

TRUST AGREEMENT

by and among the

ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS

the

TOWN OF MORAGA

and

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

Dated as of February 1, 2010

**Town of Moraga
2010 Certificates of Participation
(Town Hall Improvement Project)**

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THIS TRUST AGREEMENT, dated as of February 1, 2010 (this “Trust Agreement”) by and among ABAG FINANCE AUTHORITY FOR NONPROFIT CORPORATIONS, a joint exercise of powers authority (the “Authority”) duly organized and existing under the laws of the State of California (the “State”), the TOWN OF MORAGA, a municipal corporation duly organized and existing under the Constitution and laws of the (the “Town”), and U.S. Bank National Association, a national banking association duly organized and existing under and by virtue of the laws of the United States of America, as Trustee (the “Trustee”), is made with regard to the following recitals:

WHEREAS, the Authority is authorized to assist the Town, as a “Member Jurisdiction” of the Association of Bay Area Governments, in financing projects and programs consisting of certain public facilities and improvements; and

WHEREAS, the Town has determined that the consummation of the transactions contemplated in the Facility Lease (as hereinafter defined) and this Trust Agreement will result in public benefits to the residents of the Town; and

WHEREAS, the Authority is empowered to irrevocably assign and transfer to the Trustee, certain of its rights under the Facility Lease, including without limitation its right to receive Base Rental Payments (as hereinafter defined);

WHEREAS, in order to reduce the financing cost of the Project (as hereinafter defined) and to help accelerate the financing of the Project, fractional undivided interests in the Base Rental Payments, each to include the principal and interest components of such Payments, shall be evidenced through the preparation, execution and delivery of the “Town of Moraga 2010 Certificates of Participation (Town Hall Improvement Project)” (the “Certificates”);

WHEREAS, in order to provide for the preparation, execution and delivery of the Certificates (as hereinafter defined), to establish and declare the terms and conditions upon which fractional undivided interests in the principal and interest components of Base Rental Payments are evidenced by the Certificates and secured, each of the Authority and the Town has authorized the execution and delivery of this Trust Agreement, the Facility Lease and the Site Lease (as hereinafter defined);

WHEREAS, the Town has determined that all acts and proceedings required by law necessary to make the Certificates, when executed and delivered by the Trustee, the duly created evidence of fractional undivided interests in the principal and interest components of the Base Rental Payments, such Base Rental Payments being the duly created and legal obligations of the Town payable in accordance with the terms of the Facility Lease and of this Trust Agreement, and to constitute this Trust Agreement a valid and binding agreement of the parties hereto 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 Trust Agreement have been in all respects duly authorized;

NOW, THEREFORE, THIS TRUST AGREEMENT is made in order to secure the payment of the principal and interest components of the Base Rental Payments evidenced by the Certificates as executed and delivered from time to time under this Trust Agreement,

according to their tenor, and to secure the performance and observance of all the covenants and conditions therein, herein and in the Facility Lease set forth, and to declare the terms and conditions upon and subject to which the Certificates are to be executed and delivered, and in consideration of the promises and of the mutual covenants herein contained and of the purchase and acceptance of the Certificates by the Owners thereof, and for other valuable consideration, the receipt and sufficiency whereof are hereby acknowledged; therefore, the Authority and the Town do hereby covenant and agree with the Trustee, for the benefit of the respective Owners from time to time of the Certificates, as follows:

ARTICLE I

DEFINITIONS; EQUAL SECURITY

SECTION 1.01 Definitions. Unless the context otherwise requires, the terms defined in this section shall for all purposes hereof and of any Supplemental Trust Agreement and of any certificate, opinion, request or other document herein or therein mentioned have the meanings herein specified:

Additional Payments

The term “Additional Payments” means all amounts payable by the Town to any person pursuant to Section 3.02 of the Facility Lease, expressly excluding the Base Rental Payments.

Architects

The term “Architects” means the architects, engineers or designers of the Town Hall Improvement Project, a component of the Project, and any successor or successors to any thereof.

Authority

The term “Authority” means ABAG Finance Authority for Nonprofit Corporations, a joint exercise of powers authority duly organized and existing under the laws of the State, and its authorized successors and assigns.

Authorized Defeasance Securities

The term “Authorized Defeasance Securities” means (a) non-callable direct obligations of the United States of America (“Treasuries”), (b) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as a custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated or (c) pre-refunded municipal obligations rated “AAA” and “Aaa” by Standard & Poor’s Corporation and Moody’s Investors Service, respectively, at the time of purchase or investment.

Authorized Representative

The term “Authorized Representative,” (a) when used with respect to the Town, means the Mayor, the Town Manager, the Administrative Services Director or any other person designated in writing by the Town Council as an Authorized Representative of the Town for purposes of this Trust Agreement, and (b) when used with respect to the Authority, means the President, the Executive Director, the Chief Financial Officer or any other person designated in writing by the Board of Directors of the Authority for purposes of this Trust Agreement.

Base Rental Payments

The term “Base Rental Payments” means the semi-annual payments to be made by the Town pursuant to Article III of the Facility Lease.

Board of Directors of the Authority

The term “Board of Directors of the Authority” means the persons who are appointed and acting as the members of the Board of Directors of the Authority in accordance with the By-Laws of the Authority.

Business Day

The term “Business Day” means any day other than a Saturday or Sunday or day upon which the Corporate Trust Office is authorized by law to remain closed.

By-Laws of the Authority

The term “By-Laws of the Authority” means the Bylaws of ABAG Finance Authority for Nonprofit Corporations, as the same may be amended from time to time in accordance with the provisions thereof.

Certificates, Serial Certificates, Term Certificates

The term “Certificates” means the Town of Moraga 2010 Certificates of Participation authorized by and at any time Outstanding pursuant hereto and executed and delivered in accordance with Article II hereof. The term “Serial Certificates” means Certificates with respect to which no sinking fund payments are provided. The term “Term Certificates” means Certificates which are payable in part on or before their specified maturity dates from sinking fund payments established for that purpose and calculated to retire such Certificates on or before their specified maturity dates.

Certificate of Completion

The term “Certificate of Completion” means a Certificate of the Town certifying that the Project has been completed, stating the date of such completion and stating that all of the Project Costs thereof and incidental expenses have been determined and paid (or that all of such costs and expenses have been paid less specified claims which are subject to dispute and for

which a retention in the Improvement Fund is to be maintained in the full amount of such claims until such dispute is resolved).

Certificate of the Authority

The term “Certificate of the Authority” means an instrument in writing signed by an Authorized Representative of the Authority.

Certificate of the Town

The term “Certificate of the Town” means an instrument in writing signed by an Authorized Representative of the Town.

Certificate Year

The term “Certificate Year” means the twelve-month period ending on October 1 of each year to which reference is made, except that the initial Certificate Year for the Certificates shall commence on the Closing Date and end on October 1, 2010.

Closing Date

The term “Closing Date” means the date on which the Certificates are delivered to the original purchaser thereof in exchange for payment of the purchase price for the Certificates.

Code

The term “Code” means the Internal Revenue Code of 1986, as amended from time to time.

Construction Contract

The term “Construction Contract” means any contract between the Town and a Contractor or seller for the construction or acquisition of any portion of the Project.

Contractor

The term “Contractor” means the construction contractor performing services under a Construction Contract for any portion of the Project and any successor thereto.

Corporate Trust Office

The term “Corporate Trust Office” means the corporate trust office of the Trustee located at One California Street, Suite 1000, San Francisco, California 94111, Attention: Corporate Trust Services, or such other office as may be designated in writing from time to time by the Trustee; and with respect to the delivery of the Certificates under the terms of this Trust Agreement, so long as U.S. Bank National Association is the Trustee hereunder, at such other office as may be designated in writing from time to time by the Trustee.

Delivery Costs

The term “Delivery Costs” means all items of expense directly or indirectly payable by or reimbursable to the Town and related to the authorization, execution and delivery of the Facility Lease, the Trust Agreement and the execution, sale and delivery of the Certificates, including, but not limited to, costs of preparation and reproduction of documents, costs of rating agencies and costs to provide information required by rating agencies, filing and recording fees, initial fees and charges of the Trustee, legal fees and charges, fees and disbursements of consultants and professionals, fees and expenses of the underwriter, fees and charges for preparation, execution and safekeeping of the Certificates, fees of the Authority and any other cost, charge or fee in connection with the original execution and delivery of the Certificates.

Delivery Costs Fund

The term “Delivery Costs Fund” means the fund by that name established pursuant to Section 2.11(b).

Event of Default

The term “Event of Default” means the events enumerated and described in Section 8.01.

Facility Lease

The term “Facility Lease” means that certain lease, entitled “Facility Lease,” by and between the Authority as lessor and the Town as lessee dated as of February 1, 2010, as supplemented, modified or amended from time to time pursuant to the provisions of this Trust Agreement and the Facility Lease.

Financial Newspaper

The term “Financial Newspaper” means The Wall Street Journal or The Bond Buyer, or any other newspaper or journal printed in the English language, publishing financial news and selected by the Trustee, which shall be under no liability by reason of such selection.

Fiscal Year

The term “Fiscal Year” means the twelve-month period terminating on June 30 of each year, or any other annual accounting period hereafter selected and designated by the Town as its Fiscal Year in accordance with applicable law.

Improvement Fund

The term “Improvement Fund” means the fund by that name established and administered by the Town pursuant to Section 2.11.

Independent Financial Advisor

The term “Independent Financial Advisor” means financial advisor or financial advisory firm of recognized national standing in the field of providing financial advice to local government agencies with respect to municipal bond transactions or like municipal securities transactions, appointed and paid by the Town, and who, or each of whom --

- (1) is in fact independent and not under the domination of the Town;
- (2) does not have a substantial financial interest, direct or indirect, in the operations of the Town or the Certificates; and
- (3) is not connected with the Town as a member, officer or employee of the Town, but who may be regularly retained to provide financial advisory services to the Town.

Information Services

The term “Information Services” means Financial Information, Inc.’s “Daily Called Certificate Service,” 30 Montgomery Street, 10th Floor, Jersey City, New Jersey 17302, Attention: Editor; Kenny Information Services’ “Called Certificate Service,” 65 Broadway, 16th Floor, New York, New York 10006; Moody’s “Municipal and Government,” 575077 Center Drive, Suite 150, Charlotte, North Carolina 28217, Attention: Municipal News Reports; and Standard & Poor’s “Called Certificate Record,” 55 Water Street, New York, New York 10041; or to such other addresses and/or such other services providing information with respect to called bonds as the Town may designate in a Written Request of the Town delivered to the Trustee.

Inspectors’ Certificate

The term “Inspectors’ Certificate” means a certificate signed by the Architects or by a duly authorized construction inspector or inspectors, who may be an employee of the Town, with the approval of the Town Manager of the Town or of the Town Manager’s duly authorized representative, endorsed thereon.

Interest Account

The term “Interest Account” means the account by that name established, maintained and administered by the Trustee within the Revenue Fund pursuant to Section 4.03.

