
INDENTURE OF TRUST

by and between the

CITY OF LONG BEACH

and

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

Dated as of June 1, 2015

Relating to the
\$ _____
City of Long Beach
(Los Angeles County, California)
Marina Revenue Bonds, Series 2015
(Alamitos Bay Marina Project)

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INDENTURE OF TRUST

THIS INDENTURE OF TRUST, is dated as of June 1, 2015, by and between the CITY OF LONG BEACH, a municipal corporation and chartered city organized and existing under the constitution and laws of the State of California (the "City"), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America, with a corporate trust office in Los Angeles, California, and being qualified to accept and administer the trusts hereby created (the "Trustee");

RECITALS:

WHEREAS, the City has determined to issue its City of Long Beach (Los Angeles County, California) Marina Revenue Bonds (Alamitos Bay Marina Project), Series 2015 (the "Bonds"), pursuant to an indenture of trust (the "Indenture"), by and between the City and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), to (a) finance improvements to the Alamitos Bay Marina (the "Project"), (b) prepay certain existing loans from the State Department of Parks and Recreation, Division of Boating and Waterways (the "DBW Marina Loans"), (c) fund a portion of capitalized interest on the Bonds during the Project construction period, (d) fund a reserve fund for the Bonds, and (e) pay the costs of issuance of the Bonds;

WHEREAS, the Bonds are special obligations of the City, are payable solely from and secured by a pledge of (a) the net revenues of the City's municipal marina system (the "Marina System"), being the gross revenues of the Marina System, less operating and maintenance expenses of the Marina System, and certain other moneys and securities held by the Trustee hereunder, and such net revenues and other moneys and securities are pledged, as a first and prior lien thereon, to pay the Bonds and payments with respect to any parity obligations hereafter issued or incurred by the City;

WHEREAS, in order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal thereof and premium (if any) and of the interest thereon, the City Council of the City has authorized the execution of this Indenture; and

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

AGREEMENT

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that in order to secure the payment of the principal of and premium (if any) and interest on all Bonds at any time issued and Outstanding under this Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the owners thereof, and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the City does

hereby covenant and agree with the Trustee, for the benefit of the respective owners from time to time of the Bonds, as follows:

ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION; EQUAL SECURITY

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section 1.01 shall for all purposes of this Indenture and of any Supplemental Indenture and of any certificate, opinion, request or other documents herein mentioned, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined.

"Authorized Representative" means, with respect to the City, the Mayor, the City Manager, the Finance Director, the City Treasurer or any other person designated as an Authorized Representative of the City by a Certificate of the City signed by an Authorized Representative and filed with the Trustee.

"Bond Fund" means the fund by that name established pursuant to Section 5.01.

"Bond Registration Books" means the books maintained by the Trustee pursuant to Section 2.08 for the registration and transfer of ownership of the Bonds.

"Bond Reserve Account" means the account by that name in the Bond Fund so designated and established pursuant to Section 5.01 which shall serve as the reserve fund for the Bonds only and not for any obligations of the City.

"Bond Reserve Requirement" means an amount equal to the least of maximum annual debt service on the Bonds, 125% of average annual debt service on the Bonds, and 10% of the principal amount of the Bonds, which amount shall initially be \$_____ on the Closing Date. The amount of the Bond Reserve Requirement shall not be reduced unless the Bonds are partially refunded or redeemed, in which case such amount shall be reduced to an amount equal to the maximum annual debt service on the Bonds not so refunded, as specified in a Certificate of an Authorized Representative of the City delivered to the Trustee

"Bonds" means the City's Marina Revenue Bonds, Series 2015 (Alamitos Bay Marina Project), issued and at any time Outstanding hereunder.

"Bond Year" means any twelve-month period commencing on May 2 in a year and ending on the next succeeding May 15, both dates inclusive; provided, however, that the first Bond Year shall commence on the Closing Date relating to the Bonds and shall end on August May 15, 2016.

"Business Day" means (a) any day that is not a Saturday, Sunday or legal holiday or day on which banking institutions in the State are closed, (b) a day on which the New York Stock Exchange is closed, or (c) the day after Thanksgiving Day.

"Certificate," "Statement," "Request," "Requisition" and "Order" of the City mean, respectively, a written certificate, statement, request, requisition or order signed in the name of the City by an Authorized Representative of the City. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

"City" means the City of Long Beach, a municipal corporation and chartered city organized and existing under the constitution and laws of the State, and any successor thereto.

"City Council" means the City Council of the City.

"Closing Date" means the date upon which there is an exchange of the Bonds for the proceeds representing the purchase of the Bonds by the Original Purchaser thereof.

"Code" means the Internal Revenue Code of 1986 as in effect on the Closing Date, or as it may be amended to apply to obligations issued on the Closing Date, together with applicable temporary and final regulations promulgated under the Code.

"Continuing Disclosure Certificate" means that certain Continuing Disclosure Certificate executed by the City and dated the Closing Date and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

"Costs of Issuance" means all items of expense directly or indirectly payable by or reimbursable to the City relating to the authorization, issuance, sale and delivery of the Bonds, including but not limited to printing expenses, rating agency fees, filing and recording fees, initial fees and charges and first annual administrative fee of the Trustee and fees and expenses of its counsel, fees, charges and disbursements of attorneys, financial advisors, fiscal consultants, accounting firms, consultants and other professionals, fees and charges for preparation, execution and safekeeping of the Bonds and any other cost, charge or fee in connection with the original issuance of the Bonds.

"Costs of Issuance Fund" means the fund so designated and established pursuant to Section 3.03.

"DBW" means State Department of Parks and Recreation, Division of Boating and Waterways.

"DBW Marina Loans" means the loan made by the DBW to the City under and pursuant to the following agreements: (a) Agreement No. 94-102-243 (Basin 8), dated January 15, 2000, by and between the DBW and the City, (b) Agreement No. 99-102-328 (Shoreline Village), dated January 15, 2001, amended and restated April 8, 2002, by and between the DBW and the City, (c) Agreement No. 02-102-401 (Basin 4), dated January 13, 2003, by and between the DBW and the City, (d) Agreement No. 03-102-401 (Basin 1), dated August 16, 2004, by and between the DBW and the City, (e) Agreement No. 04-102-406 (Basins 2 & 3), dated August 16, 2004, by and between the DBW and the City, and (f) Agreement No. 91-102-174 (Seawall), dated September 23, 1991 by and between the DBW and the City.

"Debt Service" means, during any period of computation, the amount obtained for such period by totaling the following amounts:

(a) The principal amount of all Outstanding Bonds coming due and payable by their terms in such period; and

(b) The interest which would be due during such period on the aggregate principal amount of Bonds which would be Outstanding in such period if the Bonds are retired as scheduled, but deducting and excluding from such aggregate amount the amount of Bonds no longer Outstanding.

"Defeasance Obligations" means (a) cash, (b) direct non-callable obligations of the United States of America, (c) securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, to which direct obligation or guarantee the full faith and credit of the United States of America has been pledged, (d) Refcorp

interest strips, (e) CATS, TIGRS, STRPS, and (f) defeased municipal bonds rated “AAA” by Fitch or “Aaa” by Moody’s or “AAA” by S&P (or any combination of the foregoing).

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

“*Fair Market Value*” means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is the Local Agency Investment Fund of the State but only if at all times during which the investment is held its yield is reasonably expected to be equal to or greater than the yield on a reasonably comparable direct obligation of the United States.

“*Fiscal Year*” means the period commencing on October 1 of each year and terminating on the next succeeding September 30.

“*Fitch*” means Fitch Ratings, Inc., New York, New York, or its successors.

“*Government Obligations*” means, with respect to the Bonds: (a) direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America (“U.S. 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) evidence 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 obligator and the underlying government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated.

“*Gross Revenues*” means all gross charges received for, and all other gross income and receipts derived by the City from, the ownership and operation of the Marina System or otherwise arising from the Marina System, including but not limited to investment earnings thereon.

“*Indenture*” means this Indenture of Trust, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture pursuant to the provisions hereof.

“*Independent Accountant*” means any certified public accountant or firm of such accountants appointed and paid by the City, and who, or each of whom:

(a) is in fact independent and not under domination of the City;

(b) does not have any substantial interest, direct or indirect, with the City; and

(c) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or other audits of the books of or reports to the City.

"Information Services" means the Electronic Municipal Market Access System (referred to as "EMMA"), a facility of the Municipal Securities Rulemaking Board (at <http://emma.msrb.org>) or, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other national information services providing information with respect to called bonds as the City may designate in a Certificate of the City delivered to the Trustee.

"Interest Account" means the account by that name in the Bond Fund established pursuant to Section 5.01.

"Interest Payment Date" means May 15 and November 15 in each year, beginning November 15, 2015, and continuing so long as any Bonds remain Outstanding.

"Law" means the City Charter and sections 3.52.110 *et seq.* of the Long Beach Municipal Code.

"Marina Fund" means the fund by that name established and held by the City for purposes of accounting for the revenues and expenditures of the Marina System.

"Marina System" means the entire marina system of the City, consisting of the City's Shoreline Marina, Rainbow Marina and Alamitos Bay Marina, and comprising any and all facilities, properties and improvements at any time owned, controlled or operated by the City and any necessary lands, rights of way and other real or personal property used in connection therewith and any new marinas established by the City and accounted for under the Marina Fund.

"Maximum Aggregate Annual Debt Service" means, as of the date of calculation, the maximum amount of Debt Service for the current or any future Bond Year with respect to all Bonds and any Parity Obligations Outstanding.

"Moody's" means Moody's Investors Service, New York, New York, or its successors.

"Net Proceeds" means the par amount of the Bonds plus accrued interest and premium, if any, less the amount of any underwriter's and original issue discount, less the proceeds applied to pay Costs of Issuance, and less the amount of proceeds deposited in the Bond Reserve Account.

"Net Revenues" means, with respect to any period, the amount of the Gross Revenues received during such period less the amount of Operation and Maintenance Costs becoming payable during such period.

"Operation and Maintenance Costs" means the reasonable and necessary costs and expenses paid by the City for maintaining and operating the Marina System, including but not limited to (a) costs of electricity and other forms of energy supplied to the Marina System, (b) the reasonable expenses of management and repair and other costs and expenses necessary to maintain and preserve the Marina System in good repair and working order, (c) the reasonable administrative costs of the City attributable to the operation and maintenance of the Marina System; but in all cases excluding (i) debt service payable on obligations incurred by the City with respect to the Marina System, including but not limited to the Bonds and any Parity

Obligations, (ii) depreciation, replacement and obsolescence charges or reserves therefor, and (iii) amortization of intangibles or other bookkeeping entries of a similar nature.

“Original Purchaser” means, collectively, the first purchasers of the Bonds from the City.

“Outstanding,” when used as of any particular time with reference to Bonds, means all Bonds theretofore executed, issued and delivered by the City under this Indenture except:

(a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation;

(b) Bonds paid or deemed to have been paid within the meaning of Section 11.01; and

(c) Bonds in lieu of or in substitution for which other Bonds shall have been executed, issued and delivered by the City pursuant to this Indenture or any Supplemental Indenture.

“Owner” or *“Bond Owner”*, when used with respect to any Bond, means the person in whose name the ownership of such Bond shall be registered on the Bond Registration Books.

“Parity Obligations” means any leases, loan agreements, installment sale agreements, bonds, notes, interest rate swap agreements, currency swap agreements, forward payment agreements, futures, or contracts providing for payments based on levels of, or changes in, interest rates, currency exchange rates, stock or other indices, or contracts to exchange cash flows or a series of payments, or contracts, including, without limitation, interest rate floors or caps, options, puts or calls to hedge payment, currency, rate, spread, or similar exposure (except termination payments relating thereto which shall be payable on a subordinate basis) or other obligations of the City payable from and secured by a pledge of and lien upon any of the Net Revenues on a parity with the Bonds.

“Participating Underwriter” shall have the meaning ascribed thereto in the Continuing Disclosure Certificate.

“Permitted Investments” means any of the following which at the time of investment are legal investments under the laws of the State for the moneys proposed to be invested therein, but only to the extent that the same are acquired at Fair Market Value (provided the Trustee may rely upon the Request of the City directing investment under the Indenture as a determination that such investment is a Permitted Investment):

(a) Government Obligations.

(b) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

1. U.S. Export-Import Bank (Eximbank)
Direct obligations or fully guaranteed certificates of beneficial ownership
2. U.S. Farmers Home Administration (FmHA)
Certificates of Beneficial Ownership
3. Federal Financing Bank
4. Federal Housing Administration Debentures (FHA)

5. General Services Administration
Participation Certificates
6. Government National Mortgage Association (GNMA or Ginnie Mae)
GNMA—guaranteed mortgage-backed bonds
GNMA—guaranteed pass-through obligations
7. U.S. Maritime Administration
Guaranteed Title XI financing
8. U.S. Department of Housing and Urban Development (HUD)
Project Notes
Local Authority Bonds
New Communities Debentures - U.S. government guaranteed debentures
U.S. Public Housing Notes and Bonds - U.S. government guaranteed public housing notes and bonds

(c) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies which are not backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

1. Federal Home Loan Bank System
Senior debt obligations
2. Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac)
Participation Certificate
Senior debt obligations
3. Federal National Mortgage Association (FNMA or Fannie Mae)
Mortgage-backed securities and senior debt obligations
4. Student Loan Marketing Association (SLMA or Sallie Mae)
Senior debt obligations
5. Resolution Funding Corp. (REFCORP) obligations
6. Farm Credit System
Consolidated systemwide bonds and notes

(d) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, if rated by Fitch having a rating at the time of investment of "AAA," or if rated by Moody's having a rating at the time of investment of "Aaa," or if rated by S&P, having a rating at the time of investment of "AAAm" or "AAAm-G"; and including funds for which the Trustee, its parent holding company, if any, or any affiliates or subsidiaries provide investment advisory or other management services.

