

---

**FISCAL AGENT AGREEMENT**

**by and between**

**CITY OF CARSON**

**and**

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

**Dated as of June 1, 2019**

**Relating to:**

**\$\_\_\_\_\_**

**City of Carson**

**Reassessment District No. 2001-1**

**(Dominguez Technology Center West)**

**Limited Obligation Refunding Improvement Bonds, Series 2019**

## **TABLE OF CONTENTS**

	<b><u>Page</u></b>
ARTICLE I STATUTORY AUTHORITY AND DEFINITIONS.....	105
Section 1.01. Authority for this Agreement.....	105
Section 1.02. Agreement for Benefit of Bondowners.....	105
Section 1.03. Definitions.....	105
ARTICLE II THE BONDS.....	112
Section 2.01. Principal Amounts; Designations .....	112
Section 2.02. Terms of Bonds.....	112
Section 2.03. Redemption.....	113
Section 2.04. Form of Bonds .....	116
Section 2.05. Execution of Bonds.....	116
Section 2.06. Transfer of Bonds .....	117
Section 2.07. Exchange of Bonds .....	117
Section 2.08. Registration Book/Book-Entry .....	117
Section 2.09. Temporary Bonds.....	118
Section 2.10. Bonds Mutilated, Lost, Destroyed or Stolen.....	118
Section 2.11. Limited Obligation.....	118
Section 2.12. No Acceleration .....	119
Section 2.13. Refunding of Bonds .....	119
ARTICLE III ISSUANCE OF BONDS .....	119
Section 3.01. Issuance and Delivery of Bonds .....	119
Section 3.02. Application of Proceeds of Sale of Bonds .....	119
Section 3.03. Pledge of Reassessments.....	119
ARTICLE IV ESTABLISHMENT OF FUNDS .....	120
Section 4.01. Assessment Revenue Fund. ....	120
Section 4.02. Redemption Fund.....	121
ARTICLE V OTHER COVENANTS OF THE CITY; TAX COVENANTS .....	122
Section 5.01. Collection of Reassessments.....	122
Section 5.02. Foreclosure.....	123
Section 5.03. No Advances from Available Surplus Funds.....	124
Section 5.04. Punctual Payment; Compliance With Documents .....	124
Section 5.05. No Priority for Additional Obligations .....	124
Section 5.06. Tax Covenants. ....	124

Section 5.07. Further Assurances.....	127
Section 5.08. Amendment.....	128
Section 5.09. Continuing Disclosure .....	128
ARTICLE VI INVESTMENTS; LIABILITY OF THE CITY .....	128
Section 6.01. Deposit and Investment of Moneys in Funds .....	128
Section 6.02. Liability of City.....	129
Section 6.03. Employment of Agents by City .....	130
ARTICLE VII EVENTS OF DEFAULT AND REMEDIES OF BOND OWNERS .....	130
Section 7.01. Events of Default .....	130
Section 7.02. Remedies of Bond Owners .....	130
Section 7.03. Application of Special Taxes and Other Funds After Default .....	131
Section 7.04. Absolute Obligation of the City .....	131
Section 7.05. Termination of Proceedings .....	131
Section 7.06. Remedies Not Exclusive .....	132
Section 7.07. No Waiver of Default.....	132
Section 7.08. Actions by Fiscal Agent as Attorney-in-Fact.....	132
ARTICLE VIII THE FISCAL AGENT.....	132
Section 8.01. Appointment of Fiscal Agent.....	132
Section 8.02. Liability of Fiscal Agent .....	133
Section 8.03. Information; Books and Accounts .....	135
Section 8.04. Notice to Fiscal Agent .....	136
Section 8.05. Compensation; Indemnification.....	136
Section 8.06. Interaction With the City .....	136
ARTICLE IX MODIFICATION OR AMENDMENT OF THIS AGREEMENT .....	137
Section 9.01. Amendments Permitted.....	137
Section 9.02. Owners' Meetings .....	138
Section 9.03. Procedure for Amendment with Written Consent of Owners.....	138
Section 9.04. Disqualified Bonds.....	138
Section 9.05. Effect of Supplemental Agreement.....	139
Section 9.06. Endorsement or Replacement of Bonds Issued After Amendment .....	139
Section 9.07. Amendatory Endorsement of Bonds .....	139
ARTICLE X [intentionally omitted] .....	<b>Error! Bookmark not defined.</b>

ARTICLE XI MISCELLANEOUS .....	139
Section 11.01. Benefits of Agreement Limited to Parties .....	139
Section 11.02. Successor is Deemed Included in All Reference to Predecessor .....	139
Section 11.03. Discharge of Agreement .....	140
Section 11.04. Execution of Documents and Proof of Ownership by Owners .....	140
Section 11.05. Waiver of Personal Liability .....	141
Section 11.06. Notices to and Demand on City and Fiscal Agent .....	141
Section 11.07. Partial Invalidity .....	141
Section 11.08. Unclaimed Moneys .....	141
Section 11.09. Applicable Law .....	141
Section 11.10. Conflict with Act .....	141
Section 11.11. Conclusive Evidence of Regularity .....	142
Section 11.12. Payment on Business Day .....	142
Section 11.13. Counterparts .....	142
Section 11.14. Interpretation .....	<b>Error! Bookmark not defined.</b>
EXHIBIT A   FORM OF BOND	
EXHIBIT B   FORM OF OFFICER’S CERTIFICATE REQUESTING DISBURSEMENT FROM ADMINISTRATIVE EXPENSE ACCOUNT	

## **FISCAL AGENT AGREEMENT**

**THIS FISCAL AGENT AGREEMENT** (the “Agreement”) is made and entered into as of June 1, 2019 by and between the City of Carson, a chartered City and a political subdivision of the State of California (the “City”) and The Bank of New York Mellon Trust Company, N.A., as fiscal agent (the “Fiscal Agent”),

### **WITNESSETH:**

**WHEREAS**, on \_\_\_\_, 2019, the City Council of the City passed and adopted a Resolution No. \_\_\_\_ (the “Resolution of Intention”) relating to the levy of reassessments and issuance of refunding bonds pursuant to the Refunding Act of 1984 for 1915 Act Improvement Bonds, Division 11.5 (commencing with Section 9500) of the Streets and Highways Code of California (the “Act”) in and for the City’s Reassessment District No. 2001-1 (Dominguez Technology Center West), and by said Resolution of Intention, the City Council of the City provided that serial and/or term bonds would be issued thereunder pursuant to the provisions of the Act and reference to said Resolution of Intention is hereby expressly made for further particulars;

**WHEREAS**, under the provisions of the Act, on \_\_\_\_, 2019, the City Council of the City adopted its Resolution No. \_\_\_\_ (the “Resolution of Issuance”), which resolution, among other matters, authorized the issuance of refunding bonds designated as “City of Carson Reassessment District No. 2001-1 (Dominguez Technology Center West) Limited Obligation Refunding Improvement Bonds, Series 2019” (the “Bonds”), upon the security of the unpaid reassessments and other funds pledged to the payment thereof hereunder and provided that said issuance would be in accordance with the Act and this Agreement, and authorized the execution hereof;

**WHEREAS**, it is in the public interest and for the benefit of the City and the owners of the Bonds that the City enter into this Agreement to provide for the issuance of the Bonds, the disbursement of proceeds of the Bonds, the disposition of the reassessments securing the Bonds and the administration and payment of the Bonds; and

**WHEREAS**, all things necessary to cause the Bonds, when authenticated by the Fiscal Agent and issued as provided in the Act, the Resolution of Issuance and this Agreement, to be legal, valid and binding and limited obligations in accordance with their terms, and all things necessary to cause the creation, authorization, execution and delivery of this Agreement and the creation, authorization, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

**NOW, THEREFORE**, in consideration of the covenants and provisions herein set forth and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

## ARTICLE I STATUTORY AUTHORITY AND DEFINITIONS

**Section 1.01. Authority for this Agreement.** This Agreement is entered into pursuant to the provisions of the Act and the Resolution of Issuance.

**Section 1.02. Agreement for Benefit of Bondowners.** The provisions, covenants and agreements herein set forth to be performed by or on behalf of the City shall be for the equal benefit, protection and security of the Owners from time to time. In consideration of the acceptance of the Bonds by the Owners thereof, this Agreement shall be deemed to be and shall constitute a contract between the City and the Owners; and the covenants and agreements herein set forth to be performed by 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. All of the Bonds, without regard to the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof, except as expressly provided in or permitted by this Agreement. The Fiscal Agent may become the owner of any of the Bonds in its own or any other capacity with the same rights it would have if it were not Fiscal Agent.

**Section 1.03. Definitions.** Unless the context otherwise requires, the terms defined in this Section 1.03 shall, for all purposes of this Agreement, of any Supplemental Agreement, and of any certificate, opinion or other document herein mentioned, have the meanings herein specified. All references herein to Articles, Sections and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement, and the words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

**“Act”** means the Refunding Act of 1984 for 1915 Improvement Act Bonds, being Division 11.5 of the California Streets and Highways Code.

**“Administrative Expenses”** means any or all of the following: the fees and expenses of the Fiscal Agent and the Authority Trustee (including any fees or expenses of its counsel), the expenses of the City in carrying out its duties under this Agreement (including, but not limited to, the levying and collection of the annual installments of the unpaid Reassessments), complying with the disclosure provisions of the Continuing Disclosure Agreement and this Agreement, including those related to public inquiries regarding the Reassessments and disclosures to Owners; any costs of the City (including fees and expenses of counsel) to defend the lien on and pledge of the Reassessments to the payment of the Bonds or otherwise in respect of litigation relating to the Assessment District or the Bonds or with respect to any other obligations of the City related thereto or under this Agreement, any amounts required to be rebated to the federal government in order for the City to comply with Section 5.06(h), an allocable share of the salaries of the City staff directly related thereto and a proportionate amount of City general administrative overhead related thereto, and all other costs and expenses of the City or the Fiscal Agent incurred in connection with the discharge of their respective duties under this Agreement and, in the case of the City, in any way related to the administration of the Assessment District and all actual costs and expenses incurred in connection with the administration of the Bonds and the Authority Bonds.

***“Administrative Expense Account”*** means the account by that name established pursuant to Section 4.01 hereof.

***“Agreement”*** means this Fiscal Agent Agreement, as it may be amended or supplemented from time to time by any Supplemental Agreement adopted pursuant to the provisions hereof

***“Assessment Consultant”*** means Willdan Financial Services, Inc. or any other consultant or firm of consultants appointed by the City and who or each of whom: (a) is judged by the City to have experience with respect to the administration of assessment districts; (b) is in fact independent and not under the domination of the City; (c) does not have any substantial interest, direct or indirect, with the City; and (d) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make reports to the City.

***“Assessment District”*** means the area within the City designated “Reassessment District No. 2001-1 (Dominguez Technology Center West),” formed by the City under the Act.

***“Assessment Revenue Fund”*** means the fund by that name established pursuant to Section 4.01 hereof

***“Auditor”*** means the auditor/tax collector of the County, or such other official at the County who is responsible for preparing property tax bills.

***“Authority”*** means the Carson Public Financing Authority and any successor thereto.

***“Authority Bonds”*** means the Carson Public Financing Authority Reassessment Revenue Refunding Bonds, Series 2019, issued and outstanding under the Authority Indenture.

***“Authority Indenture”*** means that certain Indenture of Trust, dated as of June 1, 2019, by and between the Authority and the Authority Trustee, pursuant to which the Authority Bonds are issued.

***“Authority Trustee”*** means The Bank of New York Mellon Trust Company, N.A., or any successor thereto appointed and acting as trustee under the Authority Indenture.

***“Authorized Representative”*** means (a) with respect to the City, its City Manager, Assistant City Manager, Acting City Manager, Director of Finance, Public Works Director, City Treasurer or any other person designated as an Authorized Representative of the City in a Written Certificate of City filed with the Fiscal Agent, and (b) with respect to the Fiscal Agent, any Senior Vice President, any Vice President, any Assistant Vice President or any Trust Officer of the Fiscal Agent, and any other Person authorized to perform such act or sign any document by or pursuant to a resolution of the governing body of the Fiscal Agent or the by-laws of the Fiscal Agent.

***“Bond Counsel”*** means Aleshire & Wynder, LLP or any attorney or firm of attorneys acceptable to the City and nationally recognized for expertise in rendering opinions as to the legality and tax-exempt status of securities issued by public entities.

***“Bond Register”*** means the records maintained by the Fiscal Agent for the registration of ownership and registration of transfer of the Bonds pursuant to Section 2.08.

**“Bond Year”** means the one-year period beginning on September 3 in each year and ending on September 2 in the following year except that the first Bond Year shall begin on the Closing Date.

**“Bond or Bonds”** means City of Carson Reassessment District No. 2001-1 (Dominguez Technology Center West) Limited Obligation Refunding Improvement Bonds, Series 2019, at any time Outstanding under this Agreement or any Supplemental Agreement.

**“Business Day”** means any day other than (i) a Saturday or a Sunday or (ii) a day on which banking institutions in the state in which the Fiscal Agent has its principal corporate trust office are authorized or obligated by law or executive order to be closed.

**“City”** means the City of Carson, and any successor thereto.

**“City Council”** means the City Council of the City.

**“Closing Date”** means the date upon which there is a physical delivery of the Bonds in exchange for the amount representing the purchase price of the Bonds by the Original Purchaser.

**“Continuing Disclosure Agreement”** shall mean that certain Continuing Disclosure Agreement relating to the Authority Bonds, dated as of June 1, 2019, by and between the City and Willdan Financial Services, as originally executed and as it may be amended from time to time in accordance with the terms thereof

**“County”** means the County of Los Angeles, State of California.

**“Dated Date”** means the dated date of the Bonds, being the Closing Date.

**“Debt Service”** means, for each Bond Year, the sum of (i) the interest due on the Outstanding Bonds in such Bond Year, assuming that the Outstanding Bonds are retired as scheduled, and (ii) the principal amount of the Outstanding Bonds and any sinking fund payments due in such Bond Year.

**“Escrow Agent”** means The Bank of New York Mellon Trust Company, N.A., its successors and assigns, acting as the escrow agent under the Escrow Agreement.

**“Escrow Fund”** means the fund by that name established and held by the Escrow Agent under the Escrow Agreement.

**“Escrow Agreement”** means the Escrow Deposit and Trust Agreement, dated as of June 1, 2019, by and among the City, the Authority and the Escrow Agent.

**“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 acquisitions 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 of California but only if at all times during which the investment is held in such fund its yield is reasonably expected to be equal to or greater than the yield on a reasonably comparable direct obligation of the United States. The Fiscal Agent shall have no duty in connection with the determination of Fair Market Value other than to follow the written investment directions of an Authorized Representative of the City.

***“Federal Securities”*** means any direct, noncallable general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America and CATS and TGRS), or obligations the payment of principal of and interest on which are unconditionally guaranteed by the United States of America.

***“Finance Officer”*** means the person who is the duly appointed and acting Director of Finance or such other person who performs the function of the chief financial officer of the City, and any successor thereto.

***“Fiscal Agent”*** means the Fiscal Agent appointed by the City and acting as an independent fiscal agent with the duties and powers herein provided, its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 8.01 hereof.

***“Fiscal Year”*** means the twelve-month period extending from July 1 in a calendar year to June 30 of the succeeding year, both dates inclusive.

***“Independent Financial Consultant”*** shall have the meaning given to such term in the Authority Indenture.

***“Information Services”*** means “EMMA” or the “Electronic Municipal Market Access” system of the Municipal Securities Rulemaking Board; or, in accordance with then-current guidelines of the Securities and Exchange Commission, such other services providing information with respect to called bonds as the City may designate in a Written Certificate of the City delivered to the Fiscal Agent Agreement.

***“Interest Payment Dates”*** means March 2 and September 2 of each year, commencing September 2, 2019.

***“Investment Earnings”*** means all interest earned and any gains and losses on the investment of moneys in any fund or account created by this Agreement.

***“List of Unpaid Reassessments”*** means the list on file with the Treasurer showing the amounts of the Reassessments upon each of the parcels in the Assessment District.

***“Maximum Annual Debt Service”*** means the largest Debt Service for any Bond Year after the calculation is made through the final maturity date of the Outstanding Bonds.

***“Original Purchaser”*** means the Authority.

***“Officer’s Certificate”*** means a written certificate of the City signed by an Authorized Representative of the City.

***“Outstanding”*** when used as of any particular time with reference to Bonds, means, subject to the provisions of Section 9.04, all Bonds except:

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

(b) Bonds paid or deemed to have been paid within the meaning of Section 11.03;

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

***“Owner” or “Bond Owner”*** means the registered owner of any Outstanding Bond as shown on the Bond Register.

***“Permitted Investments”*** means any of the following, but only to the extent that the same are acquired at Fair Market Value and only to the extent that the same are permitted by the City’s investment policies, provided that the Fiscal Agent is entitled to rely upon any investment direction from an Authorized Representative of the City received by it hereunder as a certification that such investment constitutes a Permitted Investment hereunder:

(a) Federal Securities;

(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): (i) direct obligations or fully guaranteed certificates of beneficial ownership of the U.S. Export-Import Bank; (ii) certificates of beneficial ownership of the Farmers Home Administration; (iii) obligations of the Federal Financing Bank; (iv) debentures of the Federal Housing Administration; (v) participation certificates of the General Services Administration; (vi) guaranteed mortgage-backed bonds or guaranteed pass-through obligations of the Government National Mortgage Association; (vii) guaranteed Title XI financings of the U.S. Maritime Administration; and (viii) project notes, local authority bonds, new communities debentures and U.S. public housing notes and bonds of the U.S. Department of Housing and Urban Development;

(c) bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities are only permitted if they have been stripped by the agency itself): (i) senior debt obligations of the Federal Home Loan Bank System; (ii) participation certificates and senior debt obligations of the Federal Home Loan Mortgage Corporation; (iii) mortgaged-backed securities and senior debt obligations of the Federal National Mortgage Association (excluding stripped mortgage securities which are valued greater than par on the portion of

unpaid principal); (iv) senior debt obligations of the Student Loan Marketing Association; (v) obligations (but only the interest component of stripped obligations) of the Resolution Funding Corporation; and (vi) consolidated system wide bonds and notes of the Farm Credit System;

(d) money market mutual funds (including funds of the Fiscal Agent or its affiliates) registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of “AAAm-G”, “AAAm”, or “AAm”, including funds for which the Fiscal Agent, its affiliates or subsidiaries receives and retains a fee for services provided to the fund, whether as a custodian, transfer agent, investment advisor or otherwise.;

(e) certificates of deposit secured at all times by collateral described in (a) or (b) above, which have a maturity of one year or less, which are issued by commercial banks, including affiliates of the Fiscal Agent, savings and loan associations or mutual savings banks, and such collateral must be held by a third party, and the Fiscal Agent on behalf of the Bond Owners must have a perfected first security interest in such collateral;

(f) trust accounts, trust funds, other deposits, overnight banking deposits, interest-bearing demand or time deposits including certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Fiscal Agent and its affiliates) which are fully insured by the Federal Deposit Insurance Corporation;

(g) investment agreements, including guaranteed investment contracts, which, are general obligations of an entity whose long term debt obligations, or claims paying ability, respectively, which are rated in one of the two highest rating categories by S&P or which are collateralized so as to be rated in one of the two highest rating categories by S&P;

(h) commercial paper rated, at the time of purchase, “A-1” or better by S&P;

(i) bonds or notes issued by any state or municipality which are rated by S&P in one of the two highest rating categories assigned by such agencies;

(j) money-market deposits, federal funds or bankers acceptances with a maximum term of one year of any bank which has an unsecured, uninsured and unguaranteed obligation rating of “A-1” or “A” or better by S&P;

(k) repurchase agreements for thirty (30) days or less (more than thirty (30) days which provide for the transfer of securities from a dealer bank or securities firm (seller/borrower) to the Fiscal Agent and the transfer of cash from the Fiscal Agent to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the Fiscal Agent in exchange for the securities at a specified date, which satisfy the following criteria:

(i) repurchase agreements must be between the Fiscal Agent and (A) a primary dealer on the Federal Reserve reporting dealer list which falls under the jurisdiction of the Securities Investors Protection Corporation and which are rated “A” or better by S&P, or (B) a bank rated “A” or better by S&P;

(ii) the written repurchase agreement contract must include the following: (A) securities acceptable for transfer, which may be direct U.S. government obligations, or federal agency obligations backed by the full faith and credit of the U.S. government; (B) the term of the repurchase agreement may be up to 30 days; (C) the collateral must be delivered to the Fiscal Agent or a third party acting as agent for the Fiscal Agent simultaneous with payment (perfection by possession of certificated securities); (D) the Fiscal Agent must have a perfected first priority security interest in the collateral; (E) the collateral must be free and clear of third-party liens and, in the case of a broker which falls under the jurisdiction of the Securities Investors Protection Corporation, are not subject to a repurchase agreement or a reverse repurchase agreement; (F) failure to maintain the requisite collateral percentage, after a two day restoration period, will require the Fiscal Agent to liquidate the collateral; and (G) the securities must be valued weekly, marked-to-market at current market price plus accrued interest and the value of collateral must be equal to 104% of the amount of cash transferred by the Fiscal Agent to the dealer bank or securities firm under the repurchase agreement plus accrued interest (unless the securities used as collateral are obligations of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, in which case the collateral must be equal to 105% of the amount of cash transferred by the Fiscal Agent to the dealer bank or securities firm under the repurchase agreement plus accrued interest); provided that, if the value of securities held as collateral falls below 104% of the value of the cash transferred by the Fiscal Agent, then additional cash and/or acceptable securities must be transferred; and

(iii) a legal opinion must be delivered to the Fiscal Agent to the effect that the repurchase agreement meets guidelines under State law for legal investment of public funds;

(l) pre-refunded municipal bonds rated “AAA” by S&P; and

(m) the Local Agency Investment Fund of the State of California, created pursuant to Section 16429.1 of the California Government Code, to the extent the Fiscal Agent is authorized to deposit and withdraw from such investment directly in its own name.

**“Principal Office”** means the principal corporate trust office of the Fiscal Agent at the location listed in Section 11.06, or such other office as may be specified to the City and the Authority by the Fiscal Agent in writing, except that with respect to presentation of Bonds for payment or for registration of transfer and exchange such term shall mean the office or agency of the Fiscal Agent at which, at any particular time, its corporate agency business shall be conducted.

**“Prior Bonds”** means the \$29,645,000 initial principal amount of City of Carson Reassessment District No. 2001-1 (Dominguez Technology Center West) Limited Obligation Refunding Improvement Bonds, Series 2006.

**“Reassessments”** means the unpaid reassessments levied within the Assessment District by the City Council under the proceedings taken pursuant to the Act.

**“Record Date”** means, with respect to any Interest Payment Date, the fifteenth day of the month preceding the month in which the applicable Interest Payment Date occurs, whether or not such date is a Business Day.

**“Redemption Fund”** means the fund by that name established pursuant to Section 4.02 hereof.

**“Resolution of Issuance”** means Resolution No. \_\_\_\_, adopted by the City Council of the City on \_\_\_\_, 2019, authorizing the issuance of the Bonds.

**“Securities Depositories”** means The Depository Trust Company; or, 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 an Officer’s Certificate delivered to the Fiscal Agent.

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

**“Supplemental Agreement”** means an agreement the execution of which is authorized by a resolution which has been duly adopted by the City and which agreement is amendatory of or supplemental to this Agreement, but only if and to the extent that such agreement is specifically authorized hereunder.

**“Tax Code”** means the Internal Revenue Code of 1986, as in effect on the date of issuance of the Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligation issued on the date of issuance of the Bonds, together with applicable temporary and final regulations promulgated by the Internal Revenue Service under the Tax Code.

**“Tax Regulations”** means temporary and permanent regulations promulgated by the Internal Revenue Service under Section 103 and related sections of the Tax Code.

**“Treasurer”** means the person acting as treasurer of the City.

## **ARTICLE II THE BONDS**

**Section 2.01. Principal Amounts; Designations.** Bonds in the aggregate principal amount of \_\_\_\_\_ (\$\_\_\_\_\_) are hereby authorized to be issued by the City under and subject to the terms of the Resolution of Issuance and this Agreement, the Act and other applicable laws of the State. The Bonds shall be designated “City of Carson Reassessment District No. 2001-1 (Dominguez Technology Center West) Limited Obligation Refunding Improvement Bonds, Series 2019,” and shall be secured by the Reassessments and moneys in the Redemption Fund. This Agreement constitutes a continuing agreement of the City with the Owners from time to time of the Bonds to secure the full payment of the principal of, premium, if any, and interest on all the Bonds subject to the covenants, provisions and conditions herein contained.