Interest Payment Date

The term “Interest Payment Date” means a date on which interest with respect to the Certificates is paid, being, with respect to the Certificates, April 1 and October 1 of each year to which reference is made, commencing October 1, 2010.

Maximum Annual Debt Service, Annual Debt Service, Debt Service, Average Annual Debt Service

The term “Maximum Annual Debt Service” means the sum of (1) the interest falling due with respect to then Outstanding Certificates, assuming that all then Outstanding Serial Certificates are retired as scheduled and that all then Outstanding Term Certificates are prepaid or purchased or retired at maturity at the times of and in amounts equal to the annual minimum sinking fund account payments applicable to such Term Certificates, but excluding any interest funded from the proceeds of any series of Certificates, if any, and deposited in the Interest Account to pay interest, and (2) the principal amount with respect to the then Outstanding Serial Certificates falling due by their terms; all as computed for the twelve-month period ending October 1 in which such sum is largest.

The term “Annual Debt Service” means the sum of said items (1) and (2), as computed for the twelve-month period ending October 1 to which reference is made.

The term “Debt Service” means the sum of said items (1) and (2).

The term “Average Annual Debt Service” means total Debt Service, divided by the number of twelve-month periods ending on October 1 (including any fractional period) remaining from the first maturity date of any Outstanding Certificate to the last maturity date of any Outstanding Certificate.

Moody’s Investors Service

The term “Moody’s Investors Service” means Moody’s Investors Service, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “Moody’s Investors Service” shall be deemed to refer to any other nationally recognized securities rating agency selected by the Town.

Opinion of Counsel

The term “Opinion of Counsel” means a written opinion of counsel of recognized national standing in the field of law relating to municipal bonds or like municipal securities, appointed and paid by the Town.

Outstanding

The term “Outstanding,” when used as of any particular time with reference to Certificates, means (subject to the provisions of Section 7.02) all Certificates except:

- (1) Certificates previously cancelled by the Trustee or surrendered to the Trustee for cancellation;
- (2) Certificates paid or deemed to have been paid within the meaning of Section 9.01; and

(3) Certificates in lieu of or in substitution for which other Certificates have been executed and delivered by the Trustee pursuant to this Trust Agreement.

Owner

The term “Owner” means any person who is the registered owner of any Outstanding Certificate.

Permitted Encumbrances

The term “Permitted Encumbrances” means (1) Items 1-6, inclusive, at pages 2 and 3, and Item 7, at page 3 of that certain Preliminary Report, dated as of December 3, 2009, issued by First American Title Insurance Company; Order No. NCS-422416-CC; (2) the Site Lease; (3) the Facility Lease, as it may be amended from time to time in accordance with its terms; and (4) this Trust Agreement, as it may be amended from time to time in accordance with its terms.

Permitted Investments

The term “Permitted Investments” means any of the following to the extent then permitted by the laws of the State and the Town’s adopted Investment Policy, as shown by a Certificate of the Town delivered to the Trustee:

- (1) (a) Direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America (“United States Treasury Obligations”), (b) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (c) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (d) evidences of ownership of proportionate interests in future interest and principal payments on obligations described above held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated;
- (2) The listed obligations of government-sponsored agencies which are not backed by the full faith and credit of the United States of America:
 - (a) Federal Home Loan Mortgage Corporation (FHLMC) participation certificates (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts) senior debt obligations;

- (b) Farm Credit Banks (formerly: Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives) consolidated system-wide bonds and notes;
 - (c) Federal Home Loan Banks (FHL Banks) consolidated debt obligations;
 - (d) Federal National Mortgage Association (FNMA) senior debt obligations mortgage-backed securities (excluded are stripped mortgage securities which are purchased at prices exceeding their principal amounts);
 - (e) Student Loan Marketing Association (SLMA) debt obligations; and
 - (f) Government National Mortgage Association (GNMA) senior debt obligations mortgage-backed securities
- (3) Bankers' acceptances (having maturities of not more than 180 days), certificates of deposit or other deposit accounts of any bank (including the Trustee) the short-term obligations of which are rated "A-1" or better by Standard & Poor's Corporation;
 - (4) Deposits the aggregate amount of which are fully insured by the Federal Deposit Insurance Corporation (FDIC), in banks which have capital and surplus of at least \$5 million;
 - (5) Commercial paper (having original maturities of not more than 270 days) rated "A-1" by Standard & Poor's Corporation and "Prime-1" by Moody's Investors Service;
 - (6) The Local Agency Investment Fund (Sections 53600-53609 of the Government Code of the State), as now in effect or as may be amended or recodified from time to time; provided, that such investment is held in the name and to the credit of the Trustee; and provided further, that the Trustee may restrict such investment if required to keep monies available for the purposes of the Trust Agreement.

Permitted Investments may not include corporate debt other than commercial paper rated in the highest category by the rating agencies. Moneys in the Reserve Account may only be invested in Permitted Investments with a term to maturity not exceeding five years.

Principal Account

The term "Principal Account" means the account by that name established, maintained and administered by the Trustee within the Revenue Fund pursuant to Section 4.03.

Principal Payment Dates

The term “Principal Payment Dates” means October 1 in each of the years for which a principal amount of Certificates is scheduled to be paid, commencing with October 1, 2011, as set forth in Section 4.03.

Project

The term “Project” means the acquisition of real property and the improvements thereon at 331 Rheem Boulevard, Moraga (the “Acquisition Component”), and construction and installation of improvements, including seismic upgrades to the building situated on the Site, currently owned, occupied and in use by the Town as its Town hall, and remodeling to a portion of the second floor interior space of the building (the “Town Hall Improvement Component”).

Project Costs

The term “Project Costs” means all costs of acquisition, design and construction of the Project and of expenses incident thereto (or for making reimbursements to the Town or any other person, firm or Authority for such costs theretofore paid by him or it), including, but not limited to, architectural and engineering fees and expenses, interest during construction, furnishings and equipment, tests and inspection, surveys, land acquisition, insurance premiums, losses during construction not insured against because of deductible amounts, costs of accounting, feasibility, environmental and other reports, inspection costs, permit fees, filing and recording costs, costs of escrow for the Acquisition Component, printing costs, reproduction and binding costs.

Record Date

The term “Record Date” means, with respect to an Interest Payment Date, the fifteenth day of the month immediately preceding such Interest Payment Date, irrespective of whether such date is a Business Day.

Related Documents

The term “Related Documents” means the Site Lease, the Facility Lease and this Trust Agreement.

Reserve Account

The term “Reserve Account” means the account by that name established, maintained and administered by the Trustee within the Revenue Fund pursuant to Section 4.03.

Reserve Account Requirement

The term “Reserve Account Requirement” means the least of (i) the Maximum Annual Debt Service, (ii) 125% of Average Annual Debt Service, or (iii) 10% of the proceeds derived from the sale of the Certificates, each as calculated as of October 15 each year. The Reserve Account Requirement initially applicable to the Certificates is \$_____.

Revenue Fund

The term “Revenue Fund” means the fund by that name established, maintained and administered by the Trustee pursuant to Sections 4.02 and 4.03.

Revenues

The term “Revenues” means (i) all Base Rental Payments and other payments paid by or for the benefit of the Town and received by the Trustee, as irrevocable assignee and transferee of the Authority pursuant to the Facility Lease (but not Additional Payments), and (ii) all interest or other income from any investment, pursuant to Section 4.05, of any money in any fund or account established pursuant to this Trust Agreement or the Facility Lease (other than the Rebate Fund, if any).

Securities Depositories

The term “Securities Depositories” means: The Depository Trust Company, 55 Water Street, 50th Floor, New York, New York 10041-0099, Attn: Call Notification Department, Fax (212) 855-7232, in accordance with the then current guidelines of the Securities and Exchange Commission, to such other addresses or such other securities depositories, or to no such depositories, as the Town may designate in a Written Request of the Town delivered to the Trustee.

Site

The term “Site” means the improved real property described in Exhibit A to the Site Lease and Exhibit A to the Facility Lease, together with all real property subsequently added thereto, if any.

Site Lease

The term “Site Lease” means that certain Site Lease, between the Town, as Site lessor, and the Authority, as Site lessee, dated as of February 1, 2010, pursuant to which the Town has granted a leasehold interest to the Authority in the Site.

Standard & Poor’s Corporation

The term “Standard & Poor’s Corporation” means Standard & Poor’s Corporation, a corporation duly organized and existing under and by virtue of the laws of the State of New York, and its successors and assigns, except that if such corporation is dissolved or liquidated or can no longer perform the functions of a securities rating agency, then the term Standard & Poor’s Corporation shall be deemed to refer to any other nationally recognized securities rating agency selected by the Town.

State

The term “State” means the State of California.

Supplemental Trust Agreement

The term “Supplemental Trust Agreement” means any trust agreement then in full force and effect which has been duly executed and delivered by the Authority, the Town and the Trustee amendatory hereof or supplemental hereto; but only if and to the extent that such Supplemental Trust Agreement is specifically authorized hereunder.

Tax Certificate

The term “Tax Certificate” means the Tax Certificate delivered by the Town at the time of the execution and delivery of a series of Certificates, as the same may be amended or supplemented in accordance with its terms.

Town

The term “Town” means the Town of Moraga, a municipal corporation and general law city duly organized and existing under and by virtue of the Constitution and the laws of the State.

Town Council

The term “Town Council” means the members of the legislative body of the Town, as duly elected or appointed from time to time.

Trust Agreement

The term “Trust Agreement” means this Trust Agreement, dated as of April 1, 2010, among the Authority, the Town and the Trustee, as originally executed and as it may from time to time be amended or supplemented by all Supplemental Trust Agreements executed pursuant to the provisions hereof.

Trustee

The term “Trustee” means U.S. Bank National Association, or any other association or corporation which may at any time be substituted in its place as provided in Section 6.01.

Written Request of the Authority

The term “Written Request of the Authority” means an instrument in writing signed by an Authorized Representative of the Authority.

Written Request of the Town

The term “Written Request of the Town” means an instrument in writing signed by an Authorized Representative of the Town.

SECTION 1.02 Equal Security. In consideration of the acceptance of the Certificates by the Owners thereof, this Trust Agreement shall be deemed to be and shall

constitute a contract among the Authority, the Town, the Trustee and the Owners from time to time of all Certificates authorized, executed and delivered hereunder and then Outstanding to secure the full and final payment of the interest, principal and prepayment premiums, if any, with respect to all Certificates which may from time to time be authorized, executed and delivered hereunder, subject to the agreements, conditions, covenants and provisions contained herein; and all agreements and covenants set forth herein to be performed by or on behalf of the Town shall be for the equal and proportionate benefit, protection and security of all Owners of the Certificates without distinction, preference or priority as to security or otherwise of any Certificates over any other Certificates by reason of the series, number or date thereof or the time of authorization, sale, execution or delivery thereof or for any cause whatsoever, except as expressly provided herein or therein.

ARTICLE II

EXECUTION AND DELIVERY OF CERTIFICATES

SECTION 2.01 Authorization of Certificates; Certificates.

