

Meeting Date: 5/3/2016

Report Type: Staff/Discussion

Report ID: 2016-00432

Title: Authorize the Issuance of the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds, Series 2016 (Two-Thirds Vote Required)

Location: Citywide

Recommendation: Pass a Resolution authorizing 1) the issuance of the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds, Series 2016; 2) the execution and delivery of a Master Indenture, a First Supplemental Indenture, an Acquisition-and-Shortfall Agreement (two-thirds vote required), a Placement Agent Agreement, an Agreement for Bond-Counsel Services, and a Disclosure-Counsel Agreement in connection with the Bonds; and 3) certain other actions in connection with the Bonds.

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Department: City Treasurer / Department of Finance

Division: City Treasurer

Dept ID: 05001011

Attachments:

- 01-Description/Analysis
- 02-Background
- 03-Resolution
- 04-Acquisition and Shortfall Agreement
- 05-Master Indenture
- 06-First Supplemental Indenture
- 07-Placement Agent Agreement
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- 09-Agreement for Disclosure Counsel Services
- 10-Bender Rosenthal Appraisal Report
- 11-Bender Rosenthal Appraisal Update Letter
- 12-Clark-Wolcott Appraisal Review Report

City Attorney Review

Approved as to Form
Joseph Cerullo
4/27/2016 12:52:07 PM

Approvals/Acknowledgements

Department Director or Designee: John Colville - 4/14/2016 3:26:35 PM

Description/Analysis

Issue Detail: Through this action, the City Council will be authorizing—

- the issuance of City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds (the “**Bonds**”), Series 2016, in an amount not to exceed \$8,000,000; and
- the execution of associated documents, including an Acquisition-and-Shortfall Agreement (the “**Agreement**”).

The Bonds are being issued in accordance with the Mello-Roos Community Facilities Act of 1982 (Government Code sections 53311 through 53368) (the “**Act**”) and will be privately placed with *Qualified Institutional Buyers* or *Accredited Investors*, as those terms are defined by rules the SEC has promulgated under the Securities Act of 1933.

The developer of the McKinley Village project (the “**Project**”), Encore McKinley Village, LLC (the “**Developer**”), is planning on developing 336 residential units, a recreation facility, and 5.2 acres of park and open space within the boundaries of the CFD. Through a special mailed-ballot election, the qualified electors of the CFD have duly authorized the issuance of the Bonds in the principal amount of \$10,000,000. The qualified electors have also authorized the levy and collection of a special tax under the Act to be used to pay the interest on, principal of, and redemption premiums (if any) on, the Bonds. Proceeds of the Bonds will be used—

- to finance the acquisition and construction of public facilities, including roadway and sewer improvements, storm drain and sewer-lift stations, and on-site parks and drainage facilities;
- to pay various development-related fees that in turn are used to finance public facilities;
- to fund capitalized interest through September 1, 2016, and a debt-service reserve fund; and
- to pay costs of issuance and other allowable costs that are described in detail in the resolution of formation adopted by the City Council on July 28, 2015.

In connection with the acquisition of facilities, the City and the Developer will enter into the Agreement, which prescribes how the Developer is to construct the facilities and specifies how the City will reimburse the Developer from special-tax revenues and bond proceeds. The Agreement differs from the City’s standard acquisition-and-shortfall agreement in that it authorizes reimbursements from special tax proceeds collected above the requirements for bond debt service for a period of 20 years. The Agreement maximizes the financing opportunity provided by the CFD for this infill housing development; compared to non-infill developments, most infill developments are more expensive to construct and have a smaller pool of tax payers.

City policy restricts the total tax-and-assessment burden on a residential parcel to 2% of the parcel’s fair-market value (i.e., sales price). In practice, however, the average burden has been 1.7%. The price points expected in the Project result in a total tax burden, including ad valorem property taxes and all other special taxes and assessments, of less than 1.5%.

Policy Considerations: The documents required for the sale of the Bonds are included as Attachment 1. Although not yet formally “Approved as to Form,” they have been reviewed by the City Attorney’s Office, are in substantially final form, and will be signed after the Bonds are priced and appropriate updates are completed.