(e) Certificates of deposit secured at all times by collateral described in (a) and/or (b) above. Such certificates must be issued by commercial banks or savings and loan associations (including the Trustee or its affiliates). The collateral must be held by a third party and the Owners must have a perfected first security interest in the collateral.

(f) Certificates of deposit, savings accounts, deposit accounts or money market deposits which are fully insured by FDIC or secured at all times by collateral described in (a) and/or (b) above.

(g) Commercial paper rated, at the time of purchase, "Prime-1" by Moody's and "A-1" or better by S&P.

(h) Federal funds or bankers acceptances with a maximum term of 180 days of any bank which has an unsecured, uninsured and unguaranteed obligation rating at the time of investment of "Prime-1" or better by Moody's and "A-1" or better by S&P.

(i) The Local Agency Investment Fund of the State, created pursuant to 16429.1 of the California Government Code.

(j) Municipal obligations rated "A" or higher by S&P.

(k) Other forms of investments that satisfy the City's Statement of Investment Policy as of the time of investment.

"Principal Account" means the account by that name in the Bond Fund established pursuant to Section 5.01.

"Principal Payment Date" means May 15 in each year, beginning May 15, ____, and continuing so long as any Bonds remain Outstanding.

"Project" means the capital improvements to the Marina System to be financed with a portion of the proceeds of the Bonds, as more fully described in Exhibit B attached hereto.

"Project Fund" means the fund so designated and established pursuant to Section 3.04.

"Qualified Reserve Fund Credit Instrument" means an irrevocable standby or direct-pay letter of credit or surety bond issued by a commercial bank or insurance company with respect to any Parity Obligations rated, at the time of issuance, at least rated "AA" by Fitch or "Aa" by Moody's or "AA" by S&P.

"Rating Category" means, with respect to any Permitted Investment, one or more of the generic categories of rating by Moody's and/or S&P applicable to such Investment Security, without regard to any refinement or gradation of such rating category by a plus or minus sign.

"Record Date" means, with respect to any Interest Payment Date, the fifteenth day of the calendar month preceding an Interest Payment Date. With respect to any payment of defaulted interest a special Record Date shall be established in accordance with the provisions hereof.

"Redemption Fund" means the fund by that name established pursuant to Section 5.01.

"Redemption Price" means, with respect to any Bond (or portion thereof) the principal amount of such Bond (or portion) plus the applicable premium, if any, payable upon redemption thereof pursuant to the provisions of such Bond and this Indenture.

"S&P" means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business, New York, New York, or its successors.

"Securities Depositories" means The Depository Trust Company, 55 Water Street, 50th Floor, New York, NY 10041-0099, Attention: Call Notification Department, Fax (212) 855-7232;

and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the City may designate in a Certificate of the City delivered to the Trustee.

"Sinking Account" means the subaccount in the Principal Account so designated and established pursuant to Section 5.04.

"Special Record Date" means the date established by the Trustee pursuant to Section 2.02 as a record date for the payment of defaulted interest on Bonds.

"State" means the State of California.

"Supplemental Indenture" means any indenture hereafter duly authorized and entered into between the City and the Trustee, amendatory of or supplemental to this Indenture, but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

"Tax Certificate" means the certificate of the City dated the Closing Date, with respect to tax matters.

"Term Bonds" means the Bonds maturing on May 15, __, and May 15, ____.

"Trust Office" means the principal corporate trust office of the Trustee in Los Angeles, California; provided, however, that the Trustee may from time to time designate other offices for purposes of payment, transfer, exchange or registration of Bonds.

"Trustee" means The Bank of New York Mellon Trust Company, N.A., appointed by the City to act as trustee hereunder pursuant to Section 9.01, and its assigns or any other corporation or association which may at any time be substituted in its place, as provided in Section 9.08.

Section 1.02. Rules of Construction. All references in this Indenture to "Articles," "Sections," and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; and the words "herein," "hereof," "hereunder," and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

Section 1.03. Equal Security. In consideration of the acceptance of the Bonds by the Owners thereof, this Indenture shall be deemed to be and shall constitute a contract between the City and the Owners from time to time of the Bonds; and the covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution or delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

ARTICLE II

THE BONDS

Section 2.01. Authorization of the Bonds. At any time after the adoption, execution and delivery of this Indenture, the City may execute and the Trustee, upon Request of the City, shall authenticate and deliver the Bonds in the aggregate principal amount of _____ dollars (\$_____).

Section 2.02. Terms of the Bonds. The Bonds shall be issued in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof, so long as no Bond shall have more than one maturity date. The Bonds shall be dated as of their date of delivery, shall mature on May 15 in each of the years and in the amounts, and shall bear interest at the rates, as follows:

<u>Maturity Date (May 15)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Maturity Date (May 15)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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Interest on the Bonds shall be payable on each Interest Payment Date to the person whose name appears on the Bond Registration Books as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check or, at the option of any Owner of at least \$1,000,000 aggregate principal amount of Bonds and upon written notice received by the Trustee prior to the Record Date, by wire transfer, at the Owner's address as it appears on the Bond Registration Books or to such account as shall have been identified by the Owner in the notice requesting payment by wire transfer. Interest on the Bonds shall be computed on the basis of a year consisting of 360 days and twelve 30-day months. Principal of and premium (if any) on any Bond shall be paid upon presentation and surrender thereof at the Trust Office of the Trustee. Both the principal of and interest and premium (if any) on the Bonds shall be payable in lawful money of the United States of America.

Each Bond shall bear interest from the Interest Payment Date next preceding the authentication thereof, unless (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date; or (b) it is authenticated on or before November 1, 2015, in which event it shall bear interest from the Closing Date; provided, however, that if, as of the date of authentication of any Bond, interest thereon is in default, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the Owner on such Record Date and shall be paid to the person in whose name the Bond is registered at the close of business on a Special Record Date for the payment of such defaulted interest to be fixed by the Trustee, notice whereof being given to the Owners not less than ten (10) days prior to such Special Record Date.

The Bonds shall be subject to redemption as provided in Article IV.

Section 2.03. Form of Bonds. The Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, shall be substantially in the respective forms set forth in Exhibit A attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

Section 2.04. Execution of Bonds. The Bonds shall be signed in the name and on behalf of the City with the facsimile signature of its Mayor, City Manager, Director of Financial Management or City Treasurer and attested by the facsimile signature of its City Clerk. The Bonds shall then be delivered to the Trustee for authentication by it. In case any officer who shall have signed any of the Bonds shall cease to be such officer before the Bonds so signed shall have been authenticated or delivered by the Trustee or issued by the City, such Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issue, shall be as binding upon the City as though the individual who signed the same had continued to be such officer of the City. Also, any Bond may be signed on behalf of the City by any individual who on the actual date of the execution of such Bond shall be the proper officer although on the nominal date of such Bond such individual shall not have been such officer of the City.

Only such of the Bonds as shall bear thereon a certificate of authentication in substantially the form set forth in Exhibit A, manually executed by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

Section 2.05. Transfer of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the Bond Registration Books, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation, endorsed or accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. Every Bond so surrendered to the Trustee shall be canceled by it and destroyed. Whenever any Bond shall be surrendered for transfer, the City shall execute and the Trustee shall thereupon authenticate and deliver to the transferee a new Bond or Bonds of like maturity and aggregate principal amount of authorized denominations. The Trustee shall require the Owner requesting such transfer to pay any tax or other charge required to be paid with respect to such transfer. No Bond, the notice of redemption of which has been mailed pursuant to Section 4.03, shall be subject to transfer pursuant to this Section 2.05. No transfer shall be required during the period established by the Trustee for the selection of Bonds for redemption.

Section 2.06. Exchange of Bonds. Bonds may be exchanged at the Trust Office of the Trustee, for a like aggregate principal amount of Bonds of other authorized denominations of the same maturity. The Trustee shall require the Owner requesting such exchange to pay any tax or other charge required to be paid with respect to such exchange. No Bond, the notice of redemption of which has been mailed pursuant to Section 4.03, shall be subject to exchange pursuant to this Section 2.06. No exchange of Bonds shall be required during the period established by the Trustee for the selection of Bonds for redemption.

Section 2.07. Temporary Bonds. The Bonds may be issued initially in temporary form exchangeable for definitive Bonds when ready for delivery. Any temporary Bond may be printed, lithographed or typewritten, shall be of such denomination as may be determined by the City and may contain such reference to any of the provisions of this Indenture as may be

appropriate. A temporary Bond may be in the form of a single registered bond payable in installments, each on the date, in the amount and at the rate of interest established for the Bonds maturing on such date. Every temporary Bond shall be executed by the City and authenticated by the Trustee upon the same conditions and in the same manner as the definitive Bonds. If the City issues temporary Bonds, it will execute and deliver definitive Bonds as promptly thereafter as practicable, and thereupon the temporary Bonds may be surrendered, for cancellation, in exchange therefor at the Trust Office of the Trustee, and the Trustee shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations of the same maturity or maturities. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Indenture as definitive Bonds authenticated and delivered hereunder.

Section 2.08. Bond Registration Books. The Trustee will keep or cause to be kept at its Trust Office sufficient books for the registration and transfer of the Bonds, which shall at all times during regular business hours be open to inspection by the City upon reasonable notice; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, Bonds as hereinbefore provided.

Section 2.09. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the City shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor and authorized denomination in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be canceled by it and destroyed and the Trustee shall provide evidence of such destruction to the City. If any Bond issued hereunder shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the City and the Trustee and, if such evidence be satisfactory to the Trustee and indemnity for the City and the Trustee satisfactory to the Trustee shall be given, the City, at the expense of the Bond Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond shall have matured or shall have been called for redemption, instead of issuing a substitute Bond, the Trustee may pay the same without surrender thereof upon receipt of the aforementioned indemnity). The City may require payment of a reasonable fee for each new Bond issued under this Section 2.09 and of the expenses which may be incurred by the City and the Trustee in connection therewith. Any Bond issued under the provisions of this Section 2.09 in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original contractual obligation on the part of the City whether or not the Bond alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds secured by this Indenture.

Section 2.10. Book-Entry System. Notwithstanding any provision of this Indenture to the contrary:

(a) At the request of the Original Purchaser, the Bonds shall be initially issued registered in the name of "Cede & Co.," as nominee of The Depository Trust Company, the depository designated by the Original Purchaser, and shall be evidenced by one certificate maturing on each of the maturity dates set forth in Section 2.02 hereof to be in a denomination corresponding to the total principal therein designated to mature on such date. Registered ownership of such Bonds, or any portions thereof, may not thereafter be transferred except:

(i) to any successor of The Depository Trust Company or its nominee, or of any substitute depository designated pursuant to paragraph (ii) of this subsection (a) ("substitute depository"); provided that any successor of The Depository Trust

Company 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 in a written request of the City, upon (i) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository or (ii) a determination by the City that The Depository Trust Company 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 (A) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository or (B) a determination by the City that The Depository Trust Company or its successor is no longer able to carry out its functions as depository; provided that no substitute depository which is not objected to by the City and the Trustee can be obtained.

(b) In the case of any transfer pursuant to paragraph (i) or paragraph (ii) of subsection (a) of this Section 2.10, upon receipt of all Outstanding Bonds by the Trustee, together with a written request of an Authorized Representative of the City to the Trustee, a single new Bond shall be issued, authenticated and delivered for each maturity of such Bond 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 written request of an Authorized Representative of the City. In the case of any transfer pursuant to paragraph (iii) of subsection (a) of this Section 2.10, upon receipt of all Outstanding Bonds by the Trustee together with a written request of an Authorized Representative of the City, new Bonds shall be issued, authenticated and delivered in such denominations and registered in the names of such persons as are requested in a written request of the City provided the Trustee shall not be required to deliver such new Bonds within a period less than sixty (60) days from the date of receipt of such a written request of an Authorized Representative of the City.

(c) In the case of partial redemption or an advance refunding of any Bonds evidencing all of the principal maturing in a particular year, The Depository Trust Company shall, at the City's expense, deliver the Bonds to the Trustee for cancellation and re-registration to reflect the amounts of such reduction in principal.

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

(e) So long as all outstanding Bonds are registered in the name of Cede & Co. or its registered assign, the City and the Trustee shall reasonably cooperate with Cede & Co., as sole registered Owner, or its registered assign in effecting payment of the principal and redemption premium, if any, and interest due with respect to the Bonds 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.

(f) So long as all Outstanding Bonds are registered in the name of Cede & Co. or its registered assigns (hereinafter, for purposes of this paragraph (f), the “Owner”):

(i) All notices and payments addressed to the Owners shall contain the Bonds’ CUSIP number.

(ii) Notices to the Owner shall be forwarded in the manner set forth in the form of blanket issuer letter of representations (prepared by The Depository Trust Company) executed by the City and received and accepted by The Depository Trust Company.

ARTICLE III

ISSUE OF BONDS; APPLICATION OF PROCEEDS; COSTS OF ISSUANCE FUND

Section 3.01. Issuance of Bonds. At any time after the adoption, execution and delivery of this Indenture, the City may execute and the Trustee, upon Request of the City, shall authenticate and deliver Bonds in the aggregate principal amount of _____ dollars (\$_____).

Section 3.02. Application of Proceeds of Bonds. Upon the receipt of payment for the Bonds on the Closing Date of \$_____, being the principal amount of the Bonds of \$_____, less an underwriters' discount of \$_____, plus a net original issue premium of \$_____, the Trustee shall apply the proceeds of sale thereof as follows:

(a) The Trustee shall transfer the sum of \$_____ to the DBW to repay the DBW Marina Loans;

(b) The Trustee shall deposit to the Costs of Issuance Fund the sum of \$_____;

(c) The Trustee shall transfer the sum of \$_____ to the City for deposit in the Project Fund;

(d) The Trustee shall deposit to the Interest Account the sum of \$_____, being capitalized interest on the Bonds to and including _____, 20__; and

(e) The Trustee shall deposit to the Bond Reserve Account the sum of \$_____.