(a) Certificates may be executed and delivered hereunder from time to time in order to obtain moneys to carry out the purposes of the Town. The maximum principal amount of Certificates which may be executed and delivered hereunder is \$1,650,000. The Certificates are designated generally as the “Town of Moraga 2010 Certificates of Participation (Town Hall Improvement Project).”

(b) The Town has reviewed all proceedings heretofore taken relative to the authorization of the Site Lease, the Facility Lease and the Certificates and has found, as a result of such review, and hereby finds and determines that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in the execution and delivery of the Certificates do exist, have happened and have been performed in due time, form and manner as required by law, and that the Trustee is now hereby duly authorized to execute and deliver the Certificates in the form and manner provided herein for the purpose of providing funds to pay for the acquisition and construction of the Project, and that the Certificates shall be entitled to the benefit, protection and security of the provisions hereof.

SECTION 2.02 Terms of the Certificates. The Certificates shall be in the aggregate principal amount of _____ Dollars (\$_____). The Certificates shall be dated as of the Closing Date, shall be executed and delivered only in fully registered form in denominations of \$5,000 or any integral multiple of \$5,000 (not exceeding the principal amount of Certificates maturing at any one time), and shall mature on the dates and in the principal amounts and represent the accrual of interest (calculated on the basis of a 360-day year of twelve 30-day months) corresponding to the principal and interest components of the Base Rental Payments, at the rates as set forth in the following schedule:

<u>Maturity Date</u> <u>(October 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
20__	\$	%
20__		
20__		

<u>Maturity Date</u> <u>(October 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
20__		
20__		
20__		
20__		
20__		
20__		
20__		
20__		

Except as otherwise provided herein the principal of, if any, and interest on the Certificates, shall be payable by check in lawful money of the United States of America at the Corporate Trust Office of the Trustee.

The Certificates shall represent the accrual of the interest component of each Base Rental Payment at the rates set forth above, payable on October 1, 2010 and semiannually thereafter on April 1 and October 1 in each year. The Certificates shall represent the accrual of such interest component from the Interest Payment Date next preceding the date of execution and delivery thereof, unless such date of execution and delivery is an Interest Payment Date or during the period from the sixteenth day of the month preceding an Interest Payment Date to such Interest Payment Date, in which event they shall represent the accrual of interest components of Base Rental Payments from such Interest Payment Date, or unless such date of execution and delivery is on or before the first Record Date, in which event they shall represent such accrual from the Closing Date; provided, however, that if at the time of execution and delivery of any Certificate interest with respect thereto is then in default on the Outstanding Certificates, such Certificate shall represent the accrual of the interest component of Base Rental Payments from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Outstanding Certificates. Payment of interest on the Certificates due on or before the maturity or prior prepayment thereof shall be made to the person whose name appears in the Certificates registration books kept by the Trustee pursuant to Section 2.08 as the registered Owner thereof as of the close of business on the Record Date for an interest payment date, whether or not such day is a Business Day, such interest to be paid by check mailed by first-class mail to such registered Owner at the address as it appears in such books; provided that upon the written request of an Owner of \$1,000,000 or more in aggregate principal amount of Certificates received by the Trustee prior to the applicable Record Date, interest shall be paid by wire transfer in immediately available funds to an account within the United States designated by such Owner.

Payment of the principal of the Certificates shall be made upon the surrender thereof at maturity or on prepayment prior to maturity at the Corporate Trust Office of the Trustee.

SECTION 2.03 Prepayment of Certificates.

(a) The Certificates are subject to extraordinary prepayment by the Town on any date prior to their respective stated maturities, as a whole, or in part by lot within each stated maturity in integral multiples of five thousand dollars (\$5,000), from prepayments made by the Town pursuant to Section 7.02(a) of the Facility Lease, at a prepayment price equal to the sum of the principal amount or such part of the Certificates to be prepaid, without premium, plus accrued interest with respect thereto to the prepayment date. Whenever less than all of the Outstanding Certificates are to be prepaid on any one date, the Trustee shall select the Certificates to be prepaid in part from the Outstanding Certificates so that the aggregate annual principal amount of Certificates which shall be payable after such prepayment date shall be as nearly proportional as practicable to the aggregate annual principal amount of Certificates Outstanding prior to such prepayment date.

(b) Certificates maturing on or before October 1, 20__ are not subject to optional prepayment prior to their respective maturity dates.

(c) Certificates maturing on and after October 1, 20__ are subject to optional prepayment prior to their respective maturity dates, at the option of the Town, as a whole on any date, or in part on any Interest Payment Date, pro rata among maturities and by lot within any such maturity if less than all of the Certificates of such maturity be prepaid, from any source of available funds, on or after October 1, 20__ at the following prepayment price (expressed as a percentage of the principal amount to be prepaid), together with accrued interest with respect thereto to the date of prepayment:

<u>Prepayment Period</u>	<u>Prepayment Price</u>
October 1, 20__ through September 30, 20__	__%
October 1, 20__ and thereafter	100

The Certificates maturing on October 1, 20__, are subject to partial mandatory sinking fund prepayment prior to maturity, in part by lot, from sinking fund payments deposited in the Series 2008 Term Certificates Sinking Account within the Principal Account pursuant to this Trust Agreement, on each October 1 from October 1, 20__ to and including October 1, 20__, at the following amounts, together with accrued interest to the date of prepayment, without premium:

<u>Mandatory Prepayment Date</u> <u>(October 1)</u>	<u>Principal Amount</u>
20__	\$
20__	
20__	
20__ (maturity)	

The Certificates maturing on October 1, 20__, are subject to partial mandatory sinking fund prepayment prior to maturity, in part by lot, from sinking fund payments deposited in the Series 2008 Term Certificates Sinking Account within the Principal Account pursuant to

this Trust Agreement, on each October 1 from October 1, 20__ to and including October 1, 20__, at the following amounts, together with accrued interest to the date of prepayment, without premium:

<u>Mandatory Prepayment Date</u> <u>(October 1)</u>	<u>Principal Amount</u>
20__	\$
20__	
20__	
20__ (maturity)	

If less than all Outstanding Certificates maturing by their terms on any one date are to be prepaid at any one time, the Trustee shall select the Certificates of such maturity date to be prepaid by lot in any manner that it deems appropriate and shall promptly notify the Town in writing of the numbers of the Certificates so selected for prepayment. For purposes of such selection, Certificates shall be deemed to be composed of integral \$5,000 multiples and any such multiple may be separately prepaid.

Notice of prepayment shall be mailed by first-class mail by the Trustee, not less than thirty (30) nor more than sixty (60) days prior to the prepayment date, to (i) the respective Owners of the Certificates designated for prepayment at their addresses appearing on the registration books of the Trustee, (ii) the Securities Depositories and (iii) one or more Information Services selected by the Town. Notice of prepayment to the Securities Depositories and the Information Services shall be given by registered mail or overnight delivery or facsimile transmission. Each notice of prepayment shall state the date of such notice, the prepayment price (including the name and appropriate address of the Trustee), the CUSIP number of the maturity or maturities, and, if less than all of any such maturity is to be prepaid, the distinctive certificate numbers, if any, of the Certificates of such maturity to be prepaid and, in the case of Certificates to be prepaid in part only, the respective portions of the principal amount thereof to be prepaid. Each such notice shall also state that on said date there will become due and payable on each of said Certificates the prepayment price thereof, together with interest accrued with respect thereto to the prepayment date, and that from and after such prepayment date interest with respect thereto shall cease to accrue, and shall require that such Certificates be then surrendered at the address of the Trustee specified in the prepayment notice. Failure to receive such notice shall not invalidate any of the proceedings taken in connection with such prepayment.

If notice of prepayment has been given in accordance with the Trust Agreement and money for the prepayment is on deposit with the Trustee, then from and after the prepayment date interest on the Certificates will cease to accrue, and the Owners of such Certificates will have no rights in respect of such Certificates, except to receive payment of the prepayment price together with interest accrued with respect thereto to the prepayment date from the Trustee.

The Town may, at its option, prior to the date fixed for prepayment (other than a sinking fund prepayment) rescind and cancel such notice of prepayment.

In the event of prepayment of Certificates (other than sinking fund prepayments), the Trustee shall mail a notice of prepayment upon receipt of a Written Request of the Town but only after the Town shall file a Certificate of the Town with the Trustee stating that on or before the date set for prepayment, the Town shall have deposited with or otherwise made available to the Trustee for deposit in the Principal Account the money required for payment of the prepayment price, including accrued interest, of all Certificates then to be called for prepayment (or the Trustee determines that money will be deposited with or otherwise made available to it in sufficient time for such purpose), together with the estimated expense of giving such notice.

If notice of prepayment has been duly given as aforesaid and money for the payment of the prepayment price of the Certificates called for prepayment is held by the Trustee, then on the prepayment date designated in such notice Certificates so called for prepayment shall become due and payable, and from and after the date so designated interest on such Certificates shall cease to accrue, and the Owners of such Certificates shall have no rights in respect thereof except to receive payment of the prepayment price thereof together with interest accrued with respect thereto to the prepayment date.

All Certificates prepaid pursuant to the provisions of this Section shall be cancelled by the Trustee and shall be destroyed with a certificate of destruction furnished to the Town upon its request and shall not be redelivered.

SECTION 2.04 Form of Certificates. The Certificates and the authentication and registration endorsement and assignment to appear thereon shall be substantially in the form set forth in Exhibit A hereto attached and by this reference herein incorporated.

SECTION 2.05 Execution of Certificates. The Certificates shall be executed in the name of the Trustee, as trustee under this Trust Agreement, by the manual signature of an authorized officer of the Trustee. Only those Certificates executed and registered in the form hereinbefore recited, executed manually and dated by the Trustee, shall be entitled to any benefit, protection or security hereunder or be valid or obligatory for any purpose, and such execution by the Trustee shall be conclusive evidence that the Certificates so executed and registered have been duly authorized, executed, registered and delivered hereunder and are entitled to the benefit, protection and security hereof.

SECTION 2.06 Transfer and Payment of Certificates. Any Certificate may, in accordance with its terms, be transferred in the books required to be kept pursuant to the provisions of Section 2.08 by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Certificates for cancellation accompanied by delivery of a duly executed written instrument of transfer in a form acceptable to the Trustee. Whenever any Certificate or Certificates shall be surrendered for transfer, the Trustee shall execute and deliver to the transferee a new Certificate or Certificates of the same maturity for a like aggregate principal amount of authorized denominations. The Trustee shall require the payment by the Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer as a condition precedent to the exercise of such privilege.

The Town and the Trustee may deem and treat the registered Owner of any Certificates as the absolute owner of such Certificates for the purpose of receiving payment

thereof and for all other purposes, whether such Certificates shall be overdue or not, and neither the Town nor the Trustee shall be affected by any notice or knowledge to the contrary; and payment of the interest on and principal of and prepayment premium, if any, on such Certificates shall be made only to such registered Owner, which payments shall be valid and effectual to satisfy and discharge liability on such Certificates to the extent of the sum or sums so paid.

The Trustee shall not be required to register the transfer of or exchange any Certificates which have been selected for prepayment in whole or in part, from and after the day of mailing of a notice of prepayment of such Certificate selected for prepayment in whole or in part as provided in Section 2.03 or during the period established by the Trustee for selection of Certificates for prepayment.

SECTION 2.07 Exchange of Certificates. The Certificates may be exchanged at the Corporate Trust Office of the Trustee for a like aggregate principal amount of the Certificates of the same maturity of other authorized denominations. The Trustee shall require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange as a condition precedent to the exercise of such privilege. The Trustee shall not be required to exchange any Certificate which has been selected for prepayment in whole or in part, from and after the day of mailing of a notice of prepayment of such Certificate selected for prepayment in whole or in part as provided in Section 2.03 or during the period established by the Trustee for selection of Certificates for prepayment.

SECTION 2.08 Certificate Registration Books. The Trustee will keep at its Corporate Trust Office sufficient books for the registration and transfer of the Certificates which shall during normal business hours be open to inspection by the Town, and upon presentation for such purpose the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer the Certificates in such books as hereinabove provided.

SECTION 2.09 Mutilated, Destroyed, Stolen or Lost Certificates. If any Certificate shall become mutilated the Trustee, at the expense of the Owner, shall thereupon authenticate and deliver a new Certificate of like tenor and amount in exchange and substitution for the Certificate so mutilated; but, only upon surrender to the Trustee of the Certificate so mutilated. Every mutilated Certificate so surrendered to the Trustee shall be cancelled.

If any Certificate shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to the Trustee and indemnity satisfactory to the Trustee shall be given, the Trustee, at the expense of the Owner, shall thereupon execute and deliver, a new Certificate of like tenor in lieu of and in substitution for the Certificate so lost, destroyed or stolen.

The Trustee may require payment of a reasonable sum for each new Certificate issued under this Section and of the expenses which may be incurred by the Town and the Trustee. Any Certificate executed and delivered under the provisions of this Section in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits of this Trust Agreement with all other Certificates. Neither the Town nor the Trustee shall be required to treat both the original Certificate and any replacement Certificate as both being Outstanding for the purpose of determining the principal amount of Certificates

which may be executed and delivered hereunder or for the purpose of determining any percentage of Certificates Outstanding hereunder, but both the original and replacement Certificate shall be treated as one and the same.

SECTION 2.10 Temporary Certificates. The Certificates executed and delivered under this Trust Agreement may be initially issued in temporary form exchangeable for definitive Certificates when ready for delivery. The temporary Certificates may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Town, shall be in fully registered form and may contain such reference to any of the provisions of this Trust Agreement as may be appropriate. Every temporary Certificate shall be executed and authenticated as authorized by the Trustee. If the Trustee executes and delivers temporary Certificates it will execute and furnish definitive Certificates without delay and thereupon the temporary Certificates may be surrendered, for cancellation, in exchange therefor at the Corporate Trust Office of the Trustee, and the Trustee shall deliver in exchange for such temporary Certificates an equal aggregate principal amount of definitive Certificates of authorized denominations. Until so exchanged, the temporary Certificates shall be entitled to the same benefits under this Trust Agreement as definitive Certificates delivered hereunder.

SECTION 2.11 Procedure for the Execution and Delivery of Certificates; Application of Proceeds of Sale of the Certificates. At any time after the sale of the Certificates, the Town shall provide for the preparation of the Certificates for execution and delivery hereunder and shall deliver them to the Trustee, and thereupon the Certificates shall be executed and delivered by the Trustee to the purchaser thereof upon the Written Request of the Town and upon receipt of payment therefore from the purchaser thereof.

Upon receipt of payment of the purchase price of the Certificates, in the amount of \$_____, the Trustee shall set aside and deposit or transfer said amounts in the following respective accounts or funds or with the following respective persons, in the following order of priority:

(a) The Trustee shall deposit in the Reserve Account established pursuant to Section 4.03 hereof the amount of \$_____, representing the initial Reserve Account Requirement.

(b) The Trustee shall deposit \$_____ in the Delivery Costs Fund, which fund is hereby created and which fund the Trustee hereby agrees to maintain for a period of six months past the Closing Date. All money in the Delivery Costs Fund shall be used and withdrawn by the Trustee at the Written Request of the Town to pay the Delivery Costs of the Certificates. Each Written Request shall state the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. Following the passage of six months past the Closing Date, or upon the earlier Written Request of the Town, any remaining balance in the Delivery Costs Fund shall be transferred to the Town and deposited in the Improvement Fund, and the Delivery Costs Fund shall be closed. Any invoices for Delivery Costs received by the Town following closure of the Delivery Costs Fund shall be payable from the Improvement Fund or from any other fund or account of the Town lawfully available for such purpose.

(c) The Trustee will transfer the balance of \$_____ to the Town for the Town to deposit in the Improvement Fund, which fund is hereby created. The Town hereby agrees and covenants to establish and maintain the Improvement Fund until either (i) all costs and expenses related to the Project have been paid in full or (ii) the full amount on deposit in the Improvement Fund has been expended. The moneys in the Improvement Fund will be disbursed as provided in Section 2.12.

SECTION 2.12 Use of Moneys in the Improvement Fund. The Town will apply all moneys in the Improvement Fund to the payment of Project Costs and to expenses incident thereto (or for making reimbursements to the Town or any other person for such costs theretofore or hereafter paid).

Upon completion of the Project, a Certificate of Completion, together with an Inspectors' Certificate stating the fact and date of such completion, will be delivered to the Trustee by the Town stating that all such costs of construction and incidental expenses have been determined and paid (or that all of such costs and expenses have been paid less specified claims which are subject to dispute and for which a retention in the Improvement Fund is to be maintained in the full amount of such claims until such dispute is resolved). Upon the receipt of the Certificate of Completion for the Project, the Town shall transfer any remaining balance in the Improvement Fund and not needed for Improvement Fund purposes (but less the amount of any such retention) to the Trustee for deposit in the Reserve Account to the extent necessary to make the amount on deposit therein equal the Reserve Account Requirement and shall transfer any excess to the Trustee for deposit in the Revenue Fund.

SECTION 2.13 Validity of Certificates. The validity of the execution of the Certificates shall not be dependent on or affected in any way by the proceedings taken by the Town for the financing of the Project or by any contracts made by the Town or its agents in connection therewith, and shall not be dependent upon the completion of the Project or upon the performance by any person, firm or corporation of his or its obligation with respect thereto. The recital contained in the Certificates that the same are executed and delivered pursuant hereto shall be conclusive evidence of their validity and of the regularity of their execution, and all Certificates shall be incontestable from and after their execution. The Certificates shall be deemed to be executed and delivered, within the meaning hereof, whenever the definitive Certificates (or any temporary Certificates exchangeable therefor) shall have been executed by the Trustee and delivered to the purchaser thereof and the proceeds of sale thereof received.

SECTION 2.14 Use of Depository. Notwithstanding any provision of this Trust Agreement to the contrary:

(a) The Certificates shall be initially executed and delivered as provided in Section 2.02. Registered ownership of the Certificates, or any portion thereof, may not thereafter be transferred except:

(i) To any successor of the Securities Depository or its nominee, or to any substitute depository designated pursuant to clause (ii) of this subsection (a) ("substitute depository"); provided that any successor of the Securities Depository or substitute depository shall be qualified under any applicable laws to provide the service proposed to be provided by it;

(ii) To any substitute depository designated by the Town and not objected to by the Trustee, upon (1) the resignation of the Securities Depository or its successor (or any substitute depository or its successor) from its functions as depository or (2) a determination by the Town that the Securities Depository or its successor (or any substitute depository or its successor) is no longer able to carry out its functions as depository; provided that any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(iii) To any person as provided below, upon (1) the resignation of the Securities Depository or its successor (or substitute depository or its successor) from its functions as depository; provided that no substitute depository which is not objected to by the Trustee can be obtained or (2) a determination by the Town that it is in the best interests of the Town to remove the Securities Depository or its successor (or any substitute depository or its successor) from its functions as depository.

(b) In the case of any transfer pursuant to clause (i) or clause (ii) of subsection (a) hereof, upon receipt of the Outstanding Certificates by the Trustee, together with a Certificate of the Town to the Trustee, a single new Certificate shall be executed and delivered in the aggregate principal amount of the Certificates then Outstanding, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such Certificate of the Town. In the case of any transfer pursuant to clause (iii) of subsection (a) hereof, upon receipt of the Outstanding Certificates by the Trustee together with a Certificate of the Town to the Trustee, new Certificates shall be executed and delivered in such denominations numbered in consecutive order and registered in the names of such persons as are requested in such a Certificate of the Town, subject to the limitations of Section 2.04 hereof, provided the Trustee shall not be required to deliver such new Certificates within a period less than sixty (60) days from the date of receipt of such a Certificate of the Town.

(c) In the case of partial prepayment or an advance refunding of the Certificates evidencing all or a portion of the principal amount Outstanding, the Securities Depository shall make an appropriate notation on the Certificates indicating the date and amounts of such reduction in principal, in form acceptable to the Trustee.

(d) The Town and the Trustee shall be entitled to treat the person in whose name any Certificate is registered as the Owner thereof for all purposes of this Trust Agreement and any applicable laws, notwithstanding any notice to the contrary received by the Trustee or the Town; and the Town and the Trustee shall have no responsibility for transmitting payments to, communication with, notifying, or otherwise dealing with any beneficial owners of the Certificates. Neither the Town nor the Trustee will have any responsibility or obligations, legal or otherwise, to the beneficial owners or to any other party including the Securities Depository or its successor (or substitute depository or its successor), except for the Owner of any Certificate.

(e) So long as the outstanding Certificates are registered in the name of Cede & Co. or its registered assign, the Town and the Trustee shall cooperate with Cede & Co., as sole registered Owner, and its registered assigns in effecting payment of the principal of and prepayment premium, if any, and interest on the Certificates by arranging for payment in such

manner that funds for such payments are properly identified and are made immediately available on the date they are due.

ARTICLE III

[RESERVED]

ARTICLE IV

REVENUES

SECTION 4.01 Pledge of Revenues. All Revenues and any other amounts (including proceeds of the sale of the Certificates) received by the Trustee and deposited and held in any fund or account established and maintained by the Trustee hereunder (other than amounts on deposit in the Rebate Fund created pursuant to Section 5.03) are hereby irrevocably pledged to the payment of the interest and premium, if any, on and principal of the Certificates as provided herein, and the Revenues shall not be used for any other purpose while any of the Certificates remain Outstanding; provided, however, that out of the Revenues and other moneys there may be applied such sums for such purposes as are permitted hereunder. This pledge shall constitute a first pledge of and charge and lien upon the Revenues and all other moneys on deposit in the funds and accounts established hereunder (excluding other amounts on deposit in the Rebate Fund created pursuant to Section 5.03) for the payment of the interest on and principal of the Certificates in accordance with the terms hereof and thereof.

SECTION 4.02 Receipt and Deposit of Revenues in the Revenue Fund. In order to carry out and effectuate the pledge, charge and lien contained herein, the Town has covenanted in the Facility Lease to take such action as may be necessary to include all Base Rental Payments and Additional Payments due under the Facility Lease in its annual budgets and to make necessary appropriations for all Base Rental Payments and Additional Payments. The Town acknowledges that the entitlement of the Authority to receive the Base Rental Payments has been irrevocably assigned to the Trustee and that the Base Rental Payments represent the primary intended source of Revenues for deposit into the Revenue Fund. Upon receipt by the Trustee from the Town or any other source, all moneys representing Revenues shall be deposited by the Trustee in the Revenue Fund, which fund is hereby created and which fund the Trustee agrees and covenants to maintain so long as any Certificates shall be Outstanding hereunder. All Revenues shall be accounted for through and held in trust in the Revenue Fund, and the Town shall have no beneficial right or interest in any of the Revenues except only as herein provided. All Revenues, whether received from the Town in trust or received by the Trustee from any other person as herein provided, shall nevertheless be allocated, applied and disbursed solely to the purposes and uses hereinafter in this Article set forth, and shall be accounted for separately and apart from all other accounts, funds, money or other resources of the Trustee.

SECTION 4.03 Establishment and Maintenance of Accounts Within the Revenue Fund; Flow of Funds from Revenue Fund to Said Accounts; Application of Moneys in Said Accounts. Subject to Section 5.03, all money in the Revenue Fund shall be set aside by the Trustee in the following respective accounts within the Revenue Fund (each of which is hereby

created and each of which the Trustee hereby covenants and agrees to cause to be maintained) in the following order of priority:

- (a) Interest Account,
- (b) Principal Account, and
- (c) Reserve Account.

All money in each of such funds shall be held in trust by the Trustee and shall be applied, used and withdrawn only for the purposes hereinafter authorized in this Section; provided, however, that moneys in the Revenue Fund, Principal Account, Interest Account and Reserve Account may be used by the Trustee to reimburse the Town for any rental paid under the Facility Lease for a period during which rent is abated and for which no other moneys are available.

(a) Interest Account. On each April 1 and October 1, commencing on October 1, 2010, the Trustee shall set aside from the Revenue Fund and deposit in the Interest Account that amount of money which, together with the balance on deposit therein (and available for such purposes), is equal to the amount of interest becoming due and payable on all Outstanding Certificates on such April 1 or October 1, as the case may be.

No deposit need be made in the Interest Account if the amount contained therein is at least equal to the aggregate amount of interest becoming due and payable on all Outstanding Certificates on such interest payment date and available for such purpose.

All money in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest with respect to the Certificates as it shall become due and payable (including accrued interest on any Certificates purchased or prepaid prior to maturity).

(b) Principal Account. On each October 1, commencing on October 1, 2011, the Trustee shall set aside from the Revenue Fund and deposit in the Principal Account an amount of money which, together with any balance then on deposit in said Fund (and available for such purposes), is equal to the principal amount of all Outstanding Serial Certificates maturing on such October 1 and the amount of all sinking fund payments required to be made on such October 1 into the respective sinking fund accounts for all Outstanding Term Certificates.

No deposit need be made in the Principal Account if the amount contained therein is at least equal to the aggregate amount of the principal of all Outstanding Serial Certificates maturing by their terms on such October 1 plus the aggregate amount of all sinking fund payments required to be made on such October 1 for all Outstanding Term Certificates.

The Trustee shall establish and maintain within the Principal Account a separate subaccount for the Term Certificates, designated as the “____ Term Certificates Sinking Subaccount” (the “Sinking Subaccount”), inserting in the blank the year of maturity for such Term Certificates. From the amount of each deposit required to be made pursuant to the first paragraph of this Section 4.03(b), the Trustee shall set aside from the Principal Account and deposit into the applicable Sinking Subaccount an amount of money which, together with any

balance then on deposit in said Sinking Subaccount (and available for such purposes), is equal to the amount of all sinking fund payments required to be made on such October 1. With respect to each Sinking Subaccount, on each mandatory sinking account payment date established for such Sinking Subaccount, the Trustee shall apply the mandatory sinking account payment required on that date to the prepayment (or payment at maturity, as the case may be) of Term Certificates of the year of maturity for which such Sinking Account was established, upon the notice and in the manner provided in Article II; provided that, at any time prior to selection of Certificates for such prepayment, the Trustee may, upon the Written Request of the Town, apply moneys in such Sinking Subaccount to the purchase of Term Certificates of such year of maturity at public or private sale, as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account), as may be directed by the Town, except that the purchase price (excluding accrued interest) shall not exceed the prepayment price that would be payable for such Certificates upon prepayment by application of such mandatory sinking account payment. If, during the twelve-month period immediately preceding said mandatory sinking account payment date, the Trustee has purchased Term Certificates of such year of maturity with moneys in such Sinking Subaccount, such Certificates so purchased shall be applied, to the extent of the full principal amount thereof to reduce said mandatory sinking account payment.

All money in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of the Certificates as they shall become due and payable, whether at maturity or prepayment, except that any money in any Sinking Subaccount shall be used and withdrawn by the Trustee only to purchase or to prepay or to pay Term Certificates for which such Sinking Subaccount was created.

(c) Reserve Account. On or before each April 1 and October 1, any moneys remaining in the Revenue Fund, after satisfying the requirements of the foregoing subsection (a) with respect to the Interest Account and subsection (b) with respect to the Principal Account, and needed to increase the balance in the Reserve Account to the Reserve Account Requirement shall be deposited in the Reserve Account. All money in the Reserve Account shall be used and withdrawn by the Trustee solely for the purpose of replenishing the Interest Account or the Principal Account, in that order, in the event of any deficiency at any time in either of such funds, except that so long as the Town is not then in default under the Facility Lease and the Town is not in default hereunder, any cash amounts in the Reserve Account in excess of the Reserve Account Requirement as of October 15 of any year shall be withdrawn from the Reserve Account and shall first be deposited in the Rebate Fund established and maintained by the Trustee pursuant to Section 5.03 hereof to the extent required to satisfy any Rebate Requirement (as defined in the Tax Certificate), for payment to the United States of America, and then as to any remaining balance, if any, shall be transferred to the Town for deposit in any fund or account of the Town, as the Town in its sole discretion may determine.

(d) Valuation of Reserve Account. Whenever determination of the amount on deposit in the Reserve Account becomes pertinent, and in any event on or before each April 1 and October 1, the Trustee shall value the Reserve Account by valuing any investments of Reserve Account moneys at market value. In making any valuations hereunder, the Trustee may utilize computerized securities pricing services that may be available to it, including those available through its regular accounting system.

SECTION 4.04 Application of Insurance Proceeds. In the event of any damage to or destruction of or defect in title to any part of the Leased Facilities covered by insurance, the Town, except as hereinafter provided, shall cause the proceeds of such insurance to be utilized for the repair, reconstruction or replacement of such portion of the Leased Facilities, and the Trustee shall hold said proceeds in a fund established by the Trustee for such purpose separate and apart from all other funds, to the end that such proceeds shall be applied to the repair, reconstruction or replacement of the Leased Facilities to at least the same good order, repair and condition as it was in prior to the damage or destruction, insofar as the same may be accomplished by the use of said proceeds. The Trustee shall invest said proceeds in Permitted Investments pursuant to the Written Request of the Town, and withdrawals of said proceeds shall be made from time to time upon the filing with the Trustee of a Written Request of the Town, stating that the Town has expended moneys or incurred liabilities in an amount equal to the amount therein stated for the purpose of the repair, reconstruction or replacement of the Leased Facilities, and specifying the items for which such moneys were expended, or such liabilities were incurred, in reasonable detail. The Town shall file a Written Request with the Trustee that sufficient funds from insurance proceeds or from any funds legally available to the Town, or from any combination thereof, are available in the event it elects to repair, reconstruct or replace the Leased Facilities. Any balance of such proceeds not required for such repair, reconstruction or replacement and the proceeds of use and occupancy insurance shall be treated by the Trustee as Base Rental Payments and applied in the manner provided by Section 4.02. Alternatively, the Town, at its option, if the proceeds of such insurance together with any other moneys then available for such purpose are sufficient to prepay all, in case of damage or destruction in whole of the Leased Facilities, or that portion, in the case of partial damage or destruction of the Leased Facilities, of the Base Rental Payments relating to the damaged or destroyed portion of the Leased Facilities, may elect not to repair, reconstruct or replace the damaged or destroyed portion of the Leased Facilities and thereupon shall cause said proceeds to be used for the prepayment of Outstanding Certificates pursuant to the applicable provisions of Section 2.03 and of the corresponding provisions of any Supplemental Trust Agreements. The Town shall not apply the proceeds of insurance as set forth in this Section to prepay the Certificates in part due to damage or destruction of a portion of the Leased Facilities unless the Base Rental Payments on the undamaged portion of the Leased Facilities will be sufficient to pay the initially-scheduled principal and interest on the Certificates remaining unpaid after such prepayment.

SECTION 4.05 Deposit and Investments of Money in Accounts and Funds. Subject to Section 5.03, all money held by the Trustee in any of the accounts or funds established pursuant hereto shall be invested in Permitted Investments at the Written Request of the Town. In the absence of such Written Request of the Town, the Trustee shall invest in the Permitted Investments described in clause (7) of the definition thereof. Such investments shall, as nearly as practicable, mature on or before the dates on which such money is anticipated to be needed for disbursement hereunder; provided, however, that moneys in the Reserve Account shall be invested in Permitted Investments with a term to maturity not exceeding five (5) years. Subject to Section 5.03, all interest or profits received prior to the completion of the Leased Facilities on any money so invested shall be deposited in the Improvement Fund, and all interest or profits received subsequent thereto on any money so invested shall be deposited first in the Reserve Account, to the extent necessary to make amounts on deposit in the Reserve Account equal to the Reserve Account Requirement, and then transferred to the Town. The Trustee shall not be liable for any losses on such investments. The Trustee and its affiliates may act as sponsor, principal

or agent with respect to the making of any Permitted Investments. The Trustee may commingle monies in funds and accounts for investment purposes. The Town acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Town the right to receive brokerage confirmations of security transactions as they occur, the Town will not receive such confirmations to the extent permitted by law. The Trustee will furnish the Town periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

ARTICLE V

COVENANTS OF THE TRUSTEE AND THE TOWN

SECTION 5.01 Punctual Payment and Performance. The Trustee will punctually pay out of the Revenues the interest on and the principal of and prepayment premiums, if any, to become due on every Certificate issued hereunder in strict conformity with the terms hereof and of the Certificates, and both the Trustee and the Town will faithfully observe and perform all the agreements and covenants to be observed or performed by the Trustee and the Town, respectively, contained herein and in the Certificates.

SECTION 5.02 Against Encumbrances. The Trustee will not make any parity pledge of or place any parity charge or lien upon the Revenues except as provided herein, and will not issue any bonds, notes or obligations payable on parity with the Certificates from the Revenues or secured by a pledge of or charge or lien upon the Revenues except the Certificates.

SECTION 5.03 Tax Covenants; Rebate Fund.

(a) In addition to the funds created pursuant to Section 4.03, the Trustee shall establish and maintain a fund separate from any other fund or account established and maintained hereunder designated as the Rebate Fund. The Trustee shall deposit in the Rebate Fund such amounts as are made available to the Trustee for such purpose, either by transfer from the Reserve Account pursuant to Section 4.03(c) herein or by a transfer of funds for such purpose from the Town, and the Trustee shall have no obligation to make any deposit in the Rebate Fund from any source other than the foregoing. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Tax Certificate), for payment to the United States of America. Notwithstanding the provisions of Sections 4.01, 4.02, 4.05, 8.02 and 9.01 relating to the pledge of Revenues, the allocation of money in the Revenue Fund, the investments of money in any fund or account, the application of funds upon acceleration and the defeasance of Outstanding Certificates, all amounts required to be deposited into or on deposit in the Rebate Fund shall be governed exclusively by this Section and by the Tax Certificate (which is incorporated herein by reference). The Trustee shall be deemed conclusively to have complied with such provisions if it follows the written directions of the Town, and shall have no liability or responsibility to enforce compliance by the Town with the terms of the Tax Certificate.

(b) Any funds remaining in the Rebate Fund after prepayment and payment with respect to all of the Certificates, or provision made therefor satisfactory to the Trustee, including accrued interest and payment of any applicable fees and expenses to the Trustee and satisfaction of

the Rebate Requirement (as defined in the Tax Certificate), shall be withdrawn by the Trustee and remitted to or upon the written direction of the Town.

(c) The Town shall not make or authorize any use of the Site or the Leased Facilities which will cause the Certificates to be “private activity bonds” subject to federal income taxation by reason of Section 141 of the Code. The Town shall not use or permit the use of any proceeds of Certificates or any funds of the Town, directly or indirectly, to acquire any securities or obligations, and shall not take or permit to be taken any other action or actions, which would cause any Certificates to be an “arbitrage bond” within the meaning of Section 148 of the Code, or “federally guaranteed” within the meaning of Section 149(b) of the Code and any such applicable requirements promulgated from time to time thereunder. The Town shall observe and not violate the requirements of Section 148 of the Code and any such applicable regulations. The Town shall comply with all requirements of Sections 148 and 149(b) of the Code to the extent applicable to the Certificates. In the event that at any time the Town is of the opinion that for purposes of this Section it is necessary to restrict or to limit the yield on the investment of any moneys held by the Trustee under this Trust Agreement, the Town shall so instruct the Trustee under this Trust Agreement in writing, and the Trustee shall take such action as may be necessary in accordance with such instructions.

(d) The Town specifically covenants to comply with the provisions and procedures of the Tax Certificate and to direct the Trustee to take any action required by the Tax Certificate to be taken by it.

(e) The Town shall not use or permit the use of any proceeds of the Certificates or any funds of the Town, directly or indirectly, in any manner, and shall not take or omit to take any action that would cause any of the Certificates to be treated as an obligation not described in Section 103(a) of the Code.

(f) Notwithstanding any provisions of this Section if the Town shall provide to the Trustee an Opinion of Counsel that any specified action required under this Section is no longer required or that some further or different action is required to maintain the exclusion from federal income tax of interest with respect to the Certificates, the Trustee and the Town may conclusively rely on such opinion in complying with the requirements of this Section, and, notwithstanding Article VII hereof, the covenants hereunder shall be deemed to be modified to that extent.

SECTION 5.04 Accounting Records and Reports. The Town will keep or cause to be kept proper books of record and accounts in which complete and correct entries shall be made of all transactions relating to the receipts, disbursements, allocation and application of the Revenues, and such books shall be available for inspection by the Trustee (who shall have no duty to so inspect), at reasonable hours and under reasonable conditions. Not more than one hundred eighty (180) days after the close of each Fiscal Year, the Town shall furnish or cause to be furnished to the Trustee a complete financial statement covering receipts, disbursements, allocation and application of Revenues for such Fiscal Year. The Town shall also keep or cause to be kept such other information as required under the Tax Certificate. The Trustee shall have no duty to review or examine such statement.

SECTION 5.05 Prosecution and Defense of Suits. The Town will defend against every suit, action or proceeding at any time brought against the Trustee upon any claim

to the extent arising out of the receipt, application or disbursement of any of the Revenues or to the extent involving the failure of the Town to fulfill its obligations hereunder; provided that the Trustee or any affected Owner at its election may appear in and defend any such suit, action or proceeding. The Town will indemnify and hold harmless the Trustee against any and all liability claimed or asserted by any person to the extent arising out of such failure by the Town, and will indemnify and hold harmless the Trustee against any attorney's fees or other expenses which it may incur in connection with any litigation to which it may become a party by reason of its actions hereunder, except for any loss, cost, damage or expense resulting from the negligence or willful misconduct by the Trustee. Notwithstanding any contrary provision hereof, this covenant shall remain in full force and effect even though all Certificates secured hereby may have been fully paid and satisfied.

SECTION 5.06 Further Assurances. Whenever and so often as reasonably requested to do so by the Trustee or any Owner, the Town will promptly execute and deliver or cause to be executed and delivered all such other and further assurances, documents or instruments, and promptly do or cause to be done all such other and further things as may be necessary or reasonably required in order to further and more fully vest in the Owners all rights, interests, powers, benefits, privileges and advantages conferred or intended to be conferred upon them hereby.

SECTION 5.07 Acquisition and Construction of Project. The Town will cause the Project to be acquired and constructed with all practicable dispatch and such acquisition and construction will be made in an expeditious manner and in conformity with the law so as to complete the same as soon as possible.

SECTION 5.08 Amendments to Documents. The Town shall not supplement, amend, modify or terminate any of the terms of the Facility Lease or the Site Lease, or consent to any such supplement, amendment, modification or termination, without the written consent of the Trustee. The Trustee shall give such written consent only if (a) such supplement, amendment, modification or termination will not materially adversely affect the interests of the Owners or result in any material impairment of the security hereby given for the payment of the Certificates, or (b) the Trustee first obtains the written consent of the Owners of a majority in principal amount of the Certificates then Outstanding to such supplement, amendment, modification or termination; provided, that no such supplement, amendment, modification or termination shall reduce the amount of Base Rental Payments to be made to the Town or the Trustee by the Town pursuant to the Facility Lease, or extend the time for making such payments, or permit the creation of any lien prior to or on a parity with the lien created by this Trust Agreement on the Base Rental Payments, in each case without the written consent of all of the Owners of the Certificates then Outstanding.

ARTICLE VI

THE TRUSTEE

SECTION 6.01 The Trustee. U.S. Bank National Association will serve as the initial Trustee for the Certificates for the purpose of receiving all money which the Town is required to deposit with the Trustee hereunder and for the purpose of allocating, applying and

using such money as provided herein and for the purpose of paying the interest on and principal of and prepayment premiums, if any, on the Certificates presented for payment at the Corporate Trust Office, with the rights and obligations provided herein. The Town agrees that it will at all times maintain a Trustee having a corporate trust office in California.

Unless at such time as there exists any Event of Default as defined in Section 8.01, the Town may remove the Trustee initially appointed and any successor thereto and may appoint a successor or successors thereto by an instrument in writing; provided that any such successor shall be a bank or trust company, having a combined capital (exclusive of borrowed capital) and surplus of at least fifty million dollars (\$50,000,000) and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. The Trustee may at any time resign by giving written notice of such resignation to the Town and by mailing by first class mail to the Owners notice of such resignation. Upon receiving such notice of resignation, the Town shall promptly appoint a successor Trustee by an instrument in writing. Any removal or resignation of a Trustee and appointment of a successor Trustee shall become effective only upon the acceptance of appointment by the successor Trustee. The successor Trustee shall send notice of its acceptance by first class mail to the Owners. If, within thirty (30) days after notice of the removal or resignation of the Trustee no successor Trustee shall have been appointed and shall have accepted such appointment, the removed or resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, which court may thereupon, after such notice, if any, as it may deem proper and prescribe and as may be required by law, appoint a successor Trustee having the qualifications required hereby.

The Trustee is hereby authorized to pay or prepay the Certificates when duly presented for payment at maturity or on prepayment prior to maturity. The Trustee shall cancel all Certificates upon payment thereof or upon the surrender thereof by the Town and shall destroy such Certificates and a certificate of destruction shall be delivered to the Town upon its request. The Trustee shall keep accurate records of all Certificates paid and discharged and cancelled by it.

The Trustee shall, prior to an Event of Default, and after the curing or waiver of all Events of Default that may have occurred, perform such duties and only such duties as are specifically set forth in this Trust Agreement and no implied duties or obligations shall be read into this Trust Agreement. The Trustee shall, during the existence of any Event of Default (that has not been cured or waived), exercise such of the rights and powers vested in it by this Trust Agreement, and use the same degree of care and skill in their exercise, as a reasonable person would exercise or use under the circumstances in the conduct of such person's own affairs.

SECTION 6.02 Liability of Trustee. The recitals of facts, agreements and covenants herein and in the Certificates shall be taken as recitals of facts, agreements and covenants of the Town, and the Trustee assumes no responsibility for the correctness of the same or makes any representation as to the sufficiency or validity hereof or of the Certificates, or shall incur any responsibility in respect thereof other than in connection with the rights or obligations

assigned to or imposed upon it herein, in the Certificates or in law or equity. The Trustee shall not be liable in connection with the performance of its duties hereunder except for its own negligence or willful misconduct.

The Trustee shall not be bound to recognize any person as the Owner of a Certificate unless and until such Certificate is submitted for inspection, if required, and such Owner's title thereto satisfactorily established, if disputed.

The Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of not less than a majority in aggregate principal amount of the Certificates at the time Outstanding, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Trust Agreement.

The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Trust Agreement at the request, order or direction of any of the Owners pursuant to the provisions of this Trust Agreement unless such Owners shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities that may be incurred therein or thereby. The Trustee has no obligation or liability to the Owners for the payment of interest on, principal of or prepayment premium, if any, with respect to the Certificates from its own funds; but rather the Trustee's obligations shall be limited to the performance of its duties hereunder.

The Trustee shall not be required to take notice or be deemed to have knowledge of any Event of Default hereunder except failure by the Town to make any payment of principal or interest hereunder when due, unless the Trustee shall be specifically notified in writing at the Corporate Trust Office of such Event of Default. The Trustee shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Certificates, or as to the existence of a default or Event of Default thereunder. The Trustee shall not be responsible for the validity or effectiveness of any collateral given to or held by it.

The Trustee shall not be concerned with or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

Whether or not therein expressly so provided, every provision of this Trust Agreement, the Facility Lease or related documents relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article.

The Trustee makes no representation or warranty, express or implied as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose for the use contemplated by the Town or Town of the Leased Facilities. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising

from the Facility Lease or this Trust Agreement for the existence, furnishing or use of the Leased Facilities.