For reasons detailed below, entering into the Agreement requires the suspension of the competitive-bidding requirements in chapter 3.60 of the City Code, which provide that contracts for construction of public infrastructure must be awarded through competitive bidding *unless* one of the listed exceptions applies. Staff recommends that the City Council invoke one of those exceptions by determining, by a two-thirds vote, “that it is in the best interests of the city to suspend competitive bidding” for contracts the Developer awarded before formation of the CFD on July 28, 2015. (See City Code § 3.60.170.D.) Suspension of bidding is in the City’s best interests for the following reasons:

- (1) The Developer did not originally intend to use CFD financing to construct public facilities required for the Project. Accordingly, construction commenced on improvements without the formation of a CFD. But once the Project was underway, and after some construction contracts had been awarded, costs had escalated to a point that the Project would be feasible only if the Developer added CFD financing as part of the Project’s overall financing structure. Suspension of competitive bidding for contracts awarded before the CFD formation will provides access to CFD financing and assist in the successful completion of this infill project.
- (2) Suspension of competitive bidding for the Agreement does not expose the City or the public to excessive costs. The Agreement limits reimbursements from the City to the amount that the CFD can support, which is far less than the actual cost of the public facilities. Furthermore, the Developer is responsible for all costs that exceed the amount available from special tax and bond proceeds. The Developer thus has ample incentive to control costs.

Importantly, to ensure the integrity of the City’s bidding requirements, any contracts for reimbursable facilities awarded *after* CFD formation will be subject to the formal bidding process.

Economic Impacts: Not Applicable

Environmental Considerations: On April 29, 2014 (Resolution No. 2014-0102), the City Council approved an Environmental Impact Report for the construction of facilities covered by the Agreement, as required by the California Environmental Quality Act.

Sustainability: Not Applicable

Commission/Committee Action: Not Applicable

Rationale for Recommendation: Approval of the attached resolution authorizes the Interim City Treasurer or his designee to take all actions necessary for the issuance of the Bonds and the execution of the related documents. Issuing the Bonds will provide financing for the acquisition and construction of authorized facilities and the payment of development-impact fees, thereby facilitating the growth and development of East Sacramento. Approval of the Agreement will support infill development within the city, which is more costly than other forms of development.

Financial Considerations: The Bonds will be sold in amount not to exceed \$8,000,000 to finance the acquisition and construction of facilities and the payment of certain development-impact fees associated with the Project. Payment of principal and interest on the Bonds is secured solely by a special-tax lien placed on each property within the CFD; the City’s General Fund is not obligated to repay the Bonds. Additionally, the estimated value-to-lien ratio for the CFD inclusive of the Bonds is 6.48:1, well above the 3:1 ratio recommended by the California Debt and Investment Advisory Commission for the issuance of land-secured bonds. See the attached appraisal documents from Bender Rosenthal, Inc. and Clark–Wolcott, Inc.

Below is an estimated breakdown of the sources and uses of the funds associated with the Bonds:

Estimated Sources and Uses of Bond Proceeds*

Sources

Par Amount	\$	7,200,000
Total Sources	\$	7,200,000

Uses

Project Fund	\$	6,000,000
Other Fund Deposits ⁽¹⁾		700,000
Cost of Issuance ⁽²⁾		500,000
Total Uses	\$	7,200,000

* Represents an Estimate as of April 20, 2016. Preliminary, subject to change.

1) Other funds include: Debt Service Reserve Fund and Capitalized Interest Fund (1yr)

2) Costs of Issuance include placement agent fees.

Local Business Enterprise (LBE): Not Applicable

Background

McKinley Village Community Facilities District No. 2015-04 (Improvements) (the “**CFD**”), established under the Mello-Roos Community Facilities Act of 1982, encompasses approximately 51.2 gross acres of land within East Sacramento; it is bound by the Interstate 80 Freeway on the north and west, and the Union Pacific Railroad on the south and east.

The developer of land within the CFD, Encore McKinley Village LLC (the “**Developer**”), is planning to build 336 residential units composed of 312 medium-density, single-family residential units and 24 medium-density, multi-family residential (condominium) units located in five separate tax zones. Build-out is estimated to be completed by 2018.

The Developer has asked the City to issue bonds through the CFD and use the proceeds to reimburse the Developer’s costs to construct public improvements and pay impact fees that will fund public improvements (the “**Bonds**”). Because of pending CEQA litigation, a public sale is not possible at this time. So, at the developer’s request, the bonds will be privately placed with *Qualified Institutional Buyers* or *Accredited Investors* (each, a “**Sophisticated Investor**”). Please see the Legal Matters/Litigation section below.

Issuance of the Bonds will spur development of an infill area that has been underutilized for decades.

Legal Matters/Litigation

In May 2014, a self-styled “grassroots organization,” *East Sacramento Partnerships for a Livable City* (the “**Petitioner**”), filed a lawsuit against the City and the City Council under the California Environmental Quality Act (“**CEQA**”). The lawsuit attacks the Environmental Impact Report (“**EIR**”) for the McKinley Village residential housing project (the “**Project**”), alleging, among other things, that the City prejudicially abused its discretion because (1) the City Council’s findings in support of the EIR were not supported by substantial evidence; (2) the Project was inconsistent with the requirements of the City’s General Plan; and (3) the EIR failed to analyze and mitigate the Project’s impacts. The Petitioner sought a peremptory writ of mandate commanding the City to set aside its approval of the Project and certification of the EIR.