### **Section 2.02. Terms of Bonds.**

(a) **Denominations.** The Bonds shall be issued as fully registered bonds without coupons in the denomination of \$1.00 or any integral multiple thereof. The Bonds shall be lettered and numbered in a customary manner as determined by the City.

(b) **Date of Bonds.** The Bonds shall be dated the Closing Date.

(c) **Maturities.** The Bonds shall mature on September 2 of each year and bear interest (on the basis of a 360-day year consisting of twelve months of thirty days each) at the rates per annum, as follows:

<u>Maturity Date</u> <u>(September 2)</u>	<u>Principal Amount</u>	<u>Interest Date</u>
--	-------------------------	----------------------

(d) **Interest.** The Bonds shall bear interest at the rates set forth above payable on the Interest Payment Dates in each year. Interest shall be calculated on the basis of a 360-day year composed of twelve 30-day months. Each Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof unless (i) it is authenticated on an Interest Payment Date, in which event it shall bear interest from such date of authentication, or (ii) it is authenticated prior to an Interest Payment Date and after the close of business the Record Date preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (iii) it is authenticated prior to the Record Date preceding the first Interest Payment Date, in which event it shall bear interest from the Closing Date; provided, however, that if at the time of authentication of a Bond, interest is in default thereon, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

(e) **Method of Payment.** Interest on the Bonds (including the final interest payment upon maturity or earlier redemption) is payable by check or draft of the Fiscal Agent mailed on the Interest Payment Dates by first class mail to the registered Owner thereof at such registered Owner's address as it appears on the Bond Register at the close of business on the Record Date preceding the Interest Payment Date, or by wire transfer made on such Interest Payment Date (i) upon written instructions of any Owner of \$1,000,000 or more in aggregate principal amount of Bonds delivered to the Fiscal Agent prior to the applicable Record Date, or (ii) to the Authority Trustee, with respect to any Bonds owned by the Authority or registered in the name of the Authority or the Authority Trustee. The principal of the Bonds and any premium on the Bonds are payable in lawful money of the United States of America upon surrender of the Bonds at the Principal Office of the Fiscal Agent. All Bonds paid by the Fiscal Agent pursuant this Section shall be cancelled by the Fiscal Agent. The Fiscal Agent shall destroy the cancelled Bonds and, upon request of the City, issue a certificate of destruction of such Bonds to the City.

### **Section 2.03. Redemption.**

(a) **Mandatory Redemption from Prepayment of Reassessments.** The Bonds are subject to redemption prior to maturity or any Interest Payment Date on or after September 2, \_\_\_\_ in whole or in part, and by lot, from amounts constituting prepayments of unpaid

Reassessments at a redemption price equal to the principal amount to be redeemed, plus accrued interest to the date of redemption, together with a premium that is sufficient, based on the certificate of an Independent Financial Consultant as set forth in Section 2.03(c), to redeem the corresponding portion of the Authority Bonds.

(b) **Mandatory Sinking Payment Redemption.** The Bonds maturing on September 2, \_\_\_\_\_ are subject to mandatory redemption, in part by lot, on September 2, in each year commencing September 2, \_\_\_\_\_, from mandatory sinking payments made by the City at a redemption price equal to the principal amount thereof to be redeemed, without premium, plus accrued interest thereon to the date of redemption in the aggregate principal amounts and on September 2 in the respective years as set forth in the following schedule; provided, however, that if some but not all of the Bonds maturing on September 2, \_\_\_\_\_, have been redeemed from prepayments of Reassessments pursuant to Section 2.03(a), the total amount of all future sinking payments will be reduced by the aggregate principal amount of the Bonds so redeemed, to be allocated among such sinking payments as determined by the City consistent with the provisions of Section 2.03(c).

Bonds Maturing September 2, \_\_\_\_\_

Redemption Date (September 2)	Principal Amount	Redemption Date (September 2)	Principal Amount
<hr/>			

The Bonds maturing on September 2, \_\_\_\_\_ are subject to mandatory redemption, in part by lot, on September 2, in each year commencing September 2, \_\_\_\_\_, from mandatory sinking payments made by the City at a redemption price equal to the principal amount thereof to be redeemed, without premium, plus accrued interest thereon to the date of redemption in the aggregate principal amounts and on September 2 in the respective years as set forth in the following schedule; provided, however, that if some but not all of the Bonds maturing on September 2, \_\_\_\_\_, have been redeemed from prepayments of Reassessments pursuant to Section 2.03(a), the total amount of all future sinking payments will be reduced by the aggregate principal amount of the Bonds so redeemed, to be allocated among such sinking payments as determined by the City consistent with the provisions of Section 2.03(c).

Bonds Maturing September 2, \_\_\_\_

Redemption Date (September 2)	Principal Amount	Redemption Date (September 2)	Principal Amount
----------------------------------	---------------------	----------------------------------	---------------------

In lieu of redemption under this Section 2.03(b), moneys in the Redemption Fund may be used and withdrawn by the Fiscal Agent for purchase of Outstanding Bonds, upon the filing with the Fiscal Agent of an Officer's Certificate requesting such purchase, at public or private sale as and when, and at such prices (including brokerage and other charges) as such Officer's Certificate may provide, but in no event may Bonds be purchased at a price in excess of the principal amount thereof, plus interest accrued to the date of purchase, unless a greater purchase price is permitted under the Act and the City determines that it will have sufficient amounts in the Bond Fund, following such purchase, to pay Debt Service on the Bonds.

(c) **Certificate Required for Redemption From Prepayments of Assessments.** With respect to any redemption of Bonds pursuant to Section 2.03(a), the Treasurer shall obtain and provide to the Fiscal Agent and the Authority Trustee a certificate of an Independent Financial Consultant verifying that, following such redemption of the Bonds and related redemption of Authority Bonds pursuant to Section 4.01 of the Authority Bonds Indenture, the scheduled principal and interest on the Bonds to remain outstanding is adequate in time and amount to make the timely payment of the scheduled principal and interest due on the Authority Bonds that will remain outstanding following such redemption of Bonds. The premium, if any, payable upon any such redemption shall be an amount identified in such certificate as necessary to provide such verification, and such certificate shall identify any reduction in future sinking fund payments for the Bonds in Section 2.03(b) as a result of the redemption of Bonds pursuant to Section 2.03(a).

(d) **Notice to Fiscal Agent.** The City shall give the Fiscal Agent written notice of the amount and maturities of Bonds to be redeemed pursuant to Section 2.03(a) not less than forty-five (45) days prior to the applicable redemption date, or such lesser number of days as shall be acceptable to the Fiscal Agent.

(e) **Redemption Procedure by Fiscal Agent.** The Fiscal Agent shall cause notice of any redemption to be mailed to the Owners designated for redemption no less than thirty (30) days and no more than sixty (60) days prior to the date fixed for redemption, at their addresses appearing on the Bond Register; provided that (i) no notice of redemption need be given with respect to Bonds registered in the name of the Authority or the Authority Trustee, and (ii) the



failure to so mail or of any person or entity to receive any such notice, or any defect in any notice of redemption, shall not affect the validity of the proceeding for the redemption of such Bonds.

Such notice shall state the redemption date and the redemption price and, if less than all of the then Outstanding Bonds are to be called for redemption, shall designate the Bond numbers of the Bonds to be redeemed by giving the individual Bond number of each Bond to be redeemed or shall state that all Bonds between two stated Bond numbers, both inclusive, are to be redeemed or that all of the Bonds of one or more maturities have been called for redemption, shall state as to any Bond called in part the principal amount thereof to be redeemed, and shall require that such Bonds be then surrendered at the Principal Office of the Fiscal Agent for redemption at the said redemption price, and shall state that further interest on such Bonds, or the portion thereof to be redeemed, will not accrue from and after the redemption date. The cost of mailing any such redemption notice and any expenses incurred by the Fiscal Agent in connection therewith shall be paid by the District.

Whenever provision is made in this Agreement for the redemption of less than all of the Bonds of a maturity, the Fiscal Agent shall select the Bonds to be redeemed, from all Bonds of such maturity not previously called for redemption, by lot in any manner which the Fiscal Agent in its sole discretion shall deem appropriate and fair.

Upon surrender of Bonds redeemed in part only, the City shall execute and the Fiscal Agent shall authenticate and deliver to the registered Owner, at the expense of the City, a new Bond or Bonds, of the same series and maturity, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Bond or Bonds.

(f) **Effect of Redemption.** From and after the date fixed for redemption, if funds available for the payment of the principal of, and interest and any premium on, the Bonds so called for redemption shall have been deposited in the Redemption Fund on or before the date fixed for redemption, such Bonds so called shall cease to be entitled to any benefit under this Agreement other than the right to receive payment of the redemption price, and no interest shall accrue thereon on or after the redemption date specified in such notice.

All Bonds redeemed by the Fiscal Agent pursuant to this Section 2.03 shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the cancelled Bonds and, upon request of the City, issue a certificate of destruction of such Bonds to the City.

**Section 2.04. Form of Bonds.** The Bonds, and the form of Fiscal Agent's certificate of authentication and the form of assignment, to appear thereon, shall be substantially in the forms, respectively, 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 Agreement and the Act.

**Section 2.05. Execution of Bonds.** The Bonds shall be executed in the name and on behalf of the City with the manual or facsimile signature of the Treasurer attested by the manual or facsimile signature of the City Clerk. The City's seal or a facsimile thereof, may be reproduced, imprinted or impressed on the Bonds. If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the owner, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the owner. Any Bond may be signed and attested on behalf of the City by such persons as at the actual date of

the execution of such Bond shall be the proper officers of the City although at the nominal date of such Bond any such person shall not have been such officer of the City. Only such Bonds as shall bear thereon a certificate of authentication in substantially the form set forth in Exhibit A, executed and dated by the Fiscal Agent, shall be valid or obligatory for any purpose or entitled to the benefits of this Agreement, and such certificate of authentication of the Fiscal Agent shall be conclusive evidence that the Bonds registered hereunder have been duly authenticated, registered and delivered hereunder and are entitled to the benefits of this Agreement.

**Section 2.06. Transfer of Bonds.** Any Bond may, in accordance with its terms, be transferred, upon the Bond Register by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a duly written instrument of transfer in a form approved by the Fiscal Agent. The cost for any services rendered or any expenses incurred by the Fiscal Agent in connection with any such transfer shall be paid by the City. The Fiscal Agent shall collect from the Owner requesting such transfer any tax or other governmental charge required to be paid with respect to such transfer. Whenever any Bond or Bonds shall be surrendered for transfer, the City shall execute and the Fiscal Agent shall authenticate and deliver a new Bond or Bonds, for like aggregate principal amount(s), maturity(ies) and interest rate(s) in the denominations herein authorized. Neither the City nor the Fiscal Agent shall be required to make such transfer of Bonds between a Record Date and an Interest Payment Date or any such transfer with respect to a Bond after such Bond has been called for redemption.

The transferor shall provide or cause to be provided to the Fiscal Agent all information necessary to allow the Fiscal Agent to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045. The Fiscal Agent may rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

**Section 2.07. Exchange of Bonds.** Bonds may be presented for exchange at the Principal Office of the Fiscal Agent for a like aggregate principal amount of Bonds of authorized denominations and of the same maturity. The cost for any services rendered or any expenses incurred by the Fiscal Agent in connection with any such exchange shall be paid by the City. The Fiscal Agent shall collect from the Owner requesting such exchange any tax or other governmental charge required to be paid with respect to such exchange. Neither the City nor the Fiscal Agent shall be required to make such exchange of Bonds between a Record Date and an Interest Payment Date, or any such exchange with respect to a Bond after such Bond has been called for redemption.

The Owner requesting such exchange shall also provide or cause to be provided to the Fiscal Agent all information necessary to allow the Fiscal Agent to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045. The Fiscal Agent may rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

**Section 2.08. Registration Book/Book-Entry.** The Fiscal Agent will keep or cause to be kept, at the Principal Office of the Fiscal Agent, sufficient records for the registration and transfer of ownership of the Bonds, which shall be open to inspection during regular business hours and upon reasonable notice by the City; and, upon presentation for such purpose, the Fiscal Agent

shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such records, the ownership of the Bonds as hereinbefore provided.

The Bonds shall be initially executed and delivered in the form of a single, fully registered Bond for each maturity of the Bonds (which may be typewritten). Upon initial execution and delivery, the ownership of the Bonds shall be registered in the Bond Register in the name of the Authority.

**Section 2.09. Temporary Bonds.** The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such authorized denominations as may be determined by the City, and may contain such reference to any of the provisions of this Agreement as may be appropriate. Every temporary Bond shall be executed by the City and authenticated by the Fiscal Agent upon the same conditions and in substantially the same manner as the definitive Bonds. If the City issues temporary Bonds, it will execute and furnish definitive Bonds without delay and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange for the definitive Bonds at the Principal Office of the Fiscal Agent or at such other location as the Fiscal Agent shall designate, and the Fiscal Agent shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under to this Agreement as definitive bonds authenticated and delivered hereunder.

**Section 2.10. Bonds Mutilated, Lost, Destroyed or Stolen.** If any Bond shall become mutilated, the City, at the expense of the Owner of said Bond, shall execute, and the Fiscal Agent shall authenticate and deliver, a new Bond of like tenor and principal amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Fiscal Agent of the Bond so mutilated. Every mutilated Bond so surrendered to the Fiscal Agent shall be cancelled by it and destroyed by the Fiscal Agent who shall, upon request of the City, deliver a certificate of destruction thereof to the City. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Fiscal Agent and, if such evidence be satisfactory to the Fiscal Agent and indemnity for the Fiscal Agent and the City satisfactory to the Fiscal Agent shall be given, the City, at the expense of the Owner, shall execute, and the Fiscal Agent shall authenticate and deliver, a new Bond of like tenor and principal amount in lieu of and in substitution for the Bond so lost, destroyed or stolen. The City may require payment of a sum not exceeding the actual cost of preparing each new Bond delivered under this Section 2.10 and of the expenses which may be incurred by the City and the Fiscal Agent for the preparation, execution, authentication and delivery. Any Bond delivered under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the City whether or not the Bond so alleged to be lost, destroyed or stolen is at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Agreement with all other Bonds issued pursuant to this Agreement.

**Section 2.11. Limited Obligation.** All obligations of the City under this Agreement and the Bonds shall not be general obligations of the City, but shall be limited obligations, payable solely from the Reassessments and the funds pledged therefore hereunder. Neither the faith and credit of the City nor of the State or any political subdivision thereof is pledged to the payment of the Bonds. The Bonds are "Limited Obligation Refunding Improvement Bonds" subject to the provisions of Sections 5.03 and 6.02 hereof.

**Section 2.12. No Acceleration.** The principal of the Bonds shall not be subject to acceleration hereunder. Nothing in this Section 2.12 shall in any way prohibit the redemption of Bonds under Section 2.03 hereof, or the defeasance of the Bonds and discharge of this Agreement under Section 11.03 hereof.

**Section 2.13. Refunding of Bonds.** The Bonds may be refunded by the City under Divisions 11 or 11.5 of the Streets and Highways Code of the State upon the conditions set forth in proceeding therefor, all as determined by the City Council; provided any such refunding of the Bonds shall occur only if the Authority Bonds are defeased as a result of the refunding or the City shall first deliver to the Fiscal Agent and the Authority Trustee a certificate of an Independent Financial Consultant verifying that, following such refunding of the Bonds their purchase by the Authority, the principal and interest due on the refunding bonds is adequate to make the timely payment of principal, including mandatory sinking fund payments, and interest due on the Authority Bonds following the issuance of such refunding bonds.

### **ARTICLE III ISSUANCE OF BONDS**

**Section 3.01. Issuance and Delivery of Bonds.** At any time after the execution of this Agreement, the City may issue the Bonds in the aggregate principal amount set forth in Section 2.01 hereof and deliver the Bonds to the Original Purchaser. Pursuant to the Resolution of Issuance, the Authorized Representatives of the City are authorized and directed to deliver any and all documents and instruments necessary to cause the issuance of the Bonds in accordance with the provisions of the Act, the Resolution of Issuance and this Agreement, and to do and cause to be done any and all acts and things necessary or convenient for delivery of the Bonds to the Original Purchaser upon payment of the purchase price for the Bonds.

**Section 3.02. Application of Proceeds of Sale of Bonds.** The proceeds of the purchase of the Bonds by the Original Purchaser (being \$\_\_\_\_) shall be paid to the Fiscal Agent and shall be transferred by the Fiscal Agent to the Escrow Agent for deposit by the Escrow Agent in the Escrow Fund held under the Escrow Agreement.

**Section 3.03. Pledge of Reassessments.** The Bonds shall be secured by a first pledge (which pledge shall be effected in the manner and to the extent herein provided) of all of the unpaid Reassessments and all moneys deposited in the Assessment Revenue Fund (other than the Administrative Expense Account therein) and the Redemption Fund (including the accounts therein). The unpaid Reassessments and all moneys deposited into said funds (except as otherwise provided herein) are hereby dedicated to the payment of the principal and interest and any premium on the Bonds as provided herein and in the Act until all of the Bonds have been paid and retired or until moneys or Federal Securities have been set aside irrevocably for that purpose in accordance with Section 11.03.

## ARTICLE IV ESTABLISHMENT OF FUNDS

### **Section 4.01. Assessment Revenue Fund.**

#### **(a) Establishment and Disbursement of the Assessment Revenue Fund.**

There is hereby established a separate fund to be known as the "Assessment Revenue Fund," which shall be established, held and administered by the Finance Officer of the City. All moneys received by the City on account of installment payments respecting unpaid Reassessments, including late charges and penalties, if any, paid in connection with reinstatement of delinquent Reassessment installments, proceeds of foreclosure sales payable to the City resulting from foreclosure of the lien of delinquent Reassessments, and proceeds of prepayments of Reassessment installments, whether in whole or in part, shall be deposited in the Assessment Revenue Fund. Except as provided in Section 4.01(b) hereof, the Finance Officer shall transfer amounts deposited into the Assessment Revenue Fund within ten (10) Business Days of receipt of such amounts to the Fiscal Agent for deposit into the Redemption Fund or, if applicable, the Prepayment Account. The Finance Officer shall establish and maintain in accordance with Section 4.01(b) hereof a special account within the Assessment Revenue Fund designated the "Administrative Expense Account." The Assessment Revenue Fund shall include any Reassessments amounts collected commencing in Fiscal Year 2018-19 and shall be applied to the payment of the Bonds as provided herein.

**(b) Administrative Expense Account.** The Administrative Expense Account is hereby established as a separate fund to be held by the Finance Officer of the City into which shall be placed funds attributable to the administrative costs of prepayment of Reassessments and any amounts collected of the character described in sections 8682 and 8682.1 of the Streets and Highways Code of the State, as permitted by Section 9545 of the Act, and which Administrative Expense Account shall be administered as hereinafter provided.

From the first Reassessments collected each Fiscal Year, commencing in the 2019-20 Fiscal Year, the Finance Officer shall deposit in the Administrative Expense Account the amount included in the levy of the Reassessments for such Fiscal Year in respect of the Reassessments collected by the City, for costs attributable of the character described in Section 10204(f) of the Act and Sections 8682.1 and 8682 of the Streets and Highways Code of the State. The Finance Officer shall also deposit in Administrative Expense Account the amounts attributable to the administrative costs of the prepayment of Reassessments and amounts received pursuant to Section 5 of the Escrow Agreement. Should the amounts in the Administrative Expense Account be insufficient to pay Administrative Expenses, the Finance Officer shall deposit excess moneys from the Assessment Revenue Fund to cover such shortfall. In the event the amounts in the Administrative Expense Account exceed the cost of the Administrative Expenses for the next succeeding Fiscal Year, as determined by the City, any excess amounts shall be transferred to the Fiscal Agent for deposit into the Redemption Fund.

Amounts in the Administrative Expense Account shall be disbursed by the Finance Officer to persons specified in an appropriate disbursement request therefor, in the form of Exhibit B hereto, signed by an Authorized Representative of the City.

Nothing in this Section 4.01(b) shall be construed to limit administrative costs permitted under the Act and the Streets and Highways Code of the State, including disbursements to any

appropriate fund or account of the City for reimbursement to the City for Administrative Expenses, including the costs attributable to staff time spent in the administration of the Reassessments and the Bonds.

(c) **Investment.** Moneys held by the Finance Officer of the City in the Assessment Revenue Fund, including the Administrative Expense Account, shall be invested in Permitted Investments. Interest earnings and profits resulting from such investment shall be retained in the respective fund or account, to be used for the purposes thereof.

#### **Section 4.02. Redemption Fund.**

(a) **Establishment of Redemption Fund.** The Redemption Fund is hereby established as a separate fund to be held by the Fiscal Agent and to the credit of which deposits shall be made as required by Section 4.01 of this Agreement, and any other amounts required to be deposited therein by this Agreement or the Act. Within the Redemption Fund the Fiscal Agent shall establish special accounts designated as the "Principal Account," the "Interest Account" and the "Surplus Account." Such fund and accounts shall be held and maintained as separate and distinct funds and accounts. Moneys in the Redemption Fund shall be held by the Fiscal Agent for the benefit of the City and the Owners of the Bonds, and shall be disbursed for the payment of the principal of, and interest and any premium on, the Bonds as provided below. The Fiscal Agent shall also establish the Prepayment Account into which shall be placed the proceeds of the prepayment of any Reassessment and the Fiscal Agent shall utilize the largest portion of such amount which is to redeem Bonds pursuant to Section 2.03(a) as directed by the City, and any excess amount is to be retained therein.

(b) **Disbursements.** On each Interest Payment Date the Fiscal Agent shall transfer amounts then in the Redemption Fund into the following accounts based upon the following deposit requirements and 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 funds sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any deposit is made to any account subsequent in priority:

(i) The Fiscal Agent shall deposit in the Interest Account an amount equal to the amount of interest coming due and payable on the Bonds on such Interest Payment Date and any amount of interest previously due and unpaid.

(ii) In connection with any March 2 Interest Payment Date, the Fiscal Agent shall deposit in the Principal Account, an amount which is sufficient to cause the aggregate amount on deposit in the Principal Account to equal 50% of the amount of principal or mandatory sinking account payment coming due and payable on the Bonds on the next succeeding September 2, and any amount of principal previously due and unpaid; and, in connection with any September 2 Interest Payment Date, the Fiscal Agent shall deposit in the Principal Account, an amount which, together with the amounts then on deposit therein, is sufficient to cause the aggregate amount on deposit in the Principal Account to equal 100% of the amount of principal or mandatory sinking account payment coming due and payable on the Bonds on such Interest Payment Date and any amount of principal previously due and unpaid;

(iii) The Fiscal Agent shall deposit all remaining amounts in the Surplus Account to be applied as provided below.

Any installment of principal (including mandatory sinking payments), premium, if any, or interest on the Bonds which is not paid when due shall accrue interest at the rate of interest on the Bonds until paid, and shall be paid whenever funds in the Redemption Fund are sufficient therefor.

Funds placed in the Prepayment Account shall be disbursed therefrom for the call and redemption of Bonds as set forth in Section 2.03(a) hereof.

Funds placed in the Surplus Account shall be used as a credit toward Reassessments or, upon written direction of the City, shall be transferred to the Authority Trustee for deposit into the Revenue Fund under the Authority Indenture in an amount determined by the City to pay a portion of the redemption price of Authority Bonds to be redeemed from prepayments of Reassessments. On each June 1, the City shall determine if there existed any delinquencies on Reassessments and if there were any prepayments of the Reassessments in the then Fiscal Year, and if none, direct the Fiscal Agent in writing to transfer any moneys in the Surplus Account to the Redemption Fund to be used to offset next fiscal year's levy of Reassessments. If the City determines that delinquencies or prepayments occurred, moneys in the Surplus Fund shall remain therein to be available for transfer to the Authority Trustee as provided above.

If at any time the Fiscal Agent fails to pay principal and interest due on any scheduled payment date for the Bonds, the Fiscal Agent shall notify the City and the Finance Officer in writing of such failure.

(c) **Investment.** Moneys in the Redemption Fund, including the Principal Account, Interest Account, Prepayment Account and Surplus Account shall be invested and deposited in accordance with Section 6.01. Interest earnings and profits resulting from such investment shall be deposited in the Redemption Fund to be used for the purposes thereof.

## **ARTICLE V**

### **OTHER COVENANTS OF THE CITY; TAX COVENANTS**

#### **Section 5.01. Collection of Reassessments.**

(a) The City shall comply with all requirements of the Act, the Resolution of Issuance and this Agreement to assure the timely collection of the Reassessments, including, without limitation, the enforcement of delinquent Reassessments. Any funds received by the City in and for the Assessment District, including, but not limited to, collections of Reassessments upon the secured tax rolls, collections of delinquent Reassessments and penalties thereon, through foreclosure proceedings or otherwise, and the prepayment of Reassessments or portions thereof, shall be deposited in the Assessment Revenue Fund. The Finance Officer shall make disbursements from the Assessment Revenue Fund to the Fiscal Agent of amounts required to be deposited in the Redemption Fund and the Prepayment Account within the Redemption Fund, as provided in Section 4.01.

(b) The Reassessments as set forth on the List of Unpaid Reassessments on file with the Finance Officer, together with the interest thereon, shall be payable in annual installments corresponding in number and proportionate amount to the number installments and principal amounts of Bonds maturing or becoming subject to mandatory sinking payment redemption in each year pursuant to the Act. An annual proportion of each Reassessment shall be payable in each fiscal year preceding the date of maturity or mandatory sinking payment

redemption date of each of the Bonds which have been issued sufficient to pay the Bonds when due and such proportion of each Reassessment coming due in any year, together with the annual interest thereon, shall be payable in the same manner and at the same time and in the same installments as the general taxes on real property are payable, and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property. All sums received from the collection of the Reassessments and of the interest and penalties thereon shall be placed in the Assessment Revenue Fund. Any prepayments of Reassessments shall be placed in the Assessment Revenue Fund and then transferred to the Prepayment Account, except that amounts attributable to the administrative costs of the prepayment of Reassessments shall be placed in the Administrative Expense Account.

(c) The Finance Officer shall, before the final date on which the Auditor will accept the transmission of the Reassessments for the parcels within the Assessment District for inclusion on the next secured tax roll, prepare or cause the Assessment Consultant to prepare, and shall transmit to the Auditor, such data as the Auditor requires to include the installments of the Reassessments on the next secured tax roll of the County. Any amounts in the Assessment Revenue Fund, including amounts transferred thereto from the Surplus Account pursuant to Section 4.02(b), shall be a credit to the Reassessments and taken into consideration in preparing the next installment roll.

(d) The Reassessments shall be payable and be collected in the same manner and at the same time and in the same installments as the general taxes on real property are payable, and have the same priority, become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property. In addition to any amounts authorized pursuant to section 8682 of the Streets and Highways Code of the State to be included with the annual amounts of installments as aforesaid, the City, pursuant to section 8682.1 of the Streets and Highways Code of the State, may cause to be entered on the assessment roll on which taxes will next become due, opposite each lot or parcel of land within the Assessment District in the manner set forth in said section 8682, each lot's pro rata share of the estimated annual expenses of the City in connection with the administrative duties thereof for the Bonds, including, but not limited to, the costs of registration, authentication, transfer and compliance with the provisions of Article V hereof, which amounts shall be transferred to the Fiscal Agent for deposit in the Administrative Expense Account of the Assessment Revenue Fund under Section 4.01(a) hereof. Delinquent Reassessments shall be subject to foreclosure pursuant to Section 5.02 hereof.

**Section 5.02. Foreclosure.** The City covenants with and for the benefit of the Bond Owner that it will order, and cause to be commenced, and thereafter diligently prosecute an action in the superior court to foreclose the lien of any Reassessment or installment thereof that is delinquent, as provided in Section 8680 of the Streets and Highways Code of the State, pursuant to and as provided in Section 8830 through 8835 of the Streets and Highways Code of the State and the conditions specified in this Section 5.02. The Finance Officer shall commence, or cause to be commenced, such foreclosure proceedings and is authorized to employ counsel to conduct any such foreclosure proceedings. Such foreclosure proceedings shall be commenced for each delinquency of a Reassessment installment not later than the March 1 following the first Reassessment installment due date or September 1 following the second Reassessment installment due date of any Fiscal Year for any such delinquent Reassessment installment.



The City shall issue notices of delinquency against all parcels with delinquent Reassessments, regardless of amount, within 60 days after the Finance Officer has received information from the Auditor or otherwise for that Bond Year showing or identifying such delinquent Reassessments.

**Section 5.03. No Advances from Available Surplus Funds.** The City shall not be obligated to advance available surplus funds of the City to cure any deficiency which may occur in the Redemption Fund; provided, however, that said determination shall not prevent the City, in its sole discretion, from so advancing funds.

**Section 5.04. Punctual Payment; Compliance With Documents.** The City shall punctually pay or cause to be paid the interest and principal to become due on the Bonds in strict conformity with the terms of the Bonds and of this Agreement, and will faithfully observe and perform all of the conditions, covenants and requirements of this Agreement and all Supplemental Agreements.

**Section 5.05. No Priority for Additional Obligations.** The City represents and warrants that it has not made a pledge of, granted a security interest in, or made an assignment or sale of the Reassessments that ranks on a parity with or prior to the pledge granted hereunder. The City covenants that no additional bonds or other obligations shall be issued or incurred having any priority over the Bonds, or which are on parity with or subordinate to the Bonds, in payment of principal or interest out of the Reassessments. Refunding bonds which do not defease all of the Bonds may be issued provided there is no increase in Maximum Annual Debt Service.

**Section 5.06. Tax Covenants.**

(a) Special Definitions. When used in this Section, the following terms have the following meanings:

“*Computation Date*” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“*Gross Proceeds*” means any proceeds as defined in section 1.148-1(b) of the Tax Regulations (referring to sales, investment and transferred proceeds), and any replacement proceeds as defined in section 1.148-1(c) of the Tax Regulations, of the Authority Bonds or the Bonds, as applicable.

“*Investment*” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“*Nonpurpose Investment*” means any investment property, as defined in section 148(b) of the Tax Code, in which Gross Proceeds of the Authority Bonds are invested and that is not acquired to carry out the governmental purposes of the Authority Bonds.

“*Rebate Amount*” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“*Tax Regulations*” means the United States Treasury Regulations promulgated pursuant to sections 103 and 141 through 150 of the Tax Code, or section 103 of the 1954 Tax Code, as applicable.

“Yield” (i) of any Investment has the meaning set forth in section 1.148-5 of the Tax Regulations; and (ii) has the meaning set forth in section 1.148-4 of the Tax Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds of the Authority Bonds or of the Bonds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with any such Gross Proceeds) in a manner that if made or omitted, respectively, could cause the interest on any Authority Bond to fail to be excluded pursuant to section 103(a) of the Tax Code from the gross income of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of Bond Counsel to the effect that failure to comply with such covenant will not adversely affect the exclusion of the interest on any Authority Bond from the gross income of the owner thereof for federal income tax purposes, the City shall comply with each of the specific covenants in this Section.

(c) Private Use and Private Payments. Except as would not cause any Authority Bond to become a “private activity bond” within the meaning of section 141 of the Tax Code and the Tax Regulations, the City at all times previously did and shall prior to the payment in full of the Authority Bonds:

(i) exclusively own, operate and possess all property the acquisition, construction or improvement of which was or is to be financed or refinanced directly or indirectly with Gross Proceeds of the Authority Bonds or of the Bonds, and not use or permit the use of such Gross Proceeds (including through any contractual arrangement with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who was or is treated as using Gross Proceeds of the Authority Bonds or of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with any such Gross Proceeds, other than taxes of general application within its jurisdiction.

(d) No Private Loan. Except as would not cause any Authority Bond to become a “private activity bond” within the meaning of section 141 of the Tax Code and the Tax Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Authority Bonds or of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if: (i) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction that creates a debt for federal income tax purposes; (ii) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (iii) indirect benefits of such Gross Proceeds, or burdens and benefits of ownership of any property acquired, constructed or improved with such Gross Proceeds, are otherwise transferred in a transaction that is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except as would not cause the Authority Bonds to become “arbitrage bonds” within the meaning of section 148 of the Tax Code and the Tax Regulations and rulings thereunder, the City did or shall not, at any time prior to the payment in full of the Authority Bonds, directly or indirectly invest Gross Proceeds of the Bonds or the Authority Bonds in any Investment, if as a result of such investment the Yield of any Investment acquired with Gross Proceeds, whether then held or previously disposed of, would materially exceed the Yield of the Authority Bonds within the meaning of said section 148.

(f) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Tax Code and the Tax Regulations and rulings thereunder, the City shall not take or omit to take any action that would cause any Authority Bond to be “federally guaranteed” within the meaning of section 149(b) of the Tax Code and the Tax Regulations and rulings thereunder.

(g) Information Report. The City shall assist the Authority in timely filing any information required by section 149(e) of the Tax Code with respect to Authority Bonds with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in section 148(f) of the Tax Code and the Tax Regulations, with respect to the Bonds:

(i) The City shall account for all Gross Proceeds of the Bonds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the Authority Bonds are paid in full. However, to the extent permitted by law, the City may commingle Gross Proceeds of Bonds with its other monies, provided that it separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(ii) Not less frequently than each Computation Date with respect to the Bonds, the City shall calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Tax Code and the Tax Regulations and rulings thereunder. The City shall maintain a copy of the calculation with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date. The Fiscal Agent may rely conclusively upon the City’s determination, calculations, and certifications required by this Section 5.06. The Fiscal Agent shall have no responsibility to independently make any calculation or determination or to review the City’s calculations hereunder.

(iii) In order to assure the excludability of the interest on the Authority Bonds from the gross income of the owners thereof for federal income tax purposes, the City shall assist the Authority in paying to the United States the amount that when added to the future value of previous rebate payments made for the Authority Bonds equals (A) in the case of a Final Computation Date as defined in section 1.148-3(e)(2) of the Tax Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (B) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, such rebate payments shall be made at the times and in the amounts as are or may be required by section 148(f) of the Tax Code and the Tax Regulations and rulings thereunder, and shall be accompanied by Form 8038-T prepared by the City or such other forms and information as is or may be required by section

148(f) of the Tax Code and the Tax Regulations and rulings thereunder for execution and filing by the Authority.

(iv) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (ii) and (iii), and if an error is made, to discover, promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under section 1.148-3(h) or other provision of the Tax Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Tax Code and the Tax Regulations and rulings thereunder, the City did or shall not, at any time prior to the payment in full of the Authority Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to paragraph (h) of this Section because such transaction resulted or results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield on the Authority Bonds not been relevant to either party.

(j) Bonds Not Hedge Bonds.

(i) The City represents that none of the Authority Bonds is or will become a "hedge bond" within the meaning of section 149(g) of the Tax Code.

(ii) Without limitation of paragraph (i) above, with respect to the Authority Bonds: (A) on the date of issuance of the Prior Bonds the City reasonably expected that at least 85% of the spendable proceeds of the Prior Bonds would be expended within the three-year period commencing on such date of issuance, and (B) no more than 50% of the proceeds of the Prior Bonds were invested in Nonpurpose Investments having a substantially guaranteed yield for a period of four years or more.

(k) Elections. The City hereby directs and authorizes any Authorized Representative of the City to assist the Authority in making elections permitted or required pursuant to the provisions of the Tax Code or the Tax Regulations, as such Authorized Representative (after consultation with Bond Counsel) deems necessary or appropriate in connection with the Authority Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

(l) Closing Certificate. The City agrees to execute and deliver in connection with the issuance of the Bonds a *Tax Certificate as to Arbitrage and the Provisions of Sections 141-150 of the Internal Revenue Code of 1986*, or similar document containing additional representations and covenants pertaining to the exclusion of interest on the Bonds from the gross income of the owners thereof for federal income tax purposes, which representations and covenants are incorporated in this Agreement as though expressly set forth herein.

**Section 5.07. 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 Agreement, and for the better assuring and confirming unto the Owners of the Bonds the rights and benefits provided in this Agreement.

**Section 5.08. Amendment.** Without the consent of the Owners of the Bonds, the City hereafter may amend this Agreement to add, modify or delete provisions if the same is necessary or desirable to assure compliance with Section 148(f) of the Tax Code or as otherwise required, to assure the exemption from federal income taxation of interest on the Authority Bonds.

**Section 5.09. Continuing Disclosure.** The City hereby covenants and agrees that it will comply with and carry out all of the obligations on its part under the Continuing Disclosure Agreement. Notwithstanding any other provision of this Agreement, failure of the City to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default under this Agreement.

## **ARTICLE VI INVESTMENTS; LIABILITY OF THE CITY**

**Section 6.01. Deposit and Investment of Moneys in Funds.** Subject in all respects to the provisions of Section 6.02, moneys in any fund or account created or established by this Agreement and held by the Fiscal Agent shall be invested by the Fiscal Agent in Permitted Investments, as directed pursuant to an Officer's Certificate filed with the Fiscal Agent at least two (2) Business Days in advance of the making of such investments. The following shall apply to such investments:

(a) In the absence of any such Officer's Certificate, the Fiscal Agent shall hold such moneys uninvested. Obligations purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account, subject, however, to the requirements of this Agreement for transfer of interest earnings and profits resulting from investment of amounts in funds and accounts;

(b) The Fiscal Agent or an affiliate may act as principal or agent in the acquisition or disposition of any investment and shall be entitled to customary fees therefor. The Fiscal Agent or its affiliate shall incur no liability for losses arising from any investments made pursuant to this Section. For purposes of determining the amount on deposit in any fund or account held hereunder, all Permitted Investments or investments credited to such fund or account shall be valued at the lesser of the cost thereof (excluding accrued interest and brokerage commissions, if any) or Fair Market Value. In determining the market value of Permitted Investments, the Fiscal Agent may use and rely conclusively and without liability upon any generally recognized pricing information service (including brokers and dealers in securities) available to the Fiscal Agent;

(c) Subject in all respects to the provisions of Section 6.02, investments in any and all funds and accounts may at the discretion of the Fiscal Agent be commingled in a separate fund or funds for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular funds or accounts of amounts received or held by the Fiscal Agent hereunder, provided that the Fiscal Agent shall at all times account for such investments strictly in accordance with the funds and accounts to which they are credited and otherwise as provided in this Agreement;

(d) The Fiscal Agent shall sell or present for redemption, any investment security 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 investment security is credited and the Fiscal Agent shall not be liable or responsible for any loss resulting from the acquisition or disposition of such investment security in accordance herewith; and

(e) The City acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant 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 Fiscal Agent, at no additional cost, will furnish the City periodic cash transaction statements which include detail for all investment transactions made by the Fiscal Agent hereunder.

**Section 6.02. Liability of City.** The City shall not incur any responsibility in respect of the Bonds or this Agreement other than in connection with the duties or obligations explicitly provided herein or in the Bonds. The City shall not be liable to any Owner in connection with the performance of its duties hereunder, except for its own negligence or willful default. The City shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements of the Fiscal Agent herein or of any of the documents executed by the Fiscal Agent in connection with the Bonds, or as to the existence of a default thereunder. Under this Agreement, the following shall apply to the City:

(a) In the absence of bad faith, the City, including the Finance Officer, may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the City and conforming to the requirements of this Agreement. The City, including the Finance Officer, shall not be liable for any error of judgment made in good faith;

(b) No provision of this Agreement shall require the City to expend or risk its own general funds or otherwise incur any financial liability (other than with respect to the foreclosure proceedings for unpaid delinquent Reassessments and the payment of fees, costs and other amounts due the Fiscal Agent) in the performance of any of its obligations hereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it; and the City may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties; also the City may consult with counsel with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith;

(c) The City shall not be bound to recognize any person as the Owner of a Bond unless duly registered and until such Bond is submitted for inspection, if required, and such person's title thereto satisfactory established, if disputed; and

(d) Whenever in the administration of its duties under this Agreement the City 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, in the absence of willful misconduct on the part of the City, be deemed to be conclusively proved and established by a certificate of the Fiscal Agent or other expert retained by the City for the purposes hereof, and such certificate shall be full warrant to the

City for any action taken or suffered under the provisions of this Agreement or any Supplemental Agreement upon the faith thereof, but in its discretion the City may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable.

**Section 6.03. Employment of Agents by City.** In order to perform its duties and obligations hereunder, the City may employ such persons or entities as it deems necessary or advisable. The City shall not be liable for any of the acts or omissions of such persons or entities employed by it with reasonable care and in good faith hereunder, and shall be entitled to rely, and shall be fully protected in doing so, upon the opinions, calculations, determinations and directions of such persons or entities.

## **ARTICLE VII EVENTS OF DEFAULT AND REMEDIES OF BOND OWNERS**

**Section 7.01. Events of Default.** The following events shall be Events of Default:

(a) Failure to pay any installment of principal of any Bonds when and as the same shall become due and payable, whether at maturity as therein expressed, by proceedings for redemption or otherwise.

(b) Failure to pay any installment of interest on any Bonds when and as the same shall become due and payable.

(c) Failure by the City to observe and perform any of the other covenants, agreements or conditions on its part in this Agreement or in the Bonds contained, if such failure shall have continued for a period of 30 days after written notice thereof, specifying such failure and requiring the same to be remedied, shall have been given to the City by the Fiscal Agent or the Owners of not less than 25% in aggregate principal amount of the Bonds at the time Outstanding; provided, however, if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 30 day period, such failure shall not constitute an Event of Default if corrective action is instituted by the City within such 30 day period and the City shall thereafter diligently and in good faith cure such failure.

(d) Commencement by the City of a voluntary case under the United States Bankruptcy Code or any substitute or successor statute.

**Section 7.02. Remedies of Bond Owners.** Subject to the provisions of Section 7.07, any Bond Owner shall have the right, for the equal benefit and protection of all Bond Owners similarly situated:

(a) by mandamus, suit, action or proceeding, to compel the City and its officers, agents or employees to perform each and every term, provision and covenant contained in this Agreement and in the Bonds, and to require the carrying out of any or all such covenants and agreements of the City and the fulfillment of all duties imposed upon it by the Act;

(b) by suit, action or proceeding in equity, to enjoin any acts or things which are unlawful, or the violation of any of the Bond Owners' rights; or

(c) upon the happening of any Event of Default, by suit, action or proceeding in any court of competent jurisdiction, to require the City and its officers and employees to account as if it and they were the trustees of an express trust.

**Section 7.03. Application of Assessments and Other Funds After Default.** If an Event of Default shall occur and be continuing, all Reassessments, including any penalties, costs, fees and other charges accruing under the Act, and any other funds then held or thereafter received by the City or the Fiscal Agent under any of the provisions of this Agreement shall be applied by the Fiscal Agent as follows and in the following order:

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

(b) To the payment of the principal of and interest then due with respect to the Bonds (upon presentation of the Bonds to be paid, and stamping thereon of the payment if only partially paid, or surrender thereof if fully paid) subject to the provisions of this Agreement, as follows:

(i) First: To the payment to the Persons entitled thereto of all installments of interest on the Bonds 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

(ii) 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 call for redemption, with interest on the overdue principal at the rate borne by the respective Bonds on the date of maturity or redemption, 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.

Any remaining funds shall be transferred by the Fiscal Agent to the Redemption Fund.

**Section 7.04. Absolute Obligation of the City.** Nothing in Section 7.07 or in any other provision of this Agreement or in the Bonds contained shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the principal 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 Reassessments and other moneys herein pledged therefor and received by the City or the Fiscal Agent, 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 7.05. Termination of Proceedings.** In case any proceedings taken by any one or more Bond Owners on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Bond Owners, then in every such case the City, and the Bond Owners, 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, and the Bond Owners shall continue as though no such proceedings had been taken.

**Section 7.06. Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Fiscal Agent 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 7.07. No Waiver of Default.** No delay or omission 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 Agreement to the Owners of the Bonds may be exercised from time to time and as often as may be deemed expedient. No waivers shall be granted by any party to this Agreement without the prior written consent of the Insurer.

**Section 7.08. Actions by Fiscal Agent as Attorney-in-Fact.** Any suit, action or proceeding which any Owner shall have the right to bring to enforce any right or remedy hereunder may be brought by the Fiscal Agent for the equal benefit and protection of all Owners, and the Fiscal Agent is hereby appointed (and the Owners of the Bonds, by taking and holding the same, shall be conclusively deemed so to have appointed it) the true and lawful attorney-in-fact of the Owners for the purpose of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the Owners as may be necessary or advisable in the opinion of the Fiscal Agent as such attorney-in-fact.

## **ARTICLE VIII THE FISCAL AGENT**

**Section 8.01. Appointment of Fiscal Agent.** The Bank of New York Mellon Trust Company, N.A. is hereby appointed Fiscal Agent and paying agent for the Bonds. The Fiscal Agent undertakes to perform such duties, and only such duties, as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Fiscal Agent. With respect to the appointment of the Fiscal Agent, the following shall apply:

(a) Any company into which the Fiscal Agent 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 Fiscal Agent may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under the following paragraph of this Section 8.01 shall be the successor to such Fiscal Agent without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding. The Fiscal Agent shall give the Finance Officer written notice of any such succession hereunder.

(b) The City may, upon thirty (30) days' prior written notice to the Fiscal Agent and the Authority Trustee, remove the Fiscal Agent initially appointed and any successor thereto, and may appoint a successor or successor's thereto, but any successor Fiscal Agent shall be a bank, national banking association, corporation or trust company having a combined capital

(exclusive of borrowed capital) and surplus of at least Fifty Million Dollars (\$50,000,000) and subject to supervision or examination by federal or state authority. If such bank, national banking association, corporation or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 8.01, combined capital and surplus of such bank, national banking association, corporation 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.

(c) The Fiscal Agent may at any time resign by giving written notice to the City and by giving to the Owners notice by mail of such resignation. Upon receiving notice of such resignation, the City shall promptly appoint a successor Fiscal Agent, satisfying the requirements of Section 8.01(b) above, by an instrument in writing. Any resignation or removal of the Fiscal Agent shall become effective upon acceptance of appointment by the successor Fiscal Agent.

(d) If no appointment of a successor Fiscal Agent shall be made pursuant to the foregoing provisions of this Section within forty-five (45) days after the Fiscal Agent shall have given to the City written notice or after a vacancy in the office of the Fiscal Agent shall have occurred by reason of its inability to act, the Fiscal Agent or any Bond Owner may apply to any court of competent jurisdiction to appoint a successor Fiscal Agent. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Fiscal Agent; and

(e) If, by reason of the judgment of any court, the Fiscal Agent is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the Fiscal Agent hereunder shall be assumed by and vest in the Finance Officer of the City in trust for the benefit of the Owners. The City covenants for the direct benefit of the Owners that its Finance Officer in such case shall be vested with all of the rights and powers of the Fiscal Agent hereunder, and shall assume all of the responsibilities and perform all of the duties of the Fiscal Agent hereunder, in trust for the benefit of the Owners of the Bonds.

**Section 8.02. Liability of Fiscal Agent.** With respect to the liability of the Fiscal Agent, the following shall apply:

(a) The recitals of facts, covenants and agreements herein and in the Bonds contained shall be taken as statements, covenants and agreements of the City, and the Fiscal Agent assumes no responsibility for the correctness of the same, makes no representations as to the validity or sufficiency of this Agreement or of the Bonds, or shall incur any responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Bonds assigned to or imposed upon it. The Fiscal Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Fiscal Agent assumes no responsibility or liability for any information, statement or recital in any official statement or other disclosure material prepared or distributed with respect to the issuance of the Bonds;

(b) The Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Fiscal Agent and conforming to the requirements of this Agreement; but in the case of any such certificates or opinions by which any provision hereof are specifically required to be furnished to the Fiscal Agent, the Fiscal Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement. Except as

provided above in this paragraph, Fiscal Agent shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Agreement, upon any resolution, order, notice, request, consent or waiver, certificate, statement, affidavit, or other paper or document which it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper person or to have been prepared and furnished pursuant to any provision of this Agreement, and the Fiscal Agent shall not be under any duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument;

(c) The Fiscal Agent shall not be liable for any error of judgment made in good faith by a responsible officer unless it shall be proved that the Fiscal Agent was negligent in ascertaining the pertinent facts;

(d) No provision of this Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers;

(e) The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement at the request or direction of any of the Owners pursuant to this Agreement unless such Owners shall have offered to the Fiscal Agent reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(f) The Fiscal Agent may become the owner of the Bonds with the same rights it would have if it were not the Fiscal Agent;

(g) The Fiscal Agent shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Agreement and delivered using Electronic Means ("Electronic Means" shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Fiscal Agent, or another method or system specified by the Fiscal Agent as available for use in connection with its services hereunder); provided, however, that the Authority shall provide to the Fiscal Agent an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Authority whenever a person is to be added or deleted from the listing. If the Authority elects to give the Fiscal Agent Instructions using Electronic Means and the Fiscal Agent in its discretion elects to act upon such Instructions, the Fiscal Agent's understanding of such Instructions shall be deemed controlling. The Authority understands and agrees that the Fiscal Agent cannot determine the identity of the actual sender of such Instructions and that the Fiscal Agent shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Fiscal Agent have been sent by such Authorized Officer. The Authority shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Fiscal Agent and that the Authority and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Authority. The Fiscal Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Fiscal Agent's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Authority agrees:

(i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Fiscal Agent, including without limitation the risk of the Fiscal Agent acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Fiscal Agent and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Authority; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Fiscal Agent immediately upon learning of any compromise or unauthorized use of the security procedures;

(h) The Fiscal Agent shall not be responsible for or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof;

(i) The permissive right of the Fiscal Agent 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;

(j) The Fiscal Agent may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, affiliates, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Fiscal Agent shall not be answerable for any willful misconduct or negligence on the part of any such attorney, agent, or receiver selected by it with reasonable care;

(k) The Fiscal Agent shall have no responsibility or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of these Certificates; and

(l) The, Fiscal Agent 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, supplies in the open market, litigation, arbitration involving a party or others relating to zoning or other government action or inaction pertaining to the Project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or contractors due to such causes or any similar event and/or occurrence beyond the control of the Fiscal Agent.

**Section 8.03. Information; Books and Accounts.** The Fiscal Agent shall provide to the City such information relating to the Bonds and the funds and accounts maintained by the Fiscal Agent hereunder as the City shall reasonably request, including but not limited to quarterly statements reporting funds held and transactions by the Fiscal Agent.

The Fiscal Agent will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Fiscal Agent, in which complete and correct entries shall be made of all transactions made by it relating to the expenditure of amounts disbursed from the Redemption Fund. Such books of record and accounts shall, upon reasonable

notice, at all times during business hours on any Business Day be subject to the inspection of the City and the Owners of not less than ten percent (10%) of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing.

**Section 8.04. Notice to Fiscal Agent.** The Fiscal Agent may conclusively rely, without undertaking any investigation or inquiry, and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, Bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Fiscal Agent may consult with counsel, who may be counsel to the City, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith. The Fiscal Agent shall not be bound to recognize any person as the Owner of a Bond unless and until such person is the registered Owner of such Bond and such Bond is submitted for inspection, if required, and such Owner's title thereto satisfactorily established, if disputed. Whenever in the administration of its duties under this Agreement the Fiscal Agent 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, in the absence of willful misconduct on the part of the Fiscal Agent, be deemed to be conclusively proved and established by a certificate of an Authorized Representative of the City, and such certificate shall be full warrant to the Fiscal Agent for any action taken or suffered under the provisions of this Agreement or any Supplemental Agreement upon the faith thereof, but in its discretion the Fiscal Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

**Section 8.05. Compensation; Indemnification.** The City shall pay to the Fiscal Agent from time to time reasonable compensation for all services rendered as Fiscal Agent under this Agreement, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of the Fiscal Agent's in house or other attorneys, agents and employees, incurred in and about the performance of their powers and duties under this Agreement, but the Fiscal Agent shall not have a lien therefor on any funds at any time held by it under this Agreement. The City further agrees, to the extent permitted by applicable law, to indemnify and save the Fiscal Agent, its officers, employees, directors and agents harmless against any costs, claims, expenses or liabilities, including fees and expenses of its attorneys which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its negligence or willful misconduct. The obligation of the City under this Section shall survive resignation or removal of the Fiscal Agent under this Agreement and payment of the Bonds and discharge of this Agreement.

**Section 8.06. Interaction With the City.** In conducting its duties hereunder whenever the Fiscal Agent is required or deems it appropriate to communicate with the City, it shall communicate with the Finance Officer unless otherwise specifically required hereunder. All statements and reports required to be produced by the Fiscal Agent hereunder shall be provided to the Finance Officer unless otherwise specifically provided hereunder.

## **ARTICLE IX MODIFICATION OR AMENDMENT OF THIS AGREEMENT**

**Section 9.01. Amendments Permitted.** This Agreement and the rights and obligations of the City and of the Owners of the Bonds may be modified or amended at any time by a Supplemental Agreement pursuant to the affirmative vote at a meeting of Owners, or with the written consent without a meeting, of the Owners of at least sixty percent (60%) in aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 9.04. No such modification or amendment shall (i) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the City to pay the principal of, and the interest and any premium on, any Bond, without the express consent of the Owner of such Bond, or (ii) permit the creation by the City of any pledge or lien upon the unpaid Reassessments superior to or on a parity with the pledge and lien created for the benefit of the Bonds (except as otherwise permitted by the Act, the Resolution of Issuance, the laws of the State or this Agreement), or reduce the percentage of Bonds required for the amendment hereof. Any such amendment may not modify any of the rights or obligations of the Fiscal Agent without its written consent.

This Agreement and the rights and obligations of the City and of the Owners may also be modified or amended at any time by a Supplemental Agreement, without the consent of any Owners, only to the extent permitted by law and only for any one or more of the following purposes:

(a) to add to the covenants and agreements of the City in this Agreement contained, other covenants and agreements thereafter to be observed, or to limit or surrender any right or power herein reserved to or conferred upon the City;

(b) to make modifications not adversely affecting any of the Bonds of the City in any material respect;

(c) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Agreement, or in regard to questions arising under this Agreement, as the City or the Fiscal Agent may deem necessary or desirable and not inconsistent with this Agreement, and which shall not adversely affect the rights of the Owners of the Bonds; or

(d) to make such additions, deletions or modifications as may be necessary or desirable to assure exemption from federal income taxation of interest on the Authority Bonds.

The Fiscal Agent may in its discretion, but shall not be obligated to, enter into any such amendment authorized by this Section which will adversely affects the Fiscal Agent's own rights, duties, or immunities under this Agreement.

Prior to the Fiscal Agent entering into any Supplemental Agreement hereunder, the City shall deliver to the Fiscal Agent an opinion of Bond Counsel stating, in substance, that such Supplemental Agreement has been adopted in compliance with the requirements of this Agreement.

**Section 9.02. Owners' Meetings.** The City may at any time call a meeting of the Owners. In such event the City is authorized to fix the time and place of said meeting and to provide for the giving of notice thereof and to fix and adopt rules and regulations for the conduct of said meeting.

**Section 9.03. Procedure for Amendment with Written Consent of Owners.** The City and the Fiscal Agent may at any time adopt a Supplemental Agreement amending the provisions of the Bonds or of this Agreement or any Supplemental Agreement, to the extent that such amendment is permitted by Section 9.01 hereof, to take effect when and as provided in this Section 9.03. With respect to such Supplemental Agreement under this Section 9.03, the following shall apply:

(a) A copy of such Supplemental Agreement, together with a request to Owners for their consent thereto, shall be mailed by first class mail, by the Fiscal Agent to each Owner of Bonds Outstanding, but failure to mail copies of such Supplemental Agreement and request shall not affect the validity of the Supplemental Agreement when assented to as in this Section provided;

(b) Such Supplemental Agreement shall not become effective unless there shall be filed with the Fiscal Agent the written consents of the Owners of at least sixty percent (60%) in aggregate principal amount of the Bonds then Outstanding (exclusive of Bonds disqualified as provided in Section 9.04) and a notice shall have been mailed as hereinafter in this Section provided. Each such consent shall be effective only if accompanied by proof of ownership of the Bonds for which such consent is given, which proof shall be such as is permitted by Section 10.04. Any such consent shall be binding upon the Owner of the Bonds giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Fiscal Agent prior to the date when the notice hereinafter in this Section provided for has been mailed; and

(c) After the Owners of the required percentage of Bonds shall have filed their consents to the Supplemental Agreement, the City shall mail a notice to the Owners in the manner hereinbefore provided in this Section for the mailing of the Supplemental Agreement, stating in substance that the Supplemental Agreement has been consented to by the Owners of the required percentage of Bonds and will be effective as provided in this Section but failure to mail copies of said notice shall not affect the validity of the Supplemental Agreement or consents thereto). Proof of the mailing of such notice shall be filed with the Fiscal Agent. A record, consisting of the papers required by this Section 9.03 to be filed with the Fiscal Agent, shall be proof of the matters therein stated until the contrary is proved. The Supplemental Agreement shall become effective upon the filing with the Fiscal Agent of the proof of matters therein of such notice, and the Supplemental Agreement shall be deemed conclusively binding (except as otherwise hereinabove specifically provided in this Article) upon the City and the Owners of all Bonds at the expiration of sixty (60) days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such sixty-day period.

**Section 9.04. Disqualified Bonds.** Bonds owned or held for the account of the City, excepting any pension or retirement fund, shall not be deemed Outstanding for the purpose of any vote, consent or other action provided for in this Article IX, and shall not be entitled to vote upon,

consent to, or take any other action provided for in this Article IX. Upon request, the City shall specify to the Fiscal Agent those Bonds disqualified under this Section 9.04.

**Section 9.05. Effect of Supplemental Agreement.** From and after the time any Supplemental Agreement becomes effective pursuant to this Article IX, this Agreement shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations under this Agreement of the City and all Owners of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such Supplemental Agreement shall be deemed to be part of the terms and conditions of this Agreement for any and all purposes.

**Section 9.06. Endorsement or Replacement of Bonds Issued After Amendment.** The City may determine that Bonds issued and delivered after the effective date of any action taken as provided in this Article IX shall bear a notation, by endorsement or otherwise, in form approved by the City, as to such action. In that case, upon request of the Owner of any Bond Outstanding at such effective date and presentation of his Bond for that purpose at the Principal Office of the Fiscal Agent or at such other office as the City may select and designate for that purpose, a suitable notation shall be made on such Bond. The City may determine that new Bonds, so modified as in the opinion of the City is necessary to conform to such Owners' action, shall be prepared, executed and delivered. In that case, upon request of the Owner of any Bonds then Outstanding, such new Bonds shall be exchanged at the Principal Office of the Fiscal Agent without cost to any Owner, for Bonds then Outstanding, upon surrender of such Bonds.

**Section 9.07. Amendatory Endorsement of Bonds.** The provisions of this Article IX shall not prevent any Owner from accepting any amendment as to the particular Bonds held by such owner, provided that due notation thereof is made on such Bonds.

## **ARTICLE X**

[intentionally omitted]

## **ARTICLE XI**

### **MISCELLANEOUS**

**Section 11.01. Benefits of Agreement Limited to Parties.** Nothing in this Agreement, expressed or implied, is intended to give to any person other than the City, the Fiscal Agent and the Owners, any right, remedy, claim under or by reason of this Agreement. Any covenants, stipulations, promises or agreements in this Agreement contained by and on behalf of the City shall be for the sole and exclusive benefit of the Owners and the Fiscal Agent.

**Section 11.02. Successor is Deemed Included in All Reference to Predecessor.** Whenever in this Agreement or any Supplemental Agreement either the City or the Fiscal Agent 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 Agreement contained by or on behalf of the City or the Fiscal Agent shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.