The Trustee shall be protected in acting upon any notice, resolution, requisition, request (including any Written Request of the Town), consent, order, certificate, report, opinion, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, who may be counsel of or to the Town, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Whenever in the administration of its rights and obligations hereunder the Trustee shall deem it necessary or desirable that a matter be established or proved prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Trustee, be deemed to be conclusively proved and established by a Certificate of the Town, which certificate shall be full warrant to the Trustee for any action taken or suffered under the provisions hereof upon the faith thereof, but in its discretion the Trustee may in lieu thereof accept other evidence of such matter or may require such additional evidence as it may deem reasonable.

No provision of this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance or exercise of any of its duties hereunder, or in the exercise of its rights or powers.

The Trustee shall have no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Certificates.

SECTION 6.03 Compensation and Indemnification of Trustee. In accordance with the separate proposal submitted to the Town by the Trustee (the "Trustee's Proposal") which establishes the compensation to which the Trustee is entitled as consideration for providing the services specified by this Trust Agreement, the Town covenants to pay to the Trustee from time to time, and the Trustee shall be entitled to, compensation for all services rendered by it (including, without limitation, pursuant to Section 6.01) in the exercise and performance of any of the powers and duties hereunder of the Trustee, and subject to the provisions of the Trustee's Proposal, the Town will pay or reimburse the Trustee upon its request for all expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of this Trust Agreement (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence or willful misconduct. The Town, to the extent permitted by law, shall indemnify, defend and hold harmless the Trustee against any loss, damages, liability or expense incurred without negligence or willful misconduct on the part of the Trustee, arising out of or in connection with the acceptance or administration of the trusts created hereby, including costs and expenses (including attorneys' fees) of defending itself against any claim or liability in connection with the exercise or performance of any of its powers hereunder. The rights of the Trustee and the obligations of the Town under this Section shall survive the discharge of the Certificates and this

Trust Agreement and the resignation or removal of the Trustee. The Trustee shall be entitled to interest on all amounts due and unpaid to it at the prime or equivalent rate then in effect plus two percent.

SECTION 6.04 Merger or Consolidation. Any bank or trust company into which the Trustee may be merged or converted or with which either of them may be consolidated or any bank or trust company resulting from any merger, conversion or consolidation to which it shall be a party or any bank or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such bank or trust company shall be eligible under Section 6.01, shall be the successor to such Trustee without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

ARTICLE VII

AMENDMENT OF THE TRUST AGREEMENT

SECTION 7.01 Amendment of the Trust Agreement. The Trust Agreement and the rights and obligations of the Town and of the Owners may be amended at any time by a Supplemental Trust Agreement which shall become binding when the written consents of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, exclusive of Certificates disqualified as provided in Section 7.02, are filed with the Trustee. No such amendment shall (1) extend the maturity of or reduce the interest rate on or amount of interest on or principal of or prepayment premium, if any, on any Certificate without the express written consent of the Owner of such Certificate, or (2) permit the creation by the Town of any pledge of or charge or lien upon the Revenues as provided herein superior to the pledge, charge and lien created hereby for the benefit of the Certificates, or (3) reduce the percentage of Certificates required for the written consent to any such amendment, or (4) modify any rights or obligations of the Trustee, the Authority or the Town without their prior written assent thereto, respectively. It shall not be necessary for the consent of the Owners to approve the particular form of any Supplemental Trust Agreement, but it shall be sufficient if such consent shall approve the substance thereof.

The Trust Agreement and the rights and obligations of the Town and of the Owners may also be amended at any time by a Supplemental Trust Agreement which shall become binding upon adoption without the consent of any Owners, but only to the extent permitted by law and after receipt of an approving Opinion of Counsel, for any purpose that will not materially adversely affect the interests of the Owners, including (without limitation) for any one or more of the following purposes --

- (a) to add to the agreements and covenants required herein to be performed by the Town other agreements and covenants thereafter to be performed by the Town, or to surrender any right or power reserved herein to or conferred herein on the Town;
- (b) to make such provisions for the purpose of curing any ambiguity or of correcting, curing or supplementing any defective provision contained herein or in regard to questions arising hereunder which the Town may deem desirable or necessary and not inconsistent herewith; or

(c) to add to the agreements and covenants required herein, such agreements and covenants as may be necessary to qualify the Trust Agreement under the Trust Indenture Act of 1939.

Promptly after the execution by the Town and the Trustee of any Supplemental Trust Agreement pursuant to this section, the Trustee shall mail a notice on behalf of the Town, setting forth in general terms the substance of such Supplemental Trust Agreement, to the Owners at the addresses shown on the registration books maintained by the Trustee. Any failure to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such Supplemental Trust Agreement.

In the event that either Standard & Poor's Corporation or Moody's Investors Service is then maintaining a rating on the Certificates, then not less than 10 days prior to the effective date thereof, the Town shall mail copies of any amendment of this Trust Agreement to them.

SECTION 7.02 Disqualified Certificates. Certificates owned or held by or for the account of the Town shall not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Certificates provided in this article, and shall not be entitled to consent to or take any other action provided in this article.

SECTION 7.03 Endorsement or Replacement of Certificates After Amendment. After the effective date of any action taken as hereinabove provided, the Town may determine that the Certificates may bear a notation by endorsement in form approved by the Town as to such action, and in that case upon demand of the Owner of any Outstanding Certificates and presentation of his Certificate for such purpose at the office of the Trustee a suitable notation as to such action shall be made on such Certificate. If the Town shall so determine, new Certificates so modified as, in the opinion of the Town, shall be necessary to conform to such action shall be prepared and executed, and in that case upon demand of the Owner of any Outstanding Certificate a new Certificate or Certificates shall be exchanged at the office of the Trustee without cost to each Owner for its Certificate or Certificates then Outstanding upon surrender of such Outstanding Certificates.

SECTION 7.04 Amendment by Mutual Consent. The provisions of this article shall not prevent any Owner from accepting any amendment as to the particular Certificates held by her, provided that due notation thereof is made on such Certificates.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES OF TRUSTEE

SECTION 8.01 Events of Default and Remedies. Upon the Trustee's acquiring actual knowledge of the occurrence of an Event of Default (as said term is defined in Section 6.01 of the Facility Lease), and in each and every such case during the continuance of such Event of Default, the Trustee shall declare that an Event of Default has occurred and shall notify the Town of such occurrence within five (5) Business Days of the Trustee's acquiring such actual knowledge. Forthwith upon making the declaration of an Event of Default and giving such notice in accordance

with Section 10.02 hereof, the Trustee may, in addition to all other rights and remedies it may have at law, exercise the remedies provided in said Section 6.01 of the Installment Sale Agreement, which remedies the Authority hereby assigns to the Trustee. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article VIII or under the provisions of Article VI of the Facility Lease shall be applied by the Trustee in accordance with Section 8.02 hereof.

SECTION 8.02 Application of Funds Upon Occurrence of Event of Default.

All moneys held by the Trustee in the accounts and funds provided in this Trust Agreement upon the date of the notice to the Town prescribed by Section 8.01 hereof, all proceeds from the liquidation of any Permitted Investments held by the Trustee in such funds, and all Revenues (other than Revenues on deposit in the Rebate Fund) thereafter received by the Trustee hereunder shall be applied by the Trustee in the following order--

First, to the payment of the fees, costs and expenses of the Trustee for the performance of its duties hereunder and in providing for the declaration of such Event of Default, including reasonable compensation to its accountants and counsel together with interest on any amounts advanced as provided herein and then to the payment of the costs and expenses of the Owners, if any, in carrying out the provisions of this article, including reasonable compensation to its accountants and counsel; and

Second, upon presentation of Certificates for which the principal amount thereof is then due and owing , to the payment of the whole amount then due and owing and unpaid upon such Certificates for interest and principal, with (to the extent permitted by law) interest on the overdue interest and principal at the rate borne by such Certificates, and in case such money shall be insufficient to pay in full the whole amount so owing and unpaid upon the Certificates, then to the payment of such interest first, the payment of such principal second and (to the extent permitted by law) to the payment of interest on overdue interest and principal third, without preference or priority among such interest, principal and interest on overdue interest and principal ratably to the aggregate of such interest, principal and interest on overdue interest and principal.

SECTION 8.03 Institution of Legal Proceedings by Trustee. If one or more of the Events of Default shall happen and be continuing, the Trustee may, and upon the written request of the Owners of a majority in principal amount of the Certificates then Outstanding, and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Owners of the Certificates under this Trust Agreement and under Article VI of the Facility Lease by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee shall deem most effectual in support of any of its rights and duties hereunder.

SECTION 8.04 Non-Waiver. Nothing in this article or in any other provision hereof or in the Certificates shall affect or impair the obligation of the Trustee, which is absolute and unconditional, to pay the interest on and principal of and prepayment premiums, if any, on the Certificates to the respective Owners of the Certificates at the respective dates of maturity or

upon prior prepayment as provided herein from the Revenues as provided herein pledged for such payment, or shall affect or impair the right of such Owners, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein and in the Certificates.

A waiver of any default or breach of duty or contract by the Trustee or any Owner shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Trustee or any Owner to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Owners by this Article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Trustee or the Owners.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned, the Trustee and any Owner shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

SECTION 8.05 Actions by Trustee as Attorney-in-Fact. Any action, proceeding or suit which any Owner shall have the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Owners, whether or not the Trustee is an Owner, and the Trustee is hereby appointed (and the successive Owners, by taking and holding the Certificates issued hereunder, shall be conclusively deemed to have so appointed it) the true and lawful attorney-in-fact of the Owners for the purpose of bringing any such action, proceeding or suit and for the purpose of doing and performing any and all acts and things for and on behalf of the Owners as a class or classes as may be advisable or necessary in the opinion of the Trustee as such attorney-in-fact.

SECTION 8.06 Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Owners is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by the Act or any other law.

SECTION 8.07 Limitation on Owners' Right to Sue. No Owner of any Certificate executed and delivered hereunder shall have the right to institute any suit, action or proceeding at law or equity, for any remedy under or upon this Trust Agreement, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default as defined in Section 6.01 of the Facility Lease; (b) the Owners of at least a majority in aggregate principal amount of all the Certificates then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (c) said Owners shall have tendered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of the Certificates of any remedy hereunder; it being understood and intended that no one or more Owners of the Certificates shall have any right in any manner whatever by his or their action to enforce any right under this Trust Agreement, except in the manner herein provided, and that all proceedings at law or in equity to enforce any provision of the Trust Agreement shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Certificates.

ARTICLE IX

DEFEASANCE

SECTION 9.01 Discharge of Certificates. If the Trustee shall pay or cause to be paid or there shall otherwise be paid to the Owners of all Outstanding Certificates the interest with respect thereto and the principal thereof and the prepayment premiums, if any, with respect thereto at the times and in the manner stipulated herein and therein, then the Owners of such Certificates shall cease to be entitled to the pledge of and charge and lien upon the Revenues as provided herein, and all agreements, covenants and other obligations of the Trustee to the Owners of such Certificates hereunder shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall execute and deliver to the Town all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee shall pay over or deliver to the Town all money or securities held by it pursuant hereto which are not required for the payment of the interest on and principal of and prepayment premiums, if any, on such Certificates.