The Trustee may establish temporary funds or accounts on its records to facilitate such transfers.

Section 3.03. Establishment and Application of Costs of Issuance Fund.

(a) The Trustee shall establish, maintain and hold in trust a separate fund designated as the "Costs of Issuance Fund." The moneys in the Costs of Issuance Fund shall be used and withdrawn by the Trustee to pay Costs of Issuance upon receipt by the Trustee of a Requisition of the City stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred, payment instructions and that such payment is a proper charge against said fund.

(b) At the end of three months from the Closing Date, or upon earlier receipt of a Certificate of the City stating that amounts in the Costs of Issuance Fund are no longer required for the payment of Costs of Issuance, the Costs of Issuance Fund shall be closed and any amounts then remaining in said account shall be transferred by the Trustee to the City for deposit in the Project Fund.

Section 3.04. Establishment and Application of Project Fund.

(a) The City shall establish, maintain and hold a separate fund designated as the "Project Fund." The moneys in the Project Fund shall be used and withdrawn by the City to pay costs of the Project.

When the Project shall have been completed, the City shall transfer any remaining balance in the Project Fund to the Trustee for deposit by the Trustee in the Interest Account.

Section 3.05. Validity of Bonds.

(a) The City has reviewed all proceedings heretofore taken relative to the authorization of the Bonds 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, happen or be performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the City is now authorized, pursuant to each and every requirement of the Bond Law to issue the Bonds in the form and manner provided in this Indenture and the Bonds shall be entitled to the benefit, protection and security of the provisions of this Indenture.

(b) From and after the issuance of the Bonds, the findings and determinations of the City respecting the Bonds shall be conclusive evidence of the existence of the facts so found and determined in any action or proceeding in any court in which the validity of the Bonds is at issue, and no bona fide purchaser of any of the Bonds shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceeding required prior to such issuance or to the application of the proceeds of sale of the Bonds. The recital contained in the Bonds that the same are issued pursuant to the Bond Law and this Indenture shall be conclusive evidence of their validity and of the regularity of their issuance and all Bonds shall be incontestable from and after their issuance. The Bonds shall be deemed to be issued, within the meaning of this Indenture, whenever the definitive Bonds (or any temporary Bonds exchangeable therefor) have been delivered to the purchaser thereof and the proceeds of sale thereof received.

ARTICLE IV

REDEMPTION OF BONDS

Section 4.01. Terms of Redemption.

(a) *Mandatory Sinking Fund Redemption.* The Term Bonds are subject to redemption prior to their stated maturity, in part, by lot, from mandatory Sinking Account payments deposited in the Sinking Account pursuant to Section 5.04(c), at the principal amount thereof to be redeemed and interest accrued thereon to the date fixed for redemption, without premium.

(b) *Optional Redemption.* The Bonds maturing on or before May 15, ____, are not subject to redemption prior to maturity. The Bonds maturing on or after May 15, ____, are subject to redemption prior to their respective stated maturities, from moneys deposited in the Redemption Fund from any source of available funds, at the option of the City, in whole or in part by such maturities as are selected by the City (or, if the City fails to designate such maturities, then in inverse order of maturity) and by lot within a maturity, on any date on or after May 15, ____, at a redemption price equal to the principal amount of Bonds called for redemption, together with accrued interest to the date fixed for redemption, without premium.

When Bonds are to be redeemed at the option of the City as set forth in this Section 4.01(b), the City shall give written notice to the Trustee of the exercise of such option at least forty-five (45) days prior to the proposed redemption date. Such notice shall state the proposed redemption date, the principal amount of Bonds to be redeemed and the maturity or maturities of the Bonds to be redeemed.

Section 4.02. Selection of Bonds for Redemption. Whenever provision is made in this Indenture for the redemption of less than all of the Bonds of a maturity, the Trustee shall select the Bonds to be redeemed, by lot in any manner which the Trustee in its sole discretion shall deem appropriate and fair. The Trustee shall promptly notify the City in writing of the Bonds or portions thereof so selected for redemption.

Section 4.03. Notice of Redemption.

(a) Unless waived by any Owner of Bonds to be redeemed, notice of any such redemption shall be given by the Trustee on behalf and at the expense of the City by mailing a copy of a redemption notice by first class mail, postage prepaid, at least 30 days and not more than 60 days prior to the date fixed for redemption to the Owner of the Bond or Bonds to be redeemed at the address shown on the Bond Registration Books.

All notices of redemption shall be dated and shall state: (i) the redemption date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, and (v) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the Trust Office of the Trustee.

Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) interest with respect to such Bonds or portions of Bonds shall cease to

accrue and be payable. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Trustee at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Owner a new Bond or Bonds of the same maturity in the amount of the unredeemed principal. All Bonds which have been redeemed shall be canceled and destroyed by the Trustee and shall not be reissued.

(b) In addition to the foregoing notice, further notice shall be given by the Trustee as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as prescribed in subsection (a) above.

(i) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (A) the CUSIP numbers of all Bonds being redeemed; (B) the rate of interest payable on each Bond being redeemed; (C) the maturity date of each Bond being redeemed; and (D) any other descriptive information needed to identify accurately the Bonds being redeemed.

(ii) Each further notice of redemption shall be sent, at the time of the mailing of the official notice, by electronic, telecopy, registered, certified or overnight mail to all Securities Depositories and on the date notice of redemption is sent to the Owners to the Information Services.

(iii) Upon the payment of the redemption price to a Securities Depository of Bonds being redeemed, each check or other transfer of funds issued for such purpose to each Securities Depository shall bear the CUSIP number identifying, by issue and maturity, or otherwise identified to the satisfaction of the Securities Depository and the Trustee, the Bonds being redeemed with the proceeds of such check or other transfer.

(c) Notwithstanding the foregoing, in the case of any optional redemption of the Bonds pursuant to Section 4.01(b), the notice of redemption shall state that the redemption is conditioned upon receipt by the Trustee of sufficient moneys to redeem the Bonds on the anticipated redemption date, and that the optional redemption shall not occur if, by no later than the scheduled redemption date, sufficient moneys to redeem the Bonds have not been deposited with the Trustee. In the event that the Trustee does not receive sufficient funds by the scheduled optional redemption date to so redeem the Bonds to be optionally redeemed, such event shall not constitute an Event of Default; the Trustee shall send written notice to the Owners to the effect that the redemption did not occur as anticipated, and the Bonds for which notice of optional redemption was given shall remain Outstanding for all purposes of this Indenture.

Section 4.04. Partial Redemption of Bonds. Upon surrender of any Bond redeemed in part only, the City shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the City, a new Bond or Bonds of authorized denominations, and of the same maturity, equal in aggregate principal amount to the unredeemed portion of the Bond surrendered.

Section 4.05. Effect of Redemption. Notice of redemption having been duly given as aforesaid, and moneys for payment of the Redemption Price of, together with interest accrued to the redemption date on, the Bonds (or portions thereof) so called for redemption being held by the Trustee, on the redemption date designated in such notice, the Bonds (or portions thereof) so called for redemption shall become due and payable at the Redemption Price specified in such notice plus interest accrued thereon to the redemption date, interest on the

Bonds so called for redemption shall cease to accrue, said Bonds (or portions thereof) shall cease to be entitled to any benefit or security under this Indenture, and the Owners of said Bonds shall have no rights in respect thereof except to receive payment of said Redemption Price and accrued interest.

All Bonds redeemed pursuant to the provisions of this Article IV shall be canceled upon surrender thereof and destroyed with a certificate of destruction delivered to or upon the Order of the City.

ARTICLE V

REVENUES; FUNDS AND ACCOUNTS; INVESTMENTS

Section 5.01. Pledge of Net Revenues. Subject to the provisions of Article XI, the Bonds and any Parity Obligations shall be secured by a first pledge of all of the Net Revenues. In addition, the Bonds shall be secured by a pledge of all of the moneys in all funds and accounts held by the Trustee hereunder, including all amounts derived from the investment of such moneys. Such pledge shall constitute a lien on the Net Revenues and such other moneys for the payment of the principal of and interest and premium (if any) on the Bonds and any on Parity Obligations in accordance with the terms hereof. The Bonds and any Parity Obligations shall be equally secured by a pledge, charge and lien upon the Net Revenues, without priority for number or date, and any premiums upon the redemption of any thereof shall be and are secured by an exclusive pledge, charge and lien upon the Net Revenues and such moneys, except as set forth in this Section 5.01. So long as any of the Bonds are Outstanding, the Net Revenues and such moneys shall not be used for any other purpose, except as set forth in this Section 5.01 except, that out of the Net Revenues, there may be apportioned such sums, for such purposes, as are expressly permitted by Section 5.02.

In consideration of the acceptance of the Bonds by those who shall hold the same from time to time, this Indenture shall be deemed to be and shall constitute a contract between the City and the Owners from time to time of the Bonds and the covenants and agreements herein set forth to be performed by or on behalf of the City shall be for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution and delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

The Trustee shall establish and maintain (a) the Bond Fund and, within the Bond Fund, the Interest Account, the Principal Account and the Bond Reserve Account and the Redemption Fund.

Section 5.02. Receipt, Deposit and Application of Gross Revenues and Net Revenues.

(a) *Application of Gross Revenues.* All of the Gross Revenues shall be deposited by the City immediately upon receipt in the Marina Fund. All Gross Revenues shall be held in trust by the City in the Marina Fund and shall be applied, transferred, used and withdrawn only for the following purposes:

(i) **Operation and Maintenance Costs.** The City shall first pay from the moneys in the Marina Fund the budgeted Operation and Maintenance Costs as such Operation and Maintenance Costs become due and payable.

(ii) **Payment of Debt Service.** On or before the 5th Business Day preceding each Interest Payment Date, the City shall withdraw from the Marina Fund and (A) transfer to the Trustee, for deposit in the Bond Fund, an amount which, together with the balance then on deposit in the Bond Fund, the Interest Account, the Principal Account (other than amounts required for payment of principal of or interest on any Bonds which have matured or been called for redemption but which have not been presented for payment), or the Sinking Account is equal to the aggregate amount of principal of, sinking fund payment and interest coming due and payable on the Bonds on the next succeeding Interest Payment Date and (B) transfer to the Trustee an amount equal to the

aggregate amount of principal of and interest coming due and payable on any Parity Obligations on the next succeeding Interest Payment Date.

(iii) **Bond Reserve Account.** After making the payments, allocations and transfers provided for in subparagraphs (i) and (ii) above, (A) if the balance in the Bond Reserve Account is less than the Bond Reserve Requirement, or (B) if the balance in a bond reserve account, if any, established for any Parity Obligations is less than the bond reserve requirement established for such Parity Obligations, the notice of which deficiency shall have been given by the Trustee to the City, the deficiency shall be restored by transfers from the first moneys which become available in the Marina Fund to the Trustee for deposit in the Bond Reserve Account, such transfers to be made no less than semiannually on each May 1 and November 1.

(iv) **Surplus.** As long as all of the foregoing payments, allocations and transfers are made at the times and in the manner set forth above in subsections (ii) and (iii), inclusive, any moneys remaining in the Marina Fund shall, as long as the Bonds or any Parity Obligations are outstanding, be treated as surplus and applied for any lawful purpose of the Marina Fund, including for the redemption of Bonds and shall not be transferred for any other City purpose.

(b) *Application of Net Revenues.* On or before the Business Day preceding each Interest Payment Date, the Trustee shall transfer from the Bond Fund and deposit into the following respective accounts (each of which the Trustee shall establish and maintain within the Bond Fund), the following amounts, in the following order of priority, the requirements of each such account (including the making up of any deficiencies in any such account resulting from lack of Net Revenues sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any transfer is made to any account subsequent in priority:

First: to the Interest Account, the aggregate amount of interest becoming due and payable on the next succeeding Interest Payment Date on all Bonds and any Parity Obligations then Outstanding;

Second: to the Principal Account, the aggregate amount of principal or sinking fund payment becoming due and payable on the Outstanding Bonds and any Parity Obligations on the next succeeding Interest Payment Date, if any; and

Third: to the Bond Reserve Account and to the bond reserve fund established for Parity Obligations, if any, the amount needed to increase the amount then on deposit in the Bond Reserve Account to the Bond Reserve Requirement and needed to increase the amount in such other bond reserve fund to its applicable requirement, respectively.

Section 5.03. Application of Interest Account.

(a) All amounts in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying interest on the Bonds and any Parity Obligations as it shall become due and payable (including accrued interest on any Bonds purchased or redeemed prior to maturity pursuant to this Indenture).

(b) Amounts deposited in the Interest Account from Bond proceeds pursuant to Section 3.02(c) shall be applied to pay interest on the Bonds on the following Interest Payment Dates and in the following amounts:

<u>Interest Payment Date</u>	<u>Amount</u>
November 15, 2015	
May 15, 2016	
November 15, 2016	
May 15, 2017	

Section 5.04. Application of Principal Account.

(a) All amounts in the Principal Account shall be used and withdrawn by the Trustee solely for the purposes of paying the principal of the Bonds and any Parity Obligations when due and payable.

(b) The Trustee hereby establishes and maintains within the Principal Account a separate subaccount, referred to herein as the "Sinking Account," for the Term Bonds. On or before the Business Day preceding each mandatory Sinking Account payment date, the Trustee shall transfer the amount deposited in the Principal Account pursuant to Section 5.02 for the purpose of making a mandatory Sinking Account payment from the Principal Account to the Sinking Account.

With respect to the Sinking Account, on each mandatory Sinking Account payment date established for the Sinking Account, the Trustee shall apply the mandatory Sinking Account payment required on that date to the redemption (or payment at maturity, as the case may be) of Term Bonds, upon the notice and in the manner provided in Article IV; provided that, at any time prior to giving such notice of such redemption, the Trustee upon the Order of the City shall apply moneys in the Bond Fund to the purchase of Term Bonds made by the City of such 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 shall be directed by the City, except that the purchase price (excluding accrued interest) shall not exceed the Redemption Price that would be payable for such Bonds upon redemption by application of such mandatory Sinking Account payment. If, during the twelve-month period immediately preceding said mandatory Sinking Account payment date, the City has purchased Term Bonds with moneys in such Sinking Account, or, during said period and prior to giving said notice of redemption, the City has deposited Term Bonds with the Trustee, or Term Bonds were at any time purchased by the City or redeemed by the Trustee from the Redemption Fund and allocable to said mandatory Sinking Account payment, such Bonds so purchased or deposited or redeemed shall be applied, to the extent of the full principal amount thereof, to reduce said mandatory Sinking Account payment. All Bonds purchased or deposited pursuant to this subsection shall be canceled and destroyed by the Trustee and the Trustee shall provide evidence of such destruction to the City (upon its request). Any amounts remaining in a Sinking Account when all of the Term Bonds are no longer Outstanding shall be withdrawn by the Trustee and transferred to the Bond Fund. All Term Bonds purchased from a Sinking Account or deposited by the City with the Trustee shall be allocated first to the next succeeding mandatory Sinking Account payment for such Bonds, then pro-rata to the remaining mandatory Sinking Account payments required for such maturity of Bonds in proportion to the amount of such mandatory Sinking Account payments. All Bonds purchased or deposited pursuant to this subsection shall be canceled and destroyed by the Trustee and, upon the City's request, the Trustee shall provide evidence of such destruction to the City.

Notwithstanding the foregoing, if some but not all of the Term Bonds have been theretofore redeemed pursuant to Sections 4.01(b), the total amount of all future mandatory

Sinking Account payments set forth in Section 5.04(c) shall be reduced by the aggregate principal amount of Term Bonds so redeemed, allocated among such mandatory Sinking Account payments on a pro rata basis in integral multiples of \$5,000 as determined by the City (notice of which determination shall be given to the Trustee).

Any amounts remaining in a Sinking Account when all of the Term Bonds are no longer Outstanding shall be withdrawn by the Trustee and transferred to the Bond Fund.

(c) Subject to the terms and conditions set forth in this Section 5.04 and in Section 4.01(a), the Term Bonds maturing on May 15, ____ (the “ ____ Term Bonds”) shall be redeemed (or paid at maturity, as the case may be) by application of mandatory Sinking Account payments in the amounts and upon the dates hereby established for the Bonds Term Bonds Sinking Account as follows:

Sinking Fund Account Redemption Date (May 15)	Sinking Account Installments Redeemed or Purchased
---	---

†Maturity

In lieu of such redemption, the Trustee may apply amounts in the Sinking Account to the purchase of the ____ Term Bonds 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 City in writing, except that the purchase price (exclusive of accrued interest) may not exceed the redemption price then applicable to the ____ Term Bonds, as set forth in a Written Request of the City.

Subject to the terms and conditions set forth in this Section 5.04 and in Section 4.01(a), the Term Bonds maturing on May 15, ____ (the “ ____ Term Bonds”) shall be redeemed (or paid at maturity, as the case may be) by application of mandatory Sinking Account payments in the amounts and upon the dates hereby established for the Bonds Term Bonds Sinking Account as follows:

Sinking Fund Account Redemption Date (May 15)	Sinking Account Installments Redeemed or Purchased
---	---

†Maturity

In lieu of such redemption, the Trustee may apply amounts in the Sinking Account to the purchase of the ____ Term Bonds 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 City in writing, except that the purchase price (exclusive of accrued interest) may not exceed the redemption price then applicable to the ____ Term Bonds, as set forth in a Written Request of the City.

Section 5.05. Application of Bond Reserve Account. All amounts in the Bond Reserve Account shall be used and withdrawn by the Trustee solely for the purpose of (a) paying interest on or principal of the Bonds when due and payable to the extent that moneys deposited in the Interest Account or Principal Account, respectively, are not sufficient for such purpose, and (b) making the final payments of principal of and interest on the Bonds. On the date on which all Bonds shall be retired hereunder or provision made therefor pursuant to Article X, all moneys then on deposit in the Bond Reserve Account shall be withdrawn by the Trustee and paid to the City. Moneys in the Bond Reserve Account may only be used to cure insufficiencies in the Interest Account or Principal Account relating to the Bonds. Moneys in a bond reserve account established for Parity Obligations, if any, may only be used to cure insufficiencies in the Interest Account or Principal Account relating to such Parity Obligations.

Amounts in the Bond Reserve Account shall be valued by the Trustee semi-annually on each May 1 and November 1. If, on any date of computation, moneys and securities on deposit in the Bond Reserve Account are less than the Bond Reserve Requirement, the City covenants and agrees that it will, no less than semiannually on each May 1 and November 1, increase the amount therein to the Bond Reserve Requirement. If, on any date of computation, moneys and securities on deposit in the Bond Reserve Account are in excess of the Bond Reserve Requirement, the Trustee shall notify the City of the amount of such excess and shall, as directed by the City, withdraw all or a portion of such excess amount and transfer such amount to the Interest Account.

At any time, moneys on deposit in the Bond Reserve Account may be substituted by the City with a Qualified Reserve Fund Credit Instrument, in an amount equal to the Bond Reserve Requirement, upon presentation to the Trustee of such Qualified Reserve Fund Credit Instrument. Upon such substitution, the Trustee shall transfer amounts on deposit in the Bond Reserve Account to the City for deposit in Project Fund, prior to the completion of the Project, and thereafter to the Interest Account.

Section 5.06. Application of Redemption Fund. The Trustee shall establish and maintain the Redemption Fund, which the Trustee shall hold in trust. The City may at any time remit moneys to the Trustee for deposit by the Trustee into the Redemption Fund for the purposes of redeeming Bonds in accordance with the terms of Section 4.01(b). All amounts deposited in the Redemption Fund shall be used and withdrawn by the Trustee solely for the purpose of redeeming Bonds, in the manner and upon the terms and conditions specified in Article IV, at the next succeeding date of redemption for which notice has been given and at the redemption prices then applicable to redemptions pursuant to Section 4.01(b); provided that, at any time prior to giving such notice of redemption, the Trustee upon Order of the City shall apply such amounts to the purchase of Bonds made by the City 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 shall be directed by the City, except that the purchase price (exclusive of accrued interest) may not exceed the par value of such Bonds.

Section 5.07. Investment of Moneys in Funds and Accounts. All moneys in any of the funds and accounts established pursuant to this Indenture shall, upon Request of the City provided at least two Business Days prior to the date of investment, be invested by the Trustee, but solely in Permitted Investments. In the absence of any such directions from the City, the Trustee shall invest any such moneys in the money market fund set forth in the letter of authorization and direction executed by the City and delivered to the Trustee. If no specific money market fund had been specified by the City, the Trustee shall make a request to the City for investment directions and, if no investment directions are provided within 10 days, such amount shall be held in cash, uninvested during such 10 day period and thereafter, until specific investment directions are provided by the City to the Trustee. All Permitted

Investments shall be acquired subject to the limitations as to maturities hereinafter set forth in this Section 5.07 and such additional limitations or requirements consistent with the foregoing as may be established by Request of the City.

Moneys in the Bond Reserve Account shall be invested in (i) obligations which will by their terms mature on or before the date of the final maturity of the Bonds or five (5) years from the date of investment, whichever is earlier or (ii) an investment agreement which permits withdrawals or deposits without penalty at such time as such moneys will be needed or in order to replenish the Bond Reserve Account. Moneys in the remaining funds and accounts shall be invested in Permitted Investments maturing not later than the date on which it is estimated that such moneys will be required by the Trustee.

All interest, profits and other income received from the investment of moneys in any other fund or account established pursuant to this Indenture shall be deposited when received in the Bond Fund. Notwithstanding anything to the contrary contained in this paragraph, an amount of interest received with respect to any Permitted Investment equal to the amount of accrued interest, if any, paid as part of the purchase price of such Permitted Investment shall be credited to the fund or account for the credit of which such Permitted Investment was acquired.

The Trustee may commingle any of the funds or accounts established pursuant to this Indenture into a separate fund or funds for investment purposes only, provided that all funds or accounts held by the Trustee hereunder shall be accounted for separately as required by this Indenture. The Trustee or an affiliate may act as principal or agent in the making or disposing of any investment. The Trustee may sell, or present for redemption, any Permitted Investments so purchased whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such Permitted Investment is credited, and, subject to the provisions of Section 9.03, the Trustee shall not be liable or responsible for any loss resulting from such investment.

The City acknowledges that, to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grants the City the right to receive brokerage confirmations of security transactions as they occur, the City specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the City periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder. The Trustee may make any investments hereunder through its own bond or investment department or trust investment department, or those of its parent or any affiliate.

The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investments made by the Trustee hereunder.

Section 5.08. Valuation and Disposition of Investments. All moneys held by the Trustee shall be held in trust, but need not be segregated from other funds unless specifically required by this Indenture. Except as specifically provided in this Indenture, the Trustee shall not be liable to pay interest on any moneys received by it, but shall be liable only to account to the City for earnings derived from funds that have been invested.

The City covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Indenture, or otherwise containing gross proceeds of the Bonds (within the meaning of section 148 of the Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Indenture or the Code) at Fair Market Value.

Investments in the Bond Reserve Account shall be valued at Fair Market Value and the Trustee shall be deemed to have complied with such valuation to the extent it utilized an automated pricing service through its trust accounting system. Investments in funds or

accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Code and (unless valuation is undertaken at least annually) investments in the Bond Reserve Account shall be valued by the City at their Fair Market Value.

ARTICLE VI

COVENANTS OF THE CITY; SPECIAL TAX COVENANTS

Section 6.01. Punctual Payment. The City shall punctually pay or cause to be paid the principal or Redemption Price and interest to become due in respect of all the Bonds, in strict conformity with the terms of the Bonds and of this Indenture, according to the true intent and meaning thereof, but only out of Net Revenues and other assets pledged for such payment as provided in this Indenture.

Section 6.02. Extension of Payment of Bonds. The City shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any of the claims for interest by the purchase or funding of such Bonds or claims for interest or by any other arrangement and in case the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which shall not have been so extended. Nothing in this Section 6.02 shall be deemed to limit the right of the City to issue Bonds for the purpose of refunding any Outstanding Bonds, and such issuance shall not be deemed to constitute an extension of maturity of Bonds.

Section 6.03. Discharge of Claims. The City covenants that in order to fully preserve and protect the priority and security of the Bonds the City shall pay from the Net Revenues and discharge all lawful claims for labor, materials and supplies furnished for or in connection with the Marina System which, if unpaid, may become a lien or charge upon the Net Revenues prior or superior to the lien of the Bonds and impair the security of the Bonds. The City shall also pay from the Net Revenues all taxes and assessments or other governmental charges lawfully levied or assessed upon or in respect of the Marina System or upon any part thereof or upon any of the Net Revenues therefrom.

Section 6.04. Operation of Marina System in Efficient and Economical Manner. The City covenants and agrees to operate, or cause to be operated, the Marina System in an efficient and economical manner and to operate, maintain and preserve the Marina System in good repair and working order. The City may not dispose of any assets of the Marina System that would have a material impact on operations.

Section 6.05. Against Encumbrance. Except as provided herein, the City covenants that the property, facilities and improvements of the Marina System shall not be mortgaged or otherwise encumbered, leased, pledged, any charge placed thereon, or disposed of as a whole or substantially as a whole unless: (a) the City shall cause to be filed with the Trustee written evidence from Fitch, if Fitch is rating the Bonds, and/or Moody's, if Moody's is rating the Bonds, and/or S&P, if S&P is rating the Bonds, that such sale or other disposition will not cause a reduction or withdrawal of the uninsured rating then assigned to the Bonds by each such rating agency; and (b) such sale or other disposition shall be so arranged as to provide for a continuance of payments into the Bond Fund sufficient in amount to permit payment therefrom of the principal of and interest on and premiums, if any, due upon the call and redemption thereof, of the Outstanding Bonds, and also to provide for such payments into the funds as are required under the terms of this Indenture;. Notwithstanding the foregoing, the City may lease real property constituting a portion of the Marina System; provided that the lease payments shall be considered Gross Revenues hereunder.

The City further covenants that the Net Revenues or any other funds pledged or otherwise made available to secure payment of the principal of and interest on the Outstanding Bonds shall not be mortgaged, encumbered, sold, leased, pledged, any charge placed thereon, or disposed of or used except as authorized by the terms of this Indenture. The City further covenants that it will not enter into any agreement which impairs the operation of the Marina System or any part of it necessary to secure adequate Net Revenues to pay the principal and interest of the Bonds or which otherwise would impair the rights of the Bond Owners with respect to the Net Revenues. If any substantial part of the Marina System is sold the payment therefor shall either be used for the acquisition and/or construction of improvements and extensions of the Marina System or shall be deposited with the Trustee in the Redemption Fund and shall be used to pay or redeem the Outstanding Bonds on a pro rata basis.

Section 6.06. Records and Accounts. The City covenants that it shall keep proper books of record and accounts of the Marina System, separate from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the Marina System. Said books shall, upon reasonable request, be subject to the inspection of the Owners of not less than ten percent (10%) of the Outstanding Bonds or their representatives authorized in writing.

The City covenants that it will cause the books and accounts of the Marina System to be audited annually by an Independent Accountant and will make available for inspection by the Bond Owners at the Trust Office of the Trustee, upon reasonable request, a copy of the report of such Independent Accountant. Any such audit may be combined with and be a part of the general audit of the City's financial records.