**Section 11.03. Discharge of Agreement.** If the City shall pay and discharge the entire indebtedness on all Bonds Outstanding 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 any premium on, all Bonds Outstanding, as and when the same become due and payable;

(b) by depositing with the Fiscal Agent, in trust, at or before maturity, money which, together with the amounts then on deposit in the funds and accounts provided for in Sections 4.01 and 4.02 is fully sufficient to pay all Bonds Outstanding, including all principal, interest and redemption premiums; or

(c) by irrevocably depositing with the Fiscal Agent, in trust, cash and Federal Securities in such amount as the City shall determine, as confirmed by an independent certified public accountant, which will, together with the interest to accrue thereon and moneys then on deposit in the fund and accounts provided for in Sections 4.01 and 4.02, be fully sufficient to pay and discharge the indebtedness on all Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates;

and if such Bonds are to be redeemed prior to the maturity thereof notice of such redemption shall have been given as in this Agreement provided or provision satisfactory to the Fiscal Agent 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 unpaid Reassessments and other funds provided for in this Agreement and all other obligations of the City under this Agreement with respect to all Bonds Outstanding shall cease and terminate, except only the obligation of the City to pay or cause to be paid to the Owners of the Bonds not so surrendered and paid all sums due thereon and all amounts owing to the Fiscal Agent pursuant to Section 8.05 hereof and the obligations of the City under Section 5.06 hereof; and thereafter Reassessments shall not be payable to the Fiscal Agent. Notice of such election shall be filed with the Fiscal Agent. Any funds thereafter held by the Fiscal Agent upon payments of all fees and expenses of the Fiscal Agent, which are not required for said purpose, shall be paid over to the City to be used by the City as provided in the Act.

**Section 11.04. Execution of Documents and Proof of Ownership by Owners.** Any request, declaration or other instrument which this Agreement may require or permit to be executed by Owners may be in one or more instruments of similar tenor, and shall be executed by Owners in person or by their attorneys appointed in writing. Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. The ownership of the Bonds and the amount, maturity, number and date of holding the same shall be proved by the Bond Register. Any consent request, declaration or other instrument or writing of the then registered Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the City or the Fiscal Agent in good faith and in accordance therewith.

**Section 11.05. Waiver of Personal Liability.** No Councilmember, officer, agent or employee of the City shall be individually or personally liable for the payment of the principal of, or interest or any premium on, the Bonds; but nothing herein contained shall relieve any such Councilmember, officer, agent or employee from the performance of any official duty provided by law.

**Section 11.06. Notices to and Demand on City and Fiscal Agent.** Any notice or demand which by any provision of this Agreement is required or permitted to be given or served by a party to or on another party may be given or served by being deposited postage prepaid in a post office letter box addressed (until another address is filed by such party with the City or the Fiscal Agent, as applicable) as follows:

City of Carson  
701 East Carson Street  
Carson, California 90745  
Attention: City Manager

The Bank of New York Mellon Trust Company, N.A.  
400 S. Hope Street, Suite 500  
Los Angeles, California 90071  
Attention: Corporate Trust Department

**Section 11.07. Partial Invalidity.** If any Section, paragraph, sentence, clause or phrase of this Agreement shall for any reason be held illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Agreement. The City hereby declares that it would have adopted this Agreement 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 Agreement may be held illegal, invalid or unenforceable.

**Section 11.08. Unclaimed Moneys.** Anything contained herein to the contrary notwithstanding, any moneys held by the Fiscal Agent in trust for the payment and discharge of the principal of, and the interest and any premium on, the Bonds which remains unclaimed for two (2) years after the date when payments of principal, interest and any premium have become payable, shall be remitted by the Fiscal Agent to the City as its absolute property free from any trust, and the Fiscal Agent shall thereupon be released and discharged with respect thereto and the Bond Owners shall look only to the City for the payment of the principal of, and interest and any premium on, such Bonds.

**Section 11.09. Applicable Law.** This Agreement shall be governed by and enforced in accordance with the laws of the State applicable to contracts made and performed in the State.

**Section 11.10. Conflict with Act.** In the event of a conflict between any provision of this Agreement with any provision of the Act, the provision of the Act shall prevail over the conflicting provision of this Agreement.

**Section 11.11. Conclusive Evidence of Regularity.** Bonds issued pursuant to this Agreement shall constitute conclusive evidence of the regularity of all proceedings under the Act relative to their issuance and the levy of the Reassessments.

**Section 11.12. Payment on Business Day.** In any case where the date of the maturity of interest or of principal, including sinking fund payments, (and premium, if any) of the Bonds or the date fixed for redemption of any Bonds or the date any action is to be taken pursuant to this Agreement is other than a Business Day, the payment of interest or principal, including sinking fund payments, (and premium, if any) or the action need not be made on such date but may be made on the next succeeding day which is a Business Day with the same force and effect as if made on the date required and no additional interest shall accrue from such date until such Business Day.

**Section 11.13. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original.

**IN WITNESS WHEREOF**, the City and the Fiscal Agent have caused this Agreement to be executed, all as of the date first written above.

CITY OF CARSON

By: \_\_\_\_\_  
City Manager

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

By: \_\_\_\_\_  
Authorized Representative

**EXHIBIT A**

**[FORM OF BOND]**

**United States of America  
State of California  
County of Los Angeles**

R- \_\_\_\_\_

\$ \_\_\_\_\_

**CITY OF CARSON  
REASSESSMENT DISTRICT NO. 2001-1  
(DOMINGUEZ TECHNOLOGY CENTER WEST)  
LIMITED OBLIGATION REFUNDING IMPROVEMENT BOND, SERIES 2019**

INTEREST RATE

MATURITY DATE

DATED DATE

\_\_\_\_\_%                      September 2, \_\_\_\_

**REGISTERED OWNER: THE BANK OF NEW YORK  
MELLON TRUST COMPANY, N.A.**

**PRINCIPAL AMOUNT: \_\_\_\_\_**

Under and by virtue of the Refunding Act of 1984 for 1915 Improvement Act Bonds, Division 11.5 of the Streets and Highways Code of California (the "Act"), the City of Carson, County of Los Angeles, State of California (the "City"), will, out of the redemption fund for the payment of the bonds issued upon the unpaid portion of reassessments made for the refunding bonds more fully described in proceedings taken pursuant to the Resolution No. \_\_\_\_ adopted by the City Council of the City on \_\_\_\_, 2019, pay to the Registered Owner (the "Owner") named above or registered assigns on the Maturity Date stated above, in lawful money of the United States of America and in like manner pay interest at the Interest Rate per annum stated above, payable semiannually on March 2 and September 2 in each year commencing September 2, 2019. This Bond bears interest from the interest payment date next preceding its date of authentication and registration unless it is authenticated and registered (i) prior to an interest payment date and after the close of business of the fifteenth day preceding such interest payment date, in which event it shall bear interest from such interest payment date, or (ii) prior to the close of business on the fifteenth day preceding September 2, \_\_\_\_, in which event it shall bear interest from its dated date, until payment of such principal sum shall have been discharged. Both the principal hereof and any redemption premium hereon, shall be payable at the principal corporate trust office of The Bank of New York Mellon Trust Company, N.A., as Fiscal Agent (the "Fiscal Agent") in Los Angeles, California, or such other place as designated by the Fiscal Agent and the interest shall be paid by check, or draft mailed on each interest payment date to the Owner hereof at the Owner's address as it appears on the records of the Fiscal Agent, or at such address as may have been filed with the Fiscal Agent, for that purpose, as of the 15th day immediately preceding each interest

payment date, or by wire transfer made on such interest payment date (i) to the Authority Trustee (as defined in the Fiscal Agent Agreement described below), so long as the Bonds are registered in the name of the Authority Trustee or the Carson Public Financing Authority; or (ii) upon the written instruction of any Owner of \$1,000,000 or more in aggregate principal amount of bonds delivered to the Fiscal Agent at the close of business on the fifteenth day preceding an interest payment date.

This Bond will continue to bear interest after maturity at the rate above stated provided that it is presented at maturity and payment hereof is refused upon the sole ground that there are not sufficient moneys in said redemption fund with which to pay same. If it is not presented at maturity interest hereon will run only until maturity.

This Bond is one of several annual series of bonds of like date, tenor and effect, but differing in amounts, maturities and interest rates, issued by said City under the Act and the Fiscal Agent Agreement, dated as of June 1, 2019 (the "Agreement"), by and between the City and the Fiscal Agent, for the purpose of providing means for paying for the refunding of the Prior Bonds (as defined in the Agreement) as more particularly described in said proceedings, and is secured by the moneys in the Redemption Fund (as defined in and as may be limited by the Agreement) and, including principal and interest, is payable exclusively out of said fund.

This Bond is transferable by the Owner hereof, in person or by the Owner's attorney duly authorized in writing, at said office of the Fiscal Agent, subject to the terms and conditions provided in the Agreement, including the payment of certain charges, if any, upon surrender and cancellation of this Bond. Upon such transfer, a new registered Bond or Bonds, of any authorized denomination or denominations, of the same maturity, and for the same aggregate principal amount, will be issued to the transferee in exchange herefor.

Bonds shall be registered only in the name of an individual (including joint owners), a corporation, a partnership or a trust.

Neither the City nor the Fiscal Agent shall be required to make such exchange or registration of transfer of Bonds during the period between a Record Date (as defined in the Agreement) and the succeeding interest payment date, or any exchange or transfer of a Bond after such Bond has been called for redemption.

The City and the Fiscal Agent may treat the registered owner hereof, as shown in the Bond Register (as defined in the Agreement), as the absolute owner for all purposes, and the City and the Fiscal Agent shall not be affected by any notice to the contrary.

The Bonds are subject to redemption prior to maturity on any Interest Payment Date on or after September 2, 2019 in whole or in part, and by lot, from amounts constituting prepayments of unpaid Reassessments at the redemption prices and on the terms and conditions, set forth in the Agreement.

The Bonds maturing on September 2 in the years \_\_\_\_, \_\_\_\_ and \_\_\_\_ are subject to mandatory sinking fund payments on the dates and in the respective principal amounts set forth in the Agreement, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest to the date of redemption, without premium.

The Bonds are limited obligation bonds because, under the Resolution of Issuance and the Agreement, the City is not obligated to advance funds from the City treasury to cure any deficiency which may occur in the redemption fund for the Bonds; provided, however, the City is not prevented, in its sole discretion, from so advancing funds.

This Bond shall not be entitled to any benefit under the Act, the Resolution of Issuance or the Agreement, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been dated and signed by the Fiscal Agent.

**IN WITNESS WHEREOF**, by the manual or facsimile signatures of its Treasurer and City Clerk, and has caused its corporate seal to be reproduced directly or in facsimile hereon all as of the Dated Date identified above

CITY OF CARSON

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

(SEAL)

Attest:

By \_\_\_\_\_  
City Clerk



**[FORM OF CERTIFICATE OF AUTHENTICATION AND REGISTRATION  
TO APPEAR ON BONDS]**

This is one of the bonds described in the within mentioned Agreement, which has been authenticated and registered on

Date: \_\_\_\_\_

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

By: \_\_\_\_\_  
Authorized Representative

## ASSIGNMENT

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

---

---

---

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

the within Certificate and do(es) hereby irrevocably constitute and appoint \_\_\_\_\_, attorney, to transfer the same on the registration books of the Fiscal Agent, with full power of substitution in the premises.

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

Signature Guaranteed:

---

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

---

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

**EXHIBIT B**

**City of Carson  
Reassessment District No. 2001-1  
(Dominguez Technology Center West)  
Limited Obligation Refunding Improvement Bonds, Series 2019**

**OFFICER’S CERTIFICATE NO. \_\_\_\_ REQUESTING DISBURSEMENT FROM  
ADMINISTRATIVE EXPENSE ACCOUNT**

The undersigned hereby states and certifies that:

(i) I am the duly appointed, qualified and acting \_\_\_\_ of the City of Carson, a political subdivision of the State of California (the “City”) and as such am familiar with the facts herein certified and am authorized to certify the same;

(ii) I am an Authorized Representative of the City, as such term is defined in that certain Fiscal Agent Agreement, dated as of June 1, 2019 (the “Fiscal Agent Agreement”), by and between the City and The Bank of New York Mellon Trust Company, N.A., as fiscal agent (the “Fiscal Agent”);

(iii) pursuant to Section 4.01(b) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Finance Officer (as defined in the Fiscal Agent Agreement) to disburse from the Administrative Expense Account established under the Fiscal Agent Agreement to the payee(s) designated on Schedule A attached hereto and by this reference incorporated herein, the amount(s) set forth opposite such payee, for payment or reimbursement of previous payment of Administrative Expenses (as defined in the Fiscal Agent Agreement); and

(iv) no portion of the amount(s) now being requested to be disbursed was set forth in any Officer’s Certificate requesting disbursement previously filed with you.

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

CITY OF CARSON

By \_\_\_\_\_  
Authorized Representative

## **SCHEDULE A**

Payee Name and Address

Purpose of Obligation

Amount