(a) Any Outstanding Certificates shall prior to the maturity date or prepayment date thereof be deemed to have been paid within the meaning of and with the effect expressed in subsection (a) of this section if (1) in case any of such Certificates are to be prepaid on any date prior to their maturity date, the Town shall have given to the Trustee in form satisfactory to the Trustee irrevocable instructions to provide notice in accordance with Section 2.03(e) or in the corresponding section of a Supplemental Trust Agreement, (2) there shall have been deposited with the Trustee (A) money in an amount which shall be sufficient and/or (B) Authorized Defeasance Securities, the interest on and principal of which when paid will provide money which, together with the money, if any, deposited with the Trustee at the same time, shall be sufficient, in the opinion of an Independent Financial Advisor, to pay when due the interest to become due on such Certificates on and prior to the maturity date or prepayment date thereof, as the case may be, and the principal of and prepayment premiums, if any, on such Certificates, and (3) in the event such Certificates are not by their terms subject to prepayment within the next succeeding sixty (60) days, the Town shall have given the Trustee in form satisfactory to it irrevocable instructions to mail as soon as practicable, a notice to the Owners of such Certificates that the deposit required by clause (2) above has been made with the Trustee and that such Certificates are deemed to have been paid in accordance with this section and stating the maturity date or prepayment date upon which money is to be available for the payment of the principal of and prepayment premiums, if any, on such Certificates.

(b) To accomplish defeasance the Town shall cause to be delivered (1) a report of an independent firm of nationally recognized Independent Financial Advisor, verifying the sufficiency of the escrow established to pay the Certificates in full on the prepayment date (the

“Verification”), (ii) an Escrow Deposit Agreement, and (iii) an Opinion of Counsel to the effect that the Certificates are no longer Outstanding under this Trust Agreement. Each Verification and defeasance opinion shall be acceptable in form and substance and addressed to the Town and the Trustee.

SECTION 9.02 Unclaimed Money. Anything contained herein to the contrary notwithstanding, any money held by the Trustee in trust for the payment and discharge of any of the Certificates or interest with respect thereto which remains unclaimed for two (2) years after the date when such Certificates or interest with respect thereto have become due and payable, either at their stated maturity dates or by call for prepayment prior to maturity, if such money was held by the Trustee at such date, or for two (2) years after the date of deposit of such money if deposited with the Trustee after the date when such Certificates have become due and payable, shall be repaid by the Trustee to the Town as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Owners shall not look to the Trustee for the payment of such Certificates; provided, however, that before being required to make any such payment to the Town, the Trustee may, and at the request of the Town shall, at the expense of the Town, cause to be published once a week for two (2) successive weeks in a Financial Newspaper of general circulation in Los Angeles and in San Francisco, California and in the same or a similar Financial Newspaper of general circulation in New York, New York a notice that such money remains unclaimed and that, after a date named in such notice, which date shall not be less than thirty (30) days after the date of the first publication of each such notice, the balance of such money then unclaimed will be returned to the Town.

ARTICLE X

MISCELLANEOUS

SECTION 10.01 Liability of Trustee Limited to Revenues. Notwithstanding anything contained herein, the Trustee shall not be required to advance any money derived from any source other than the Revenues as provided herein for the payment of the interest on or principal of or prepayment premiums, if any, on the Certificates or for the performance of any agreements or covenants herein contained. The Trustee may, however, advance funds for any such purpose so long as such funds are derived from a source legally available for such purpose.

The Certificates are limited obligations and are payable, as to interest with respect thereto, principal thereof and any premiums upon the prepayment of any thereof, solely from the Revenues as provided herein, and the Trustee is not obligated to pay them except from the Revenues. All the Certificates are equally secured by a pledge of and charge and lien upon the Revenues, and the Revenues constitute a trust fund for the security and payment of the interest on and principal of and prepayment premiums, if any, on the Certificates as provided herein. The Certificates are not a debt of the Town, the Authority, the State or any of its political subdivisions, and neither the Town, the State nor any of its political subdivisions is liable with respect thereto, nor in any event shall the Certificates be payable out of any funds or properties other than those of the Town as provided herein. The Certificates do not constitute an indebtedness within the meaning of any constitutional or statutory limitation or restriction.

SECTION 10.02 Parties Interested Herein. Nothing contained herein, expressed or implied, is intended or shall be construed to give to any person other than the Town, the

Trustee and the Owners any right, remedy or claim under or by reason hereof. Any agreement or covenant required herein to be performed by or on behalf of the Town or any member, officer or employee thereof shall be for the sole and exclusive benefit of the Trustee and the Owners.

SECTION 10.03 Successor Is Deemed Included In All References To Predecessor. Whenever herein either the Town or any member, officer or employee thereof or of the State is named or referred to, such reference shall be deemed to include the successor to the powers, duties and functions with respect to the Leased Facilities that are presently vested in the Town or such member, officer or employee, and all agreements and covenants required hereby to be performed by or on behalf of the Town or any member, officer or employee thereof shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

SECTION 10.04 Execution of Documents by Owners. Any declaration, consent, request or other instrument which is permitted or required herein to be executed by Owners may be in one or more instruments of similar tenor and may be executed by Owners in person or by their attorneys appointed in writing. The fact and date of the execution by any Owner or his attorney of any declaration, request or other instrument or of any writing appointing such attorney may be proved by the certificate of any notary public or other officer authorized to make acknowledgments of deeds to be recorded in the state or territory in which he purports to act that the person signing such declaration, request or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer. The ownership of any Certificates and the amount, maturity, number and date of holding the same may be proved by the registration books relating to the Certificates at the Corporate Trust Office of the Trustee.

Any declaration, request, consent or other instrument or writing of the Owner of any Certificate shall bind all future Owners of such Certificate with respect to anything done or suffered to be done by the Trustee or the Town in good faith and in accordance therewith.

SECTION 10.05 Waiver of Personal Liability. No officer or employee of the Town shall be individually or personally liable for the payment of the interest with respect to or principal of or prepayment premiums, if any, on the Certificates by reason of their execution, but nothing herein contained shall relieve any such officer or employee from the performance of any official duty provided by any applicable provisions of law or hereby.

SECTION 10.06 Acquisition of Certificates by Town. All Certificates acquired by the Town, whether by purchase or gift or otherwise, shall be surrendered to the Trustee for cancellation.

SECTION 10.07 Destruction of Cancelled Certificates. Whenever provision is made for the return to the Town of any Certificates which have been cancelled pursuant to the provisions hereof, the Town may, by a Written Request of the Town, direct the Trustee to destroy such Certificates and furnish to the Town a certificate of such destruction.

SECTION 10.08 Content of Certificates. Every Certificate of the Town with respect to compliance with any agreement, condition, covenant or provision provided herein

shall include (a) a statement that the person or persons making or giving such certificate have read such agreement, condition, covenant or provision and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements contained in such certificate are based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such agreement, condition, covenant or provision has been complied with; and (d) a statement as to whether, in the opinion of the signers, such agreement, condition, covenant or provision has been complied with.

Any Certificate of the Town may be based, insofar as it relates to legal matters, upon an Opinion of Counsel unless the person making or giving such certificate knows that the Opinion of Counsel with respect to the matters upon which his certificate may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous. Any Opinion of Counsel may be based, insofar as it relates to factual matters information with respect to which is in the possession of the Town, upon a representation by an officer or officers of the Town unless the counsel executing such Opinion of Counsel knows that the representation with respect to the matters upon which his opinion may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous.

SECTION 10.09 Publication for Successive Weeks. Any publication required to be made hereunder for successive weeks in a Financial Newspaper may be made in each instance upon any Business Day of the first week and need not be made on the same Business Day of any succeeding week or in the same Financial Newspaper for any subsequent publication, but may be made on different Business Days or in different Financial Newspapers, as the case may be.

SECTION 10.10 Accounts and Funds. Any account or fund required herein to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee either as an account or a fund, and may, for the purposes of such accounting records, any audits thereof and any reports or statements with respect thereto, be treated either as an account or a fund; but all such records with respect to all such accounts and funds shall at all times be maintained in accordance with corporate trust industry practice and with due regard for the protection of the security of the Certificates and the rights of the Owners.

SECTION 10.11 Business Days. Except as otherwise set forth in a Supplemental Trust Agreement, any action required to occur hereunder on a day which is not a Business Day shall be required to occur on the next succeeding Business Day.

SECTION 10.12 Notices. All written notices to be given hereunder shall be given by mail to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time, namely:

If to the Town:

Town of Moraga
329 Rheem Boulevard
Moraga, California 94556
Attention: Town Manager

If to the Trustee:

U.S. Bank National Association
One California St., Suite 1000
San Francisco, CA 94111
Attention: Corporate Trust Services

If to the Authority:

ABAG Finance Authority for Nonprofit Corporations
101 8th Street
Oakland, California 94607
Attention: Executive Director

SECTION 10.13 Article and Section Headings and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. All references herein to “Articles,” “Sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words “hereby,” “herein,” “hereof,” “hereto,” “herewith,” “hereunder” and other words of similar import refer to the Trust Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

SECTION 10.14 Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the Town or the Trustee shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof or of the Certificates, and the Owners shall retain all the benefit, protection and security afforded to them under the Act or any other applicable provisions of law. The Town and the Trustee hereby declare that they would have executed and delivered the Trust Agreement and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized the execution of the Certificates pursuant hereto irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

SECTION 10.15 Waiver of Notice. Whenever in this Trust Agreement the giving of notice by mail or otherwise is required, the giving of such notice by mail may be waived in writing by the person entitled to receive such notice and in any such case the giving or

receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 10.16 Governing Law. This Trust Agreement shall be construed and governed in accordance with the laws of the State.

SECTION 10.17 Effective Date of Trust Agreement. This Trust Agreement shall take effect upon its execution and delivery.

SECTION 10.18 Execution in Several Counterparts. This Trust Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Town and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the Town of Moraga, the ABAG Finance Authority for Nonprofit Corporations, and U.S. Bank National Association, as Trustee, have caused this Trust Agreement to be signed by an authorized representative or officer on their behalf, all as of the day and year first above written.

TOWN OF MORAGA

By: _____
Town Manager

ABAG FINANCE AUTHORITY FOR
NONPROFIT CORPORATIONS

By: _____
Executive Director

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____

Title: _____

EXHIBIT A

[FORM OF CERTIFICATE OF PARTICIPATION]

TOWN OF MORAGA
2010 CERTIFICATES OF PARTICIPATION
(TOWN HALL IMPROVEMENT PROJECT)

[TO COME]

An extra section break has been inserted above this paragraph. Do not delete this section break if you plan to add text after the Table of Contents/Authorities. Deleting this break will cause Table of Contents/Authorities headers and footers to appear on any pages following the Table of Contents/Authorities.

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