The City covenants that it will cause to be prepared annually, not more than two hundred ten (210) days after the close of each Fiscal Year a summary statement showing the amount of Gross Revenues and the amount of all other funds collected which are required to be pledged or otherwise made available as security for payment of principal of and interest on the Bonds, the disbursements from the Gross Revenues and other funds in reasonable detail, and a general statement of the financial condition of the Marina System. The City shall furnish a copy of the statement to any Bond Owner upon written request.

Section 6.07. Rates and Charges.

(a) *Covenant Regarding Gross Revenues*. The City covenants to budget in a manner that fixes, prescribes and revises rates, fees and charges for the Marina System as a whole for the services and improvements furnished by the Marina System once for each Fiscal Year which are at least sufficient, after making allowances for contingencies and error in the estimates, to yield Gross Revenues that are sufficient to pay the following amounts in the following order of priority:

(i) all anticipated Operation and Maintenance Costs of the Marina System for such Fiscal Year;

(ii) Debt Service payments on the Bonds and on any Parity Obligations as they become due and payable during such Fiscal Year, without preference or priority, except to the extent such Debt Service payments are payable from the proceeds of the Bonds or Parity Obligations or from any other source of legally available funds of the City that have been deposited with the Trustee for purposes prior to the commencement of such Fiscal Year;

(iii) the amount, if any, required to restore the balance in the Bond Reserve Account, and in any reserve account established for Parity Obligations, to the full

amount of the Reserve Requirement and the reserve requirement with respect to any such Parity Obligations;

(iv) all other payments required to meet any other obligations of the City which are charges, liens, encumbrances upon, or which are otherwise payable, from the Revenues during such Fiscal Year.

(b) *Covenant Regarding Net Revenues.* In addition, the City covenants to budget in a manner that fixes, prescribes and revises, for the Marina System once for each Fiscal Year which are sufficient to yield (i) Net Revenues which are at least equal to one hundred twenty-five percent (125%) of the total Debt Service Payments on the Bonds and on any Parity Obligations coming due and payable in such Fiscal Year, and (ii) Net Revenues which are at least equal to one hundred fifteen percent (115%) of the sum of (A) the total Debt Service Payments on the Bonds and on any Parity Obligations and (B) the payments with respect to any Subordinate Obligations due and payable in such Fiscal Year.

Section 6.08. Limitations on Future Obligations Secured by Net Revenues.

(a) *No Obligations Superior to Bonds or Parity Obligations.* In order to protect further the availability of the Net Revenues and the security for the Bonds and any Parity Obligations, the City covenants that no additional bonds or other indebtedness will be issued or incurred on a senior basis to the Bonds or such Parity Obligations that are payable out of the Net Revenues in whole or in part.

(b) *Parity Obligations.* The City further covenants that, except for obligations incurred to prepay or post a security deposit for the payment of the Bonds or Parity Obligations, for which no test is required other than the requirements that there are resulting debt service savings in each year, the City may issue or incur Parity Obligations during the term of the Bonds if:

(i) No Event of Default shall have occurred and be continuing under the Indenture;

(ii) The City demonstrates that:

(A) Net Revenues, calculated in accordance with generally accepted accounting procedures, as shown by the books of the City for the most recent completed Fiscal Year for which audited financial statements are available, or for any more recent consecutive twelve (12) month period selected by the City, calculated by the City, are at least equal to (A) 1.25 times Maximum Aggregate Annual Debt Service on the Bonds and on all Parity Obligations then outstanding (including the Parity Obligations proposed to be issued), and (B) 1.15 times Maximum Aggregate Annual Debt Service on the Bonds and on all Parity Obligations then outstanding (including the Parity Obligations proposed to be issued), and all outstanding Subordinate Obligations, or

(B) Net Revenues (as described below), calculated by the City or, if desired by the City, calculated by and Independent Accountant or financial consultant, are at least equal to (A) 1.25 times Maximum Aggregate Annual Debt Service on the Bonds and on all Parity Obligations then outstanding (including the Parity Obligations proposed to be issued), and (B) 1.15 times Maximum Aggregate Annual Debt Service on the Bonds and on all Parity Obligations then outstanding (including the Parity Obligations proposed to be issued), and all outstanding Subordinate Obligations, commencing with the first full Fiscal Year

following the completion of the expansion project, as evidenced by a Certificate of the City.

The projections described in (B) above may take into account (1) only increases in the charges made for service from the Marina System adopted by the City prior to the date of issuance or incurrence of such Parity Obligations and which are scheduled to be effective within 36 months following the date of issuance or incurrence of such Parity Obligations, and (2) an allowance for Net Revenues from any additions or connections to or improvements or extensions of the Marina System, all in an amount equal to the estimated additional average annual Net Revenues to be derived from such additions, connections, improvements or extensions.

(iii) The Parity Obligations shall be payable as to principal on May 15 in each year in which principal becomes due, and shall be payable as to interest semiannually on May 15 and November 15, except that the first installment of interest may be payable on either May 15 or November 15.

(iv) The Trustee shall act as trustee for such Parity Obligations.

(v) The City may but shall not be required to fund a reserve fund or obtain a Qualified Reserve Fund Credit Instrument with respect to any Parity Obligations. If a reserve fund is funded for any Parity Obligations or a Qualified Reserve Fund Credit Instrument is obtained with respect to any Parity Obligations, such funded reserve fund or Qualified Reserve Fund Credit Instrument shall secure only the related Parity Obligations and shall not support the Bonds or any other Parity Obligations.

(c) *Subordinate Obligations.* Additional obligations may be issued on a basis subordinate to the Bonds and Parity Obligations to the extent required; provided, however, that the City shall not issue or incur any Subordinate Obligations unless Net Revenues, calculated in the same manner as described in paragraph (b) above, are equal to at least 100% of the sum of the Debt Service and debt service obligations on all Subordinate Obligations outstanding immediately subsequent to the incurring of such additional obligations.

Section 6.09. Further Assurances. The City will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Owners of the Bonds of the rights and benefits provided in this Indenture.

Section 6.10. Waiver of Laws. The City shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension law now or at any time hereafter in force that may affect the covenants and agreements contained in this Indenture or in the Bonds, and all benefit or advantage of any such law or laws is hereby expressly waived by the City to the extent permitted by law.

Section 6.11. Private Activity Bond Limitation. The City shall assure that the proceeds of the Bonds are not so used as to cause the Bonds to satisfy the private business tests of Section 141(b) of the Code.

Section 6.12. Private Loan Financing Limitation. The City shall assure that the proceeds of the Bonds are not so used as to cause the Bonds to satisfy the private loan financing test of Section 141(c) of the Code.

Section 6.13. Federal Guarantee Prohibition. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

Section 6.14. Rebate Requirement. The City shall take any and all actions necessary to assure compliance with Section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government.

Section 6.15. No Arbitrage. The City shall not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Bonds, to be “arbitrage bonds” within the meaning of Section 148 of the Code.

Section 6.16. Maintenance of Tax-Exemption. The City shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the Owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the Closing Date.

Section 6.17. Rebate Fund.

(a) The Trustee shall establish and maintain, when required, a fund separate from any other fund established and maintained hereunder designated as the Rebate Fund. Within the Rebate Fund, the Trustee shall maintain such accounts as shall be necessary to comply with instructions of the City given pursuant to the terms and conditions of the Tax Certificate. Subject to the transfer provisions provided in paragraph (e) below, 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 (required by the Tax Certificate and referred to herein as the “Rebate Requirement”), for payment to the federal government of the United States of America. Neither the City nor the Owner of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section 6.17, 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 directions of the City including supplying all necessary information in the manner provided in the Tax Certificate, and shall have no liability or responsibility to enforce compliance by the City with the terms of the Tax Certificate or any other tax covenants contained herein. The Trustee shall not be responsible for calculating rebate amounts or for the adequacy or correctness of any rebate report or rebate calculations. The Trustee shall have no independent duty to review such calculations or enforce the compliance by the City with such rebate requirements. The Trustee shall have no duty or obligation to determine the applicability of the Code and shall only be obligated to act in accordance with written instructions provided by the City.

(b) Upon the City’s written direction, an amount shall be deposited to the Rebate Fund by the Trustee from deposits by the City, if and to the extent required, so that the balance in the Rebate Fund shall equal the Rebate Requirement. Computations of the Rebate Requirement shall be furnished by or on behalf of the City in accordance with the Tax Certificate. The Trustee shall supply to the City all necessary information in the manner provided in the Tax Certificate to the extent such information is reasonably available to the Trustee.

(c) The Trustee shall have no obligation to rebate any amounts required to be rebated pursuant to this Section 6.17, other than from moneys held in the funds and accounts created under this Indenture or from other moneys provided to it by the City.

(d) At the written direction of the City, the Trustee shall invest all amounts held in the Rebate Fund in Permitted Investments, subject to the restrictions set forth in the Tax Certificate. Moneys shall not be transferred from the Rebate Fund except as provided in paragraph (e) below. The Trustee shall not be liable for any consequences arising from such investment.

(e) Upon receipt of the City's written directions, the Trustee shall remit part or all of the balances in the Rebate Fund to the United States, as so directed. In addition, if the City so directs, the Trustee will deposit money into or transfer money out of the Rebate Fund from or into such accounts or funds as directed by the City's written directions; *provided, however*, only moneys in excess of the Rebate Requirement may, at the written direction of the City, be transferred out of the Rebate Fund to such other accounts or funds or to anyone other than the United States in satisfaction of the arbitrage rebate obligation. Any funds remaining in the Rebate Fund after each five year remission to the United States, redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Requirement, or provision made therefor satisfactory to the Trustee, shall be withdrawn and remitted to the City.

(f) Notwithstanding any other provision of this Indenture, including in particular Article X, the obligation to remit the Rebate Requirement to the United States and to comply with all other requirements of this Section 6.17, Section 6.07 and the Tax Certificate shall survive the defeasance or payment in full of the Bonds.

Section 6.18. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of the Indenture, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an event of default; however, any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

ARTICLE VII

MAINTENANCE, TAXES, INSURANCE AND CONDEMNATION

Section 7.01. Maintenance and Operation of the Marina System. The City covenants and agrees that it will operate and maintain the Marina System in accordance with all applicable governmental laws, ordinances, approvals, rules, regulations and requirements including, without limitation, such zoning, sanitary, pollution and safety ordinances and laws and such rules and regulations thereunder as may be binding upon the City.

Section 7.02. Taxes, Assessments, Other Governmental Charges and Utility Charges. The City covenants and agrees that it will pay and discharge all taxes, assessments, governmental charges of any kind whatsoever, and utility charges which may be or have been assessed or which may have become liens upon the Marina System or the interest therein of the Trustee or of the Owners of the Bonds, and will make such payments or cause such payments to be made, respectively, in due time to prevent any delinquency thereon or any forfeiture or sale of the Marina System or any part thereof, and upon request, will furnish to the Trustee receipts for all such payments, or other evidence satisfactory to the Trustee; provided, however, that the City shall not be required to pay any tax, assessment, rate or charge as herein provided as long as it shall in good faith contest the validity thereof, provided that the City shall have set aside adequate reserves with respect thereto.

Section 7.03. Liability Insurance. The City shall maintain or cause to be maintained, so long as any Bonds or Parity Obligations remain outstanding, but only if and to the extent available at reasonable cost from reputable insurers, a standard comprehensive general insurance policy or policies equivalent in scope to an ISO CG 00 01 10 93 not excluding marina operators liability coverage with limits of \$3 million per occurrence in protection of the City, the City and their respective members, officers, agents, assignees and employees. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried by the City, and may be maintained in whole or in part in the form of self-insurance by the City. The proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

Section 7.04. Property Insurance. The City shall procure and maintain or cause to be procured and maintained, so long as any Bonds or Parity Obligations remain outstanding, but only in the event and to the extent available from reputable insurers at reasonable cost, special perils property insurance against loss or damage to any improvements constituting any part of the Marina System, covering such hazards as are customarily covered with respect to works and property of like character. Such insurance may be subject to deductible clauses which are customary with respect to works and property of a like character. Such insurance may be maintained as part of or in conjunction with any other property insurance coverage carried by the City. The insurance shall also include business interruption coverage that covers Bond payments for up to three years in the event a covered peril causes the operations to cease during the repair or rebuilding of said improvements constituting any part of the Marina System. Said business interruption coverage shall name Trustee loss payee as its interests may appear.

Section 7.05. Insurance Net Proceeds; Form of Policies. The City shall pay or cause to be paid when due the premiums for all insurance policies required hereunder. The City shall annually, on or before May 15, deliver to the Trustee a certificate, upon which the Trustee may rely, to the effect that the City has complied with the requirements of Sections 7.03 and 7.04 hereof. In the event that any such insurance shall be provided in the form of self-insurance by the City, the City shall not be obligated to make any payment with respect to any insured.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES OF BONDOWNERS

Section 8.01. Events of Default. The following events shall be Events of Default:

(a) default in the due and punctual payment of the principal of any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by proceedings for redemption, by declaration or otherwise, in the amounts and at the times provided therefor;

(b) default in the due and punctual payment of any installment of interest on any Bond when and as such interest installment shall become due and payable;

(c) default by the City in the observance of any of the covenants, agreements or conditions on its part in this Indenture or in the Bonds contained (other than as referred to in subsections (a) or (b) of this Section 8.01), if such default shall have continued for a period of sixty (60) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the City by the Trustee, or to the City and the Trustee by the Owners of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds at the time Outstanding;

(d) abandonment by the City of the Marina System, or any substantial part thereof, and such abandonment shall continue for a period of sixty (60) days after written notice thereof shall have been given to the City by the Trustee, or to the City and the Trustee by the Owners of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds at the time Outstanding, unless the City shall have assumed all of the City's obligations hereunder; or

(e) the City's filing a petition in voluntary bankruptcy, for the composition of its affairs or for its corporate reorganization under any state or federal bankruptcy or insolvency law, or making an assignment for the benefit of creditors, or admitting in writing to its insolvency or inability to pay debts as they mature, or consenting in writing to the appointment of a trustee or receiver for itself or for the whole or any substantial part of the Marina System.

Section 8.02. Remedies Upon Event of Default. Upon the occurrence and continuance of any Event of Default, then and in every such case the Trustee in its discretion may, and upon the written request of the Owners of not less than 25% in principal amount of the Bonds then Outstanding and receipt of indemnity to its satisfaction, and payment of its fees and expenses, including the fees and expenses of its counsel, shall in its own name and as the Trustee of an express trust:

(a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Owners under, and require the City to carry out any agreements with or for the benefit of the Owners of Bonds and to perform its or their duties under this Indenture, provided that any such remedy may be taken only to the extent permitted under the applicable provisions of this Indenture;

(b) bring suit upon the Bonds;

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

(d) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of Bonds hereunder.

Upon the occurrence of an Event of Default, the Trustee shall be entitled as a matter of right to the appointment of a receiver or receivers for the Net Revenues, *ex parte*, and without notice, and the City consents to the appointment of such receiver upon the occurrence of an Event of Default. In the case of any receivership, insolvency, bankruptcy, or other judicial proceedings affecting the City, the Trustee shall be entitled to file such proofs of claims and other documents as may be necessary or advisable in order to have the claims of the Trustee and the Owners allowed in such proceedings, without prejudice, however, to the right of any Owner to file a claim on his or her own behalf; provided, the Trustee shall be entitled to compensation and reimbursement for the reasonable fees and expenses of its counsel and indemnity for its reasonable expenses and liability from the City or the Owners, as appropriate.

Section 8.03. Application of Net Revenues and Other Funds After Default. If an Event of Default shall occur and be continuing, all Net Revenues and any other funds then held or thereafter received by the Trustee under any of the provisions of this Indenture shall be applied by the Trustee as follows and in the following order:

(a) To the payment of any expenses reasonably necessary in the opinion of the Trustee to protect the interests of the Owners of the Bonds and payment of reasonable fees, charges and expenses of the Trustee (including reasonable fees and disbursements of its counsel) incurred in and about the performance of its powers and duties under this Indenture;

(b) To the payment of the principal of and interest then due on the Bonds (upon presentation of the Bonds to be paid, and stamping or otherwise noting thereon of the payment if only partially paid, or surrender thereof if fully paid) in accordance with the provisions of this Indenture, as follows:

First: To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of the unpaid principal of any Bonds which shall have become due, whether at maturity or by redemption, with interest on the overdue principal at the rate borne by the respective Bonds (to the extent permitted by law), and, if the amount available shall not be sufficient to pay in full all the Bonds, together with such interest, then to the payment thereof ratably, according to the amounts of principal due on such date to the persons entitled thereto, without any discrimination or preference.

Section 8.04. Trustee to Represent Bondowners. The Trustee is hereby irrevocably appointed (and the successive respective Owners of the Bonds, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee) as trustee and true and lawful attorney-in-fact of the Owners of the Bonds for the purpose of exercising and prosecuting on their behalf such rights and remedies as may be available to such Owners under the provisions of the Bonds, this Indenture, the Bond Law and applicable provisions of any other law. Upon the occurrence and continuance of an Event of Default or other occasion giving rise to a right in the Trustee to represent the Bondowners, the Trustee in its discretion may and shall upon the written request of the Owners of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding (or, if more than one such request is received, the written request executed by the Owners of the greatest percentage of Bonds then Outstanding

in excess of twenty-five percent (25%)), and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of such Owners by such appropriate action, suit, mandamus or other proceedings as it shall deem most effectual to protect and enforce any such right, at law or in equity, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable right or remedy vested in the Trustee or in such Owners under this Indenture, the Bond Law or any other law; and upon instituting such proceeding, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver of the Net Revenues and other assets pledged under this Indenture, pending such proceedings. All rights of action under this Indenture or the Bonds or otherwise may be prosecuted and enforced by the Trustee without the possession of any of the Bonds or the production thereof in any proceeding relating thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in the name of the Trustee for the benefit and protection of all the Owners of such Bonds, subject to the provisions of this Indenture (including Section 6.02).

Section 8.05. Bondowners' Direction of Proceedings. Anything in this Indenture to the contrary notwithstanding, the Owners of a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, to direct the method of conducting all remedial proceedings taken by the Trustee hereunder, provided that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture, and that the Trustee shall have the right to decline to follow any such direction which in the opinion of the Trustee would be unjustly prejudicial to Bondowners not parties to such direction or would expose the Trustee to liability for which it has not been indemnified to its satisfaction.

Section 8.06. Limitation on Bondowners' Right to Sue. No Owner of any Bond shall have the right to institute any suit, action or proceeding at law or in equity, for the protection or enforcement of any right or remedy under this Indenture, the Bond Law or any other applicable law with respect to such Bond, unless (1) such Owner shall have given to the Trustee written notice of the occurrence of an Event of Default; (2) the Owners of not less than twenty-five per cent (25%) in aggregate principal amount of the Bonds then Outstanding (or, if more than one such request is received, the written request executed by the Owners of the greatest percentage of Bonds then Outstanding in excess of twenty-five percent (25%)) 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; (3) such Owner or said Owners shall have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; and (4) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written 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 Bonds of any remedy hereunder or under law; it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Indenture or the rights of any other Owners of Bonds, or to enforce any right under this Indenture, the Bond Law, the Government Code of the State or other applicable law with respect to the Bonds, except in the manner herein provided, and that all proceedings at law or in equity to enforce any such right shall be instituted, had and maintained in the manner herein provided and for the benefit and protection of all Owners of the Outstanding Bonds, subject to the provisions of this Indenture (including Section 6.02).

Section 8.07. Absolute Obligation of City. Nothing in Section 8.06 or in any other provision of this Indenture, or in the Bonds, contained shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the principal or Redemption Price of and

interest on the Bonds to the respective Owners of the Bonds at their respective dates of maturity, or upon call for redemption, as herein provided, but only out of the Net Revenues and other assets herein pledged therefor, or affect or impair the right of such Owners, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the Bonds.

Section 8.08. Termination of Proceedings. In case any proceedings taken by the Trustee or any one or more Bondowners on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Bondowners, then in every such case the City, the Trustee and the Bondowners, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and respectively, and all rights, remedies, powers and duties of the City, the Trustee and the Bondowners shall continue as though no such proceedings had been taken.

Section 8.09. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee or to the Owners of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

Section 8.10. No Waiver of Default. No delay or omission of the Trustee or of any Owner of the Bonds to exercise any right or power arising upon the occurrence of any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee or to the Owners of the Bonds may be exercised from time to time and as often as may be deemed expedient.

ARTICLE IX

THE TRUSTEE

Section 9.01. Appointment of Trustee. The Bank of New York Mellon Trust Company, N.A., a national banking association organized and existing under and by virtue of the laws of the United States of America, is hereby appointed Trustee by the City for the purpose of receiving all moneys required to be deposited with the Trustee hereunder and to allocate, use and apply the same as provided in this Indenture. The City agrees that it will maintain a Trustee having a corporate trust office in the State, with (or if a member of a bank holding company system, its parent holding company shall have) a combined capital and surplus of at least fifty million dollars (\$50,000,000), and subject to supervision or examination by federal or State authority, so long as any Bonds are Outstanding. If such national banking association, 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 9.01 the combined capital and surplus of such national banking association, 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 is hereby authorized to pay the principal of and interest on the Bonds when duly presented for payment at maturity, or on redemption or purchase prior to maturity, and to cancel all Bonds upon payment thereof. The Trustee shall keep accurate records of all funds administered by it and of all Bonds paid and discharged.

Section 9.02. Acceptance of Trustee. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Trustee, prior to the occurrence of an Event of Default and after curing or waiver of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default hereunder has occurred (which has not been cured or waived), the Trustee may exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill and diligence in their exercise, as a prudent person would use in the conduct of its own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder. The Trustee shall not be responsible for any misconduct or negligence on the part of any agent, receiver or attorney appointed with due care by it hereunder. The Trustee may conclusively rely upon an opinion of counsel as full and complete protection for any action taken or suffered by it hereunder.

(c) The Trustee shall not be responsible for any recital herein, or in the Bonds, or for any of the supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby and the Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, conditions or agreements on the part of the City hereunder.

(d) Except as provided in Section 3.02, the Trustee shall not be accountable for the use of any proceeds of sale of the Bonds delivered hereunder. The Trustee may become the Owner of Bonds secured hereby with the same rights which it would have if not the Trustee; may acquire and dispose of other bonds or evidences of indebtedness of the City with the same rights it would have if it were not the Trustee; and may act as a depository for and permit any of its

officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Bonds, whether or not such committee shall represent the Owners of the majority of the Bonds.

(e) The Trustee shall be protected in acting, in good faith and without negligence, upon any notice, request, consent, certificate, order, affidavit, letter, telegram, requisition, facsimile transmission, electronic mail or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken or omitted to be taken by the Trustee in good faith and without negligence pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Bond, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof. The Trustee shall not be bound to recognize any person as an Owner of any Bond or to take any action at his request unless the ownership of such Bond by such person shall be reflected on the Registration Books.

(f) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a Written Certificate of the City as sufficient evidence of the facts therein contained and prior to the occurrence of an Event of Default hereunder of which the Trustee has been given notice or is deemed to have notice, as provided in Section 9.02(h) hereof, shall also be at liberty to accept a Written Certificate of the City to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed by it to be necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and it shall not be answerable for other than its negligence or willful misconduct. The immunities and exceptions from liability of the Trustee shall extend to its officers, directors, employees and agents.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any Event of Default hereunder, except failure by the City to make any of the payments to the Trustee required to be made by the City pursuant hereto or failure by the City to file with the Trustee any document required by this Indenture to be so filed subsequent to the issuance of the Bonds, unless the Trustee shall be specifically notified in writing of such default by the City, and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the Trust Office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no Event of Default hereunder except as aforesaid.

(i) At any and all reasonable times the Trustee and its duly authorized agents, attorneys, experts, accountants and representatives, shall have the right (but not any duty) fully to inspect all books, papers and records of the City pertaining to the Bonds, and to make copies of any of such books, papers and records such as may be desired but which is not privileged by statute or by law.

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

(k) Notwithstanding anything elsewhere in this Indenture with respect to the execution of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, the Trustee shall have the right, but shall not be required, to demand any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, as may be deemed desirable for the purpose of establishing the right

of the City to the execution of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Before taking any action under Article VII hereof or this Article VIII at the request or direction of the Owners, the Trustee may require payment or reimbursement of its fees and expenses, including fees and expenses of counsel and receipt of an indemnity bond satisfactory to it from the Owners to protect it against all liability, except liability which is adjudicated to have resulted from its own negligence or willful misconduct in connection with any action so taken. Before being required to take any action, the Trustee may require an opinion of counsel acceptable to the Trustee, which opinion shall be made available to the other parties hereto upon request, which counsel may be counsel to any of the parties hereto, or a verified certificate of any party hereto, or both, concerning the proposed action. If it does so in good faith, the Trustee shall be absolutely protected in relying thereon.

(m) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law.

(n) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer, unless it shall be provided that the Trustee was negligent in ascertaining the pertinent facts.

Whether or not therein expressly so provided, every provision of this Indenture 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 shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, coupon or other paper or document.

(o) The Trustee shall have no responsibility for or liability in connection with assuring that all of the procedures or conditions to closing set forth in the contract for purchase of the Bonds have been met on the closing date or, that all documents required to be delivered on the Closing Date to the parties are actually delivered, except its own responsibility to receive the proceeds of the sale, deliver the Bonds or other certificates expressly required to be delivered by it and its counsel.

The Trustee may assume that parties to the contract for purchase of the Bonds have waived their rights to receive documents or to require the performance of procedures if the parties to whom such documents are to be delivered or for whom such procedures are to be performed do not require delivery or performance on or prior to the Closing Date.

(p) 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 Bonds.

(q) The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay ("unavoidable delay") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others

relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar even and/or occurrences beyond the control of the Trustee.

(r) Whenever in the administration of the trusts imposed upon it by this Trust Agreement the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of the City, and such certificate shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Indenture in reliance upon such certificate, 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.

Section 9.03. Fees, Charges and Expenses of Trustee. The Trustee shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees (including expenses) and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services. Upon the occurrence of an Event of Default hereunder, but only upon an Event of Default, the Trustee shall have a first lien with right of payment prior to payment of any Bond upon the amounts held hereunder for the foregoing fees, charges and expenses incurred by it respectively.

Section 9.04. Notice to Owners of Default. If an Event of Default hereunder occurs with respect to any Bonds of which the Trustee has been given or is deemed to have notice, as provided in Section 9.02(h) hereof, then the Trustee shall immediately give written notice thereof, by first-class mail to the Owner of each such Bond, unless such Event of Default shall have been cured before the giving of such notice; *provided, however,* that unless such Event of Default consists of the failure by the City to make any payment when due, the Trustee shall, within thirty (30) days of the Trustee's knowledge thereof, give such notice to the Owners unless the Trustee in good faith determines that it is in the best interests of the Owners not to give such notice.

Section 9.05. Intervention by Trustee. In any judicial proceeding to which the City is a party which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of the Owners of any of the Bonds, the Trustee may intervene on behalf of such Owners, and subject to Section 9.02(l) hereof, shall do so if requested in writing by the Owners of at least twenty-five percent (25%) of the Bonds.