On April 20, 2015, the Sacramento Superior Court denied the Petitioner’s petition for writ of mandate. And on June 22, 2015, the Petitioner filed a notice of appeal. As of the date of this report, the Third Appellate District’s website indicates that a hearing date has not yet been set, as the appeal is still being briefed (the Petitioner filed its opening brief on March 25, 2016, and the City filed its responding brief on April 25, 2016).

Importantly, if the Third Appellate District rules in favor of the Petitioner, then the City’s ability to repay the Bonds from the CFD’s special taxes may be impaired.

General Finance Structure

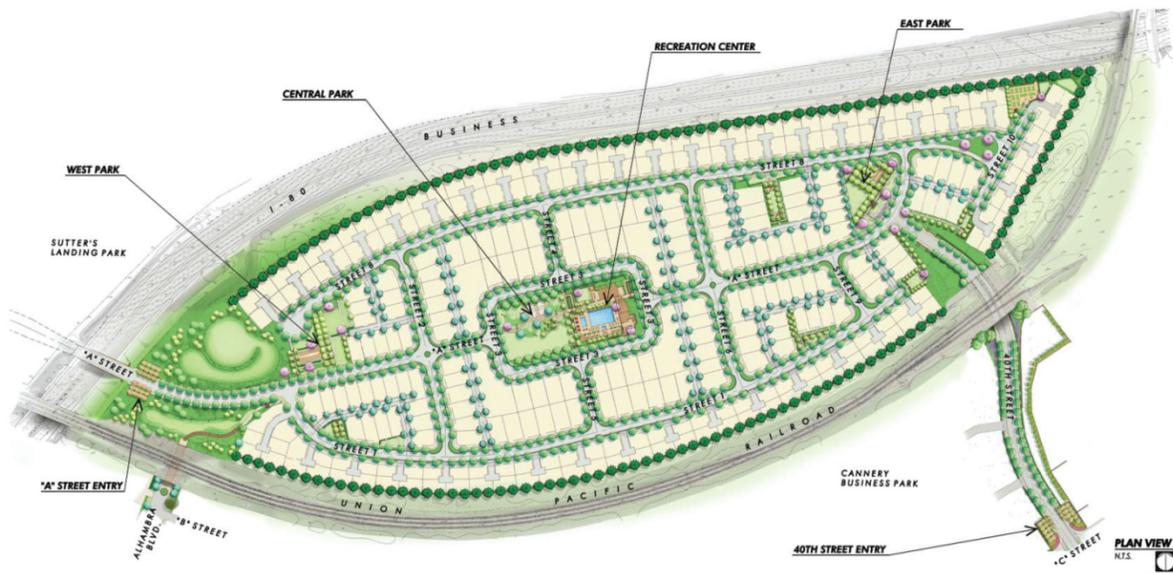
Stifel, Nicolaus & Company, Incorporated (“**Stifel**”) is the placement agent that will assist the Developer with soliciting bids from Sophisticated Investors.

Because the pending CEQA litigation could impair the City's ability to repay the Bonds if decided against the City, each Sophisticated Investor who purchases the Bonds will be required to perform its own due diligence on the financing, to seek independent legal advice on the merits of the Petitioner's appeal, and to sign a "traveling" investor letter (also called a "big boy" letter) that will follow the Bonds if they are subsequently sold and by which the investors acknowledge that they may lose all of their investment.

The estimated maximum special tax per residential parcel in the CFD will range from \$900 to \$1,800 beginning the 2016/17 Tax Year (subject to an annual increase of 2%), depending upon which of the five tax zones the residential unit is located in.

The levy of the special tax for the CFD is anticipated to be levied through 2046.

Site Plan



RESOLUTION NO. 2016-_____

Adopted by the Sacramento City Council

May 3, 2016

AUTHORIZING (1) THE ISSUANCE OF THE CITY OF SACRAMENTO MCKINLEY VILLAGE COMMUNITY FACILITIES DISTRICT NO. 2015-04 (IMPROVEMENTS) SPECIAL TAX BONDS, SERIES 2016; (2) THE EXECUTION AND DELIVERY OF A MASTER INDENTURE, A FIRST SUPPLEMENTAL INDENTURE, AN ACQUISITION-AND-SHORTFALL AGREEMENT, A PLACEMENT AGENT AGREEMENT, AN AGREEMENT FOR BOND-COUNSEL SERVICES, AND A DISCLOSURE-COUNSEL AGREEMENT IN CONNECTION WITH THE BONDS; AND (3) CERTAIN OTHER ACTIONS IN CONNECTION WITH THE BONDS

BACKGROUND:

- A.** Through a special, mailed-ballot election held on July 29, 2015, in the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) (the “**CFD**”), the qualified electors in the CFD duly authorized the issuance of \$10,000,000 principal amount of special-tax bonds under the Mello-Roos Community Facilities Act of 1982 (Government Code sections 53311 through 53368) as amended (the “**Act**”) for the purposes of financing the acquisition and construction of certain public facilities and financing certain governmental fees for public facilities (collectively, the “**Public Facilities**”).
- B.** At the election, the qualified electors in the CFD also authorized the levy and collection of a special tax under the Act to be used to pay the interest on, principal of, and redemption premiums (if any) on, the bonds.
- C.** The Sacramento City Council (the “**City Council**”) has determined to authorize the issuance of the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds, Series 2016 (the “**Series 2016 Bonds**”) under the Act to finance the acquisition and construction of certain Public Facilities.
- D.** The City of Sacramento (the “**City**”) desires to sell the Series 2016 Bonds, and the City Council has determined that a private (i.e., negotiated) sale of the Series 2016 Bonds under the Act will result in a lower overall cost to the City.
- E.** In furtherance of the City’s issuance of the Series 2016 Bonds, forms of the following documents have been filed with the Sacramento City Clerk (the “**Clerk**”) for the City Council’s consideration and approval:
- A Master Indenture between the City and U.S. Bank National Association, as trustee (the “**Trustee**”), providing for the issuance of special tax bonds for the

CFD in series and specifying the general terms of and the security for the bonds (the “**Master Indenture**”).

- A First Supplemental Indenture between the City and the Trustee, which supplements the Master Indenture and specifies the terms on which the Series 2016 Bonds are to be issued and secured (the “**First Supplemental Indenture**” and, together with the Master Indenture, the “**Indenture**”).
 - An Acquisition-and-Shortfall Agreement between the City and Encore McKinley Village LLC (the “**Developer**”), under the terms of which the City agrees to acquire the Public Facilities financed with the proceeds of the Series 2016 Bonds from the Developer (the “**Acquisition Agreement**”).
 - A Placement Agent Agreement, under the terms of which the City retains Stifel, Nicolaus & Company, Incorporated (the “**Placement Agent**”) to act as the placement agent for the Series 2016 Bonds (the “**Placement Agent Agreement**”).
 - An Agreement for Bond-Counsel Services under which the firm of Orrick, Herrington & Sutcliffe LLP will provide legal services to the City as bond counsel with respect to the Series 2016 Bonds (the “**Agreement for Bond-Counsel Services**”).
 - A Disclosure-Counsel Agreement under which the firm of Stradling Yocca Carlson & Rauth, a Professional Corporation, will provide legal services to the City as disclosure counsel with respect to the Series 2016 Bonds (the “**Disclosure-Counsel Agreement**”).
- F.** The City has determined that the Series 2016 Bonds will initially be sold to, and may thereafter only be transferred to, Qualified Institutional Buyers or Accredited Investors (as each term is defined in the First Supplemental Indenture) that have each delivered to the City an investor letter acceptable to the City.
- G.** The Public Facilities to be financed with the proceeds of the Series 2016 Bonds and acquired under the Acquisition Agreement will be a portion of, and support the development of, the McKinley Village Project (P08-086), a residential development including single-family and multi-family residential units, on approximately 50 acres situated on the south side of Interstate 80/State Route 51 (Capital City Freeway) north of certain Union Pacific Railroad lines, and between Alhambra Boulevard to the west and Lanatt Street to the east (the “**Project**”).
- H.** The City reviewed the Project’s environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000–21189.3, “**CEQA**”), and the regulations and guidelines promulgated under CEQA (14 Cal. Code of Regulations §§ 15000–15387, the “**CEQA Guidelines**”) under State Clearinghouse # 2008082049.

- I. On April 29, 2014, the City Council adopted Resolution No. 2014-0102, certifying the Environmental Impact Report (the “**EIR**”) for the Project and adopting the Mitigation Monitoring Program and CEQA Findings of Fact for the Project, and Resolution No. 2014-0106, approving the Project (the “**Approval**”). The issuance of the Series 2016 Bonds to finance a portion of the Project and the acquisition of the Public Facilities financed with the proceeds of the Series 2016 Bonds under the Acquisition Agreement will not result in environmental impacts that are greater than, or different from, those considered in the EIR and the Approval. Accordingly, as required by Public Resources Code section 21166 and CEQA Guidelines section 15162, the City has determined that the issuance of the Series 2016 Bonds and the application of the proceeds thereof to finance the acquisition and construction of the Public Facilities will not result in conditions requiring the preparation of a subsequent EIR, and therefore the City will rely on the EIR previously prepared for the Project. Furthermore, under CEQA Guidