documentation, as you or we may reasonably require to establish the validity and legality of the Obligations. In addition, no event shall have occurred which in the reasonable opinion of the undersigned materially adversely affects the fair market value of the Obligations. Capitalized terms utilized herein and not defined shall have the meanings ascribed in the Indenture.

We hereby represent and warrant that:

(1) we are an institutional purchaser that is a “qualified institutional buyer” within the meaning of Rule 144A of the Securities Act of 1933 (the “1933 Act”) (“Qualified Institutional Buyer”) or an “accredited investor” as described in Rule 501(a)(1), (2), (3) or (7) of Regulation D promulgated under the 1933 Act (“Accredited Investor”), and, if the we are buying for an account for which the we are acting as fiduciary or agent, such account was established by and the beneficial owner thereof is a Qualified Institutional Buyer or Accredited Investor; and we are aware that any sale of the Obligations may only be made to Qualified Institutional Buyers or Accredited Investors;

(2) we have made our own inquiry and analysis with respect to the Obligations and the security therefor, and other material factors affecting the security and payment of the Obligations, and we have not relied upon any statement by you, your officers, directors, or employees, or your financial consultants or legal advisors in connection with such inquiry or analysis or in connection with the offer and sale of the Obligations;

(3) we have either been furnished with or have had access to all necessary information that we desire in order to enable us to make an informed decision concerning purchase of the Obligations, and we have had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the purpose for which the proceeds of the Obligations will be utilized, and the security therefor, so that we have been able to make an informed decision to purchase the Obligations;

(4) we are purchasing the Obligations for our 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 Obligations, or any part or interest thereof, except to persons who are able to and do confirm in writing to us and to you the representations contained in paragraphs (1) through (3) and this paragraph to the same extent as if such paragraphs referred to such persons;

(5) we further acknowledge that we are responsible for consulting with our advisors concerning any obligations, including, but not limited to, any obligations pursuant to federal and state securities and income tax laws, we may have with respect to subsequent purchasers of the Obligations if and when any such future disposition of the Obligations may occur;

(6) we understand that the Obligations (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) will carry no rating from any rating service, and (d) will not be readily marketable;

(7) we understand that the Issuer is not required to make any continuing disclosure pursuant to Rule 15c2-12(b) (the Rule) of the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, because the Obligations are being sold pursuant to a private placement with the Purchasers (as defined in the Resolution), generally in denominations of \$100,000 or any integral multiple of \$1,000 in excess thereof, to less than thirty-five sophisticated investors, and therefore the Rule is not applicable to the offering of the Obligations; provided, however, the Issuer agrees to deliver to us its audited financial statements within 180 days of each fiscal year end and the Borrower has covenanted and agreed to provide financial information on an on-going basis as described in the Loan Agreement; and

(8) we understand and agree that the foregoing representations and warranties will be relied upon by Kutak Rock LLP, Bond Counsel to the Issuer, in rendering its opinion on the exemption of the Obligations from the registration requirements under existing federal and state securities laws.

Very truly yours,

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT F-2

### FORM OF PURCHASER LETTER (CUSTODIAL INVESTOR)

Golden State Finance Authority  
Sacramento, CA

Wilmington Trust, National Association  
Costa Mesa, CA

Re: \$3,730,000 Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-1; and

\$1,997,000 Subordinate Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-2

Ladies and Gentlemen:

The undersigned representative of \_\_\_\_\_ (the “Transferee”), as [custodian] [Trustee] under the [identify custodial or trust arrangement] (the “Agreement”) pursuant to which the \$5,727,000 of the aggregate principal amount of the Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-1 and/or Subordinate Senior Housing Revenue Bonds (Harmony Court Bakersfield Apartments Project) 2016 Series E-2 (collectively, the “Bonds”) have been deposited with the Transferee by the [depositor] [trustor] thereunder (the “Transferor”), does hereby certify, represent and warrant for the benefit of the Golden State Finance Authority (the “Issuer”) and Wilmington Trust, National Association, as trustee (the “Trustee”), that each beneficial owner under the Loan Agreement is required to be either a “qualified institutional buyer” as defined in Rule 144A under the Securities Act of 1933, as amended (a “QIB”), or an “accredited investor” as defined in Rule 501(a)(1), (2), (3), (7) or (8) Regulation D promulgated under the Securities Act of 1933, as amended (an “Accredited Investor”) [or will purchase interests under the Loan Agreement having a rating of not less than “A” from a Rating Agency].

The Transferee hereby acknowledges, represents, and warrants to, and agrees with, the Issuer and the Trustee, as follows:

1. The Transferee is acquiring the Bonds solely as [custodian] [Trustee] under the Loan Agreement.

2. [if interests under the Loan Agreement are rated less than “A”: The Transferor has represented to the Transferee that beneficial owners of the Bonds will have such knowledge and experience in business and financial matters including (a) the evaluation of residential real estate developments such as the Project, (b) the evaluation of capabilities of Borrower (as hereinafter defined) to develop, operate and maintain the Project, and (c) the analysis purchase and ownership of multifamily housing revenue bonds, tax-exempt securities and other investment vehicles similar in character to the Bonds, so as to enable them to understand and evaluate the risks of such investments and form an investment decision with respect thereto and they will be able to bear the risk of such investment for an indefinite period and to afford a complete loss thereof].



3. The Transferee understands that the Transferor has been provided with, and has had the opportunity to review, all documents relating to the issuance of the Bonds by the Issuer. The Transferee understands that the Transferor has either been supplied with or has had access to information, including financial statements, and other financial information and has had the opportunity to ask questions and receive answers from individuals concerning Harmony Bakersfield AR, L.P. (the “Borrower”), and its credit standing, the Loan Agreement, dated as of November 1, 2016 between the Issuer and the Borrower (the “Loan Agreement”), the Trust Indenture, dated as of November 1, 2016, between the Trustee and the Issuer (the “Indenture”), and the Bonds.

4. The Transferee understands that the Transferor has had the opportunity to ask questions and receive answers concerning the terms and conditions of the Bonds and to obtain any additional information the Transferor may request.

5. THE TRANSFEREE UNDERSTANDS THAT THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE REVENUES AND OTHER FUNDS AND MONEYS PLEDGED AND ASSIGNED UNDER THE INDENTURE. NEITHER THE ISSUER, ANY OF ITS PROGRAM PARTICIPANTS, THE STATE OF CALIFORNIA (THE “STATE”), NOR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER, TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE) NOR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS SET FORTH IN THE INDENTURE, AND NONE OF THE BONDS OR ANY OF THE ISSUER’S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE ISSUER HAS NO TAXING POWER.

6. The Transferee understands that in connection with any proposed transfer or exchange of Bonds, there must be delivered to the Trustee a letter of the subsequent transferee substantially in the form of *Exhibit F-1* or *Exhibit F-2* to the Indenture, whichever is applicable.

7. The Transferee understands that the Transferor has conducted its own investigation to the extent it deemed necessary and has been offered an opportunity to have made available to it any and all such information it might request from the Issuer and the Borrower. On this basis, it is agreed by the Transferee that the Transferee is not relying on the Issuer or any other party or person, other than the Transferor, to undertake the furnishing or verification of information related to the referenced transaction.

This letter and the representations and agreements contained herein are made for your benefit.

IN WITNESS WHEREOF, I have hereunto set my hand the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

TRANSFeree

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**MUST BE SIGNED BY ACTUAL TRANSFeree.  
MAY NOT BE SIGNED BY NOMINEE OR AGENT.**