Section 9.06. Removal of Trustee. The Owners of a majority of the Bonds may at any time, and the City may, so long as no Event of Default shall have occurred and then be continuing, remove the Trustee initially appointed, and any successor thereto, by an instrument or concurrent instruments in writing delivered to the Trustee, whereupon the City or such Owners, as the case may be, shall appoint a successor or successors thereto; provided that any such successor shall be a bank or trust company meeting the requirements set forth in Section 9.01.

Section 9.07. Resignation by Trustee. The Trustee and any successor Trustee may at any time give written notice of its intention to resign as Trustee hereunder, such notice to be given to the City by first class mail. Upon receiving such notice of resignation, the City shall promptly appoint a successor Trustee. Any resignation or removal of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. Upon such acceptance, the City shall cause notice thereof to be given by first class mail, postage prepaid, to the Owners at their respective addresses set forth on the Registration Books.

Section 9.08. Appointment of Successor Trustee. In the event of the removal or resignation of the Trustee pursuant to Sections 8.06 or 8.07, respectively, and if the Owners shall not have approved a successor Trustee, then the City shall promptly appoint a successor Trustee. In the event the City shall for any reason whatsoever fail to appoint a successor Trustee within sixty (60) days following the delivery to the Trustee of the instrument described in Section 9.06 or within sixty (60) days following the receipt of notice by the City pursuant to Section 9.07, the Trustee may, at the expense of the City, apply to a court of competent jurisdiction for the appointment of a successor Trustee meeting the requirements of Section 9.01 hereof. Any such successor Trustee appointed by such court shall become the successor Trustee hereunder notwithstanding any action by the City purporting to appoint a successor Trustee following the expiration of such ninety-day period.

Within sixty (60) days following the appointment of a successor Trustee hereunder, the former Trustee shall deliver to such successor Trustee (a) all funds and amounts held by the former Trustee hereunder, and (b) any and all information and documentation as may be required or reasonably requested by the City or such successor Trustee in connection with the transfer to such successor Trustee of all the duties and functions of the Trustee hereunder. The City shall pay the reasonable costs and expenses of such former Trustee incurred in connection with such transfer.

Section 9.09. Merger or Consolidation. Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company shall meet the requirements set forth in Section 9.01, shall be the successor to the Trustee and vested with all of the title to the trust estate and all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

Section 9.10. Concerning any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor Trustee and also to the City an instrument in writing accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the Request of the City, or of the Trustee's successor, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as the Trustee hereunder to its successor. Should any instrument in writing from the City be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor Trustee, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

Section 9.11. Appointment of Co-Trustee. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in the case of litigation under this Indenture, and in particular in case of the enforcement of the rights of the Trustee on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate co-trustee. The following provisions of this Section 9.11 are adopted to these ends.

In the event that the Trustee appoints an additional individual or institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-trustee but only to the extent necessary to enable such separate or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them.

Should any instrument in writing from the City be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City. In case any separate trustee or co-trustee, or a successor to either, shall become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

Section 9.12. Indemnification; Limited Liability of Trustee. The City covenants and agrees to indemnify and hold the Trustee and its officers, directors, agents and employees, harmless against any loss, expense, including legal fees and expenses, and liabilities which it may incur arising out of or in the exercise and performance of its powers and duties hereunder, including the reasonable costs and expenses of defending against any claim of liability or arising out of any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading in any official statement or other disclosure utilized in connection with the sale of the Bonds, but excluding any and all losses, expenses and liabilities which are due to the negligence or misconduct of the Trustee, its officers, directors, agents or employees. No provision in this Indenture shall require the Trustee to risk or expend its own funds or otherwise incur any financial liability hereunder if repayment of such funds or adequate indemnity against such liability or risk is not assured to it. The Trustee shall not be liable for any action taken or omitted to be taken by it in accordance with the direction of the Owners of at least a majority of the principal amount of the Bonds relating to the time, method and place of exercising any trust or power or conducting any proceeding or remedy available to the Trustee under this Indenture of for any special, indirect, consequential or punitive damages. The obligations of the City hereunder shall survive the resignation or removal of the Trustee, or the discharge of this Indenture.

ARTICLE X

MODIFICATION OR AMENDMENT OF THE INDENTURE

Section 10.01. Amendments Permitted.

(a) This Indenture and the rights and obligations of the City and of the Owners of the Bonds and of the Trustee may be modified or amended from time to time and at any time by a Supplemental Indenture, which the City and the Trustee may execute when the written consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding shall have been filed with the Trustee; provided that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any particular maturity remain Outstanding, the consent of the Owners of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Bonds Outstanding under this Section 10.01. No such modification or amendment shall (1) extend the fixed maturity of any Bond, or reduce the amount of principal thereof, provided in this Indenture for the payment of any Bond, or reduce the rate of interest thereon, or extend the time of payment of interest thereon, or reduce any premium payable upon the redemption thereof, without the consent of the Owner of each Bond so affected, or (2) reduce the aforesaid percentage of Bonds the consent of the Owners of which is required to effect any such modification or amendment, or permit the creation of any lien on the Net Revenues and other assets pledged under this Indenture prior to or on a parity with the lien created by this Indenture, or deprive the Owners of the Bonds of the lien created by this Indenture on such Net Revenues and other assets (except as expressly provided in this Indenture), or terminate the insurance of the Bonds, without the consent of the Owners of all of the Bonds then Outstanding. It shall not be necessary for the consent of the Bondowners to approve the particular form of any Supplemental Indenture, but it shall be sufficient if such consent shall approve the substance thereof. Promptly after the execution by the City and the Trustee of any Supplemental Indenture pursuant to this subsection (a), the Trustee shall mail a notice, setting forth in general terms the substance of such Supplemental Indenture to the Bondowners at the addresses shown on the Bond Registration Books. 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 Indenture.

(b) This Indenture and the rights and obligations of the City, of the Trustee and of the Owners of the Bonds may also be modified or amended from time to time and at any time by a Supplemental Indenture, which the City and the Trustee may execute without the consent of any Bondowners, but only to the extent permitted by law and only for any one or more of the following purposes:

(i) to add to the covenants and agreements of the City in this Indenture contained other covenants and agreements thereafter to be observed, to pledge or assign additional security for the Bonds (or any portion thereof), or to surrender any right or power herein reserved to or conferred upon the City, provided, that no such covenant, agreement, pledge, assignment or surrender shall materially adversely affect the interests of the Owners of the Bonds;

(ii) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in this Indenture, or in regard to matters or questions arising under this Indenture, as the City may deem necessary or desirable and not inconsistent with this Indenture, and which shall not materially adversely affect the interests of the Owners of the Bonds;

(iii) to make such additions, deletions or modifications as may be necessary to assure exclusion from gross income for purposes of federal income taxation of interest on the Bonds.

(c) No such Supplemental Indenture shall modify any of the rights or obligations of the Trustee without its prior written consent thereto; nor shall the Trustee be required to consent to any such Supplemental Indenture which affects its rights or obligations hereunder.

Section 10.02. Effect of Supplemental Indenture. From and after the time any Supplemental Indenture becomes effective pursuant to this Article X, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the City, the Trustee and all Owners of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 10.03. Endorsement of Bonds; Preparation of New Bonds. Bonds delivered after any Supplemental Indenture becomes effective pursuant to this Article X may, and if the Trustee so determines shall, bear a notation by endorsement or otherwise in form approved by the City and the Trustee as to any modification or amendment provided for in such Supplemental Indenture, and, in that case, upon demand of the Owner of any Bond Outstanding at the time of such execution and presentation of his Bond for the purpose at the Trust Office of the Trustee or at such additional offices as the Trustee may select and designate for that purpose, a suitable notation shall be made on such Bond. If the Supplemental Indenture shall so provide, new Bonds so modified as to conform, in the opinion of the City and the Trustee, to any modification or amendment contained in such Supplemental Indenture, shall be prepared and executed by the City and authenticated by the Trustee, and upon demand of the Owners of any Bonds then Outstanding shall be exchanged at the Trust Office of the Trustee, without cost to any Bondowner, for Bonds then Outstanding, upon surrender for cancellation of such Bonds, in equal aggregate principal amounts of the same maturity.

Section 10.04. Amendment of Particular Bonds. The provisions of this Article X shall not prevent any Bondowner from accepting any amendment as to the particular Bonds held by him, provided that due notation thereof is made on such Bonds.

ARTICLE XI
DEFEASANCE

Section 11.01. Discharge of Indenture. If the City shall pay and discharge the entire indebtedness on all Bonds or any portion thereof in any one or more of the following ways:

(a) by well and truly paying or causing to be paid the principal of and interest and premium (if any) on all or the applicable portion of Outstanding Bonds, as and when the same become due and payable;

(b) by irrevocably depositing with the Trustee or another fiduciary, in trust, at or before maturity, money which, together with the available amounts then on deposit in the funds and accounts established pursuant to this Indenture, is fully sufficient to pay all or the applicable portion of Outstanding Bonds, including all principal, interest and redemption premiums, or;

(c) by irrevocably depositing with the Trustee or another fiduciary, in trust, Defeasance Obligations in such amount as an Independent Accountant shall determine will, together with the interest to accrue thereon and available moneys then on deposit in the funds and accounts established pursuant to this Indenture, be fully sufficient to pay and discharge the indebtedness on all Bonds or the applicable portion of (including all principal, interest and redemption premiums) at or before maturity;

and, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or provision satisfactory to the Trustee shall have been made for the giving of such notice, then, at the election of the City, and notwithstanding that any Bonds shall not have been surrendered for payment, the pledge of the Tax Revenues and other funds provided for in this Indenture and all other obligations of the Trustee and the City under this Indenture shall cease and terminate with respect to all Outstanding Bonds or, if applicable, with respect to that portion of the Bonds which has been paid and discharged, except only (a) the covenants of the City hereunder with respect to the Code, (b) the obligation of the Trustee to transfer and exchange Bonds hereunder, (c) the obligations of the City under Section 9.12 hereof, and (d) the obligation of the City to pay or cause to be paid to the Owners, from the amounts so deposited with the Trustee, all sums due thereon and to pay the Trustee all fees, expenses and costs of the Trustee. In the event the City shall, pursuant to the foregoing provision, pay and discharge any portion or all of the Bonds then Outstanding, the Trustee shall be authorized to take such actions and execute and deliver to the City all such instruments as may be necessary or desirable to evidence such discharge, including, without limitation, selection by lot of Bonds of any maturity of the Bonds that the City has determined to pay and discharge in part.

In the case of a defeasance or payment of all of the Bonds Outstanding, any funds thereafter held by the Trustee which are not required for said purpose or for payment of amounts due to the Trustee pursuant to Section 9.12 shall be paid over to the City.

Section 11.02. Discharge of Liability on Bonds. Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 11.01) to pay or redeem any Outstanding Bond (whether upon or prior to its maturity or the redemption date of such Bond), provided that, if such Bond is to be redeemed prior to maturity, notice of such redemption shall have been given as in Article IV provided or provision satisfactory to the Trustee shall have been made for the giving of such notice, then all liability of the City in respect of such Bond shall cease, terminate and be completely discharged, except only that thereafter the Owner thereof shall be entitled to payment of the principal of

and interest to the maturity or redemption date on such Bond by the City, and the City shall remain liable for such payment, but only out of such money or securities deposited with the Trustee as aforesaid for such payment, provided further, however, that the provisions of Section 11.04 shall apply in all events.

The City may at any time surrender to the Trustee for cancellation by it any Bonds previously issued and delivered which the City may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

Section 11.03. Deposit of Money or Securities with Trustee. Whenever in this Indenture it is provided or permitted that there be deposited with or held in trust by the Trustee money or Defeasance Obligations in the necessary amount to pay or redeem any Bonds, the money or Defeasance Obligations so to be deposited or held may include money or Defeasance Obligations held by the Trustee in the funds and accounts established pursuant to this Indenture and shall be:

(a) lawful money of the United States of America in an amount equal to the principal amount of such Bonds and all unpaid interest thereon to maturity, except that, in the case of Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as in Article IV provided or provision satisfactory to the Trustee shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount or Redemption Price of such Bonds and all unpaid interest thereon to the redemption date; or

(b) Defeasance Obligations the principal of and interest on which when due will provide money sufficient to pay the principal or Redemption Price of and all unpaid interest to maturity, or to the redemption date, as the case may be, on the Bonds to be paid or redeemed, as such principal or Redemption Price and interest become due, provided that, in the case of Bonds which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article IV provided or provision satisfactory to the Trustee shall have been made for the giving of such notice; provided, in each case, that the Trustee shall have been irrevocably instructed (by the terms of this Indenture or by Request of the City) to apply such money to the payment of such principal or Redemption Price and interest with respect to such Bonds.

Section 11.04. Payment of Bonds After Discharge of Indenture. Notwithstanding any provisions of this Indenture, any moneys held by the Trustee in trust for the payment of the principal or redemption premium of, or interest on, any Bonds and remaining unclaimed for two years after the principal of all of the Bonds has become due and payable (whether at maturity or upon call for redemption as provided in this Indenture), if such moneys were so held at such date, or two years after the date of deposit of such moneys if deposited after said date when all of the Bonds became due and payable, shall be repaid to the City free from the trusts created by this Indenture, and all liability of the Trustee with respect to such moneys shall thereupon cease; provided, however, that before the repayment of such moneys to the City as aforesaid, the Trustee, as the case may be, may (at the cost of the City) first mail a notice, in such form as may be deemed appropriate by the Trustee, to the Owners of the Bonds so payable and not presented and with respect to the provisions relating to the repayment to the City of the moneys held for the payment thereof.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Liability of City Limited to Net Revenues. Notwithstanding anything contained in this Indenture or in the Bonds, the City shall not be required to advance any moneys derived from any source other than the Net Revenues and other assets pledged under this Indenture for any of the purposes mentioned in this Indenture, whether for the payment of the principal or Redemption Price of or interest on the Bonds or for any other purpose of this Indenture.

Section 12.02. Successor Is Deemed Included in All References to Predecessor. Whenever in this Indenture either the City or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 12.03. Limitation of Rights to Parties and Bondowners. Except as provided in Article XII hereof, nothing in this Indenture or in the Bonds expressed or implied is intended or shall be construed to give to any person other than the City, the Trustee and the Owners of the Bonds, any legal or equitable right, remedy or claim under or in respect of this Indenture or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the City, the Trustee and the Owners of the Bonds.

Section 12.04. Waiver of Notice. Whenever the giving of notice by mail or otherwise is required in this Indenture, the giving of such notice 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 12.05. Destruction of Bonds. Whenever in this Indenture provision is made for the cancellation by the Trustee and the delivery to the City of any Bonds, the Trustee shall destroy such Bonds and deliver a certificate of such destruction to the City.

Section 12.06. Severability of Invalid Provisions. If any one or more of the provisions contained in this Indenture or in the Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Indenture and such invalidity, illegality or unenforceability shall not affect any other provision of this Indenture, and this Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The City hereby declares that it would have adopted this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Indenture may be held illegal, invalid or unenforceable.

Section 12.07. Notices. Any notice, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by first class, registered or certified mail, postage prepaid, or sent by confirmed telegram, telecopy or telex, to the address (or such other address as may have been filed with the Trustee in writing) set forth below:

To the City:

City of Long Beach
333 West Ocean Boulevard , 6th Floor
Long Beach, CA 90802
Attention: City Treasurer
Phone: (562) 570-6845
Fax: (562) 570-5836

To the Trustee:

The Bank of New York Mellon Trust Company, N.A.
400 South Hope Street, Suite 400
Los Angeles, CA 90071
Attention: Corporate Trust Department
Phone: (213) 630-6229
Fax: (213) 630-6215

Section 12.08. Evidence of Rights of Bondowners. Any request, consent or other instrument required or permitted by this Indenture to be signed and executed by Bondowners may be in any number of concurrent instruments of substantially similar tenor and shall be signed or executed by such Bondowners in person or by an agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, or of the holding by any person of Bonds transferable by delivery, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and of the City if made in the manner provided in this Section 12.08.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument 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 registered Bonds shall be proved by the Bond Registration Books held by the Trustee.

Any request, consent, or other instrument or writing of the Owner of any Bond shall bind every future Owner of the same Bond and the Owner of every Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the City in accordance therewith or reliance thereon.

Section 12.09. Disqualified Bonds. In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned or held by or for the account of the City or by any other obligor on the Bonds, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the City or any other obligor on the Bonds, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination. Bonds so owned which have been pledged in good faith may be regarded as Outstanding for the purposes of this Section 12.09 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the City or any other obligor on the Bonds. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

Section 12.10. Money Held for Particular Bonds. The money held by the Trustee for the payment of the interest, principal or Redemption Price due on any date with respect to particular Bonds (or portions of Bonds in the case of registered Bonds redeemed in part only)

shall, on and after such date and pending such payment, be set aside on its books and held in trust by it without liability for interest thereon for the Owners of the Bonds entitled thereto, subject, however, to the provisions of Section 11.04.

Section 12.11. Funds and Accounts. Any fund required by this Indenture to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee, either as a fund or an account, and may, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such funds shall at all times be maintained in accordance with customary standards of the industry, to the extent practicable, and with due regard for the protection of the security of the Bonds and the rights of every holder thereof.

Section 12.12. Article and Section Headings and References. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Indenture.

All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof; and words of the masculine gender shall mean and include words of the feminine and neuter genders.

Section 12.13. Waiver of Personal Liability. No member of the City Council, officer, agent or employee of the City shall be individually or personally liable for the payment of the principal or Redemption Price of or interest on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such member of the City Council, officer, agent or employee from the performance of any official duty provided by law or by this Indenture.

Section 12.14. Execution in Several Counterparts. This Indenture 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 City and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

Section 12.15. Governing Law. This Indenture shall be construed in accordance with and governed by the laws of the State, applicable to contracts made and performed in the State.

IN WITNESS WHEREOF, the CITY OF LONG BEACH has caused this Indenture to be signed in its name by the City Treasurer and attested by the City Clerk, and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., in token of its acceptance of the trust created hereunder, has caused this Indenture to be signed in its corporate name by one of its authorized officers, all as of the day and year first above written.

CITY OF LONG BEACH

By _____
City Treasurer

Attest:

City Clerk

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

By _____
Vice President

EXHIBIT A
FORM OF BOND

United States of America
State of California
County of Los Angeles

CITY OF LONG BEACH
Marina Revenue Bonds, Series 2015
(Alamitos Bay Marina Project)

INTEREST RATE	MATURITY DATE	DATED DATE	CUSIP
_____%	May 15, ____	June 3, 2015	____ _

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

The CITY OF LONG BEACH, a municipal corporation and chartered city duly organized and existing under the laws of the State of California (the "City"), for value received, hereby promises to pay to the Registered Owner named above or registered assigns (the "Owner"), on the Maturity Date stated above (subject to any right of prior redemption hereinafter provided for), the Principal Amount stated above in lawful money of the United States of America, and to pay interest thereon in like lawful money from the May 15 or November 15 (each an "Interest Payment Date") next preceding the date of authentication hereof, unless said date of authentication is an Interest Payment Date, in which event such interest is payable from such date of authentication, and unless said date of authentication is prior to November 1, 2015, in which event such interest is payable from the Dated Date stated above; provided, however, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the date to which interest has previously been paid or made available for payment on this Bond in full at the Interest Rate per annum stated above, payable semiannually on each Interest Payment Date, commencing November 15, 2015. The principal amount of this Bond is payable at the principal corporate trust office of The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), in Los Angeles, California, or at such office as the Trustee may designate, upon presentation and surrender of this Bond to the Trustee. Payment of the interest on this Bond will be made to the person whose name appears on the bond registration books of the Trustee as the Owner thereof as of the fifteenth day of the month immediately preceding an Interest Payment Date whether or not said day is a business day (the "Record Date"), such interest to be paid by check mailed on the Interest Payment Date to the Owner or, at the option of any Owner of at least \$1,000,000 aggregate principal amount of Bonds and upon written notice received by the Trustee prior to the Record Date, by wire transfer, at the Owner's address as it appears on such bond registration books or to such account as shall have been identified by the Owner in the notice requesting payment by wire transfer.

Capitalized terms used herein and not otherwise defined are used with the meanings ascribed to them in the Indenture (as hereinafter defined).

This Bond is one of a series of Bonds of various maturities designated as "City of Long Beach Marina Revenue Bonds, Series 2015 (Alamitos Bay Marina Project)" (the "Bonds"), issued

pursuant to the provisions of City Charter and sections 3.52.110 *et seq.* of the Long Beach Municipal Code in the aggregate principal amount of \$_____, all of like tenor (except for such variations, if any, as may be required to designate varying numbers, maturities, interest rates or redemption provisions), issued under and pursuant to an Indenture of Trust (the "Indenture") by and between the City and the Trustee, dated as of June 1, 2015, and approved by the City by Resolution No. _____, adopted by the City Council of the City on _____, 2015. A copy of the Indenture is on file at the office of the Trustee, and reference to the Indenture and any and all supplements thereto and modifications and amendments thereof and to the Law is made for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Net Revenues, as that term is defined in the Indenture, and the rights of the Owners of the Bonds. All the terms of the Indenture and the Bond Law are hereby incorporated herein and constitute a contract between the City and the Owners from time to time of this Bond, and to all the provisions thereof the Owner of this Bond, by his acceptance hereof, consents and agrees. The Registered Owner and subsequent Owner hereof shall have recourse to all of the provisions of the Law and the Indenture and shall be bound by all of the terms and conditions thereof.

The Bonds are being issued to finance improvements to the City's Marina System (as such term is defined in the Indenture) and are secured by a pledge of the net revenues (the "Net Revenues") of the Marina System, as more particularly described in the Indenture. The Bonds are special obligations of the City and are payable, as to interest thereon, principal thereof and any premiums upon the redemption of any thereof, from the Net Revenues of the Marina System. All of the Bonds are equally secured by a pledge of, and charge and lien upon, that portion of the Net Revenues necessary to pay the principal or redemption price of and interest on the Bonds in any Fiscal Year, and the Net Revenues constitute a trust fund for the security and payment of the principal or redemption price of and interest on all of the Bonds. Additional obligations of the City payable from the Net Revenues may be issued on a parity with the Bonds, but only subject to the conditions and limitations contained in the Indenture.

The principal or redemption price of and interest on the Bonds are payable solely from the Net Revenues, and the City is not obligated to pay the Bonds except from the Net Revenues. The general fund of the City is not liable, and the full faith and credit or taxing power of the City is not pledged, for the payment of the principal or redemption price of and interest on the Bonds. The Bonds are not secured by a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the City or any of its income or receipts, except the Net Revenues.

The City covenants that, so long as any of the Bonds are outstanding, it will fix, prescribe and collect charges so as to yield Net Revenues at least equal to the amounts thereof prescribed by the Indenture and sufficient to pay the principal or redemption price of and interest on the Bonds in accordance with the provisions of the Indenture.

The Bonds maturing on or before May 15, _____, are not subject to optional redemption prior to maturity. The Bonds maturing on or after May 15, _____, are subject to redemption, at the option of the City on any date on and after May 15, _____, as a whole or in part, from any available source of funds, among such maturities as are selected by the City (or, if the City fails to designate such maturities, then in inverse order of maturity) and by lot within a maturity at a redemption price equal to the principal amount thereof, together with accrued interest to the date fixed for redemption, without premium.

The Bonds maturing on May 15, _____, shall be redeemed (or paid at maturity, as the case may be) by application of mandatory Sinking Account payments in the amounts and upon the dates as follows:

Sinking Fund Account Redemption Date (May 15)	Sinking Account Installments Redeemed or Purchased
---	---

†Maturity

The Bonds maturing on May 15, _____, shall be redeemed (or paid at maturity, as the case may be) by application of mandatory Sinking Account payments in the amounts and upon the dates as follows:

Sinking Fund Account Redemption Date (May 15)	Sinking Account Installments Redeemed or Purchased
---	---

†Maturity

As provided in the Indenture, notice of redemption shall be given by first class mail not less than thirty days prior to the redemption date to the respective registered Owners of the Bonds designated for redemption at their addresses appearing on the bond registration books, but no defect in the notice so mailed shall affect the sufficiency of the proceedings for redemption. Notices of optional redemption shall state that the redemption is conditioned upon receipt by the Trustee of sufficient moneys to redeem the Bonds on the anticipated redemption date, and that the optional redemption shall not occur if, by no later than the scheduled redemption date, sufficient moneys to redeem the Bonds have not been deposited with the Trustee.

If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

If an Event of Default, as defined in the Indenture, shall occur, the principal of all Bonds may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture, but such declaration and its consequences may be rescinded and annulled as further provided in the Indenture.

This Bond is transferable, as provided in the Indenture, only upon the books of the City kept for that purpose at the office of the Trustee, by the Owner hereof in person, or by his attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered Owner or his attorney duly authorized in writing, and thereupon a new Bond or Bonds, without coupons, and in the same aggregate principal amount and of the same maturity, shall be issued to the

transferee in exchange herefor, as provided in the Indenture, and upon the payment of charges, if any, including, after the first exchange, the cost of preparing new Bonds therein prescribed.

The rights and obligations of the City and of the Owners of the Bonds may be modified or amended at any time in the manner, to the extent and upon the terms provided in the Indenture. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the redemption price thereof or in the rate of interest thereon without the consent of the Owner of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds, the consent of the Owners of which is required to effect any such modification or amendment, all as more fully set forth in the Indenture.

It is hereby certified that all of the conditions, things and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due time, form and manner as required by law and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any limit prescribed by the Constitution or laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

IN WITNESS WHEREOF, the City of Long Beach has caused this Bond to be executed in its name and on its behalf with the manual or facsimile signature of its City Manager and the manual or facsimile signature of its City Clerk all as of the Bond Date stated above.

CITY OF LONG BEACH

By _____
City Manager

ATTEST:

City Clerk

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within-mentioned Indenture, which has been authenticated and registered on _____.

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

By _____
Authorized Officer

ASSIGNMENT

For value received the undersigned hereby sells, assigns and transfers unto

whose address and social security or other tax identifying number is

the within-mentioned Bond and hereby irrevocably constitute(s) and appoint(s)

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

Dated: _____

Signature Guaranteed:

Notice: Signature guarantee shall be made by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other guarantee program acceptable to the Trustee.

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

EXHIBIT B

DESCRIPTION OF THE PROJECT

The Alamitos Bay Marina Rehabilitation Project is a design-build project with Bellingham Marine Industries (BMI) as the design, engineering and construction firm and Concept Marine Associates, a Division of TranSystems Corporation (TranSystems) as the construction manager both working with the City of Long Beach, Marine Bureau (City). The project consists of the designing, fabrication and installation of a completely new, "state of the art" marina dock system. This BMI manufactured marina will consist of concrete floats trimmed with pressure treated whaler, power and sewer stations, durable wood fillets, and seawall repair as needed. The complete installation of all systems is intended to occur with as little impact to the tenant's, surrounding businesses, scheduled City events, and in compliance with the standards as set forth by the project's Environmental Impact Report. To achieve this goal the project has been divided into several phases where boaters in a given area will be temporarily relocated while the existing wooden docks and piling are removed, the area dredged, the new piles installed and brand new concrete docks are assembled,. In total, seven basins will be completely renovated as 1,967 slips are removed and replaced with 1,646 top of the line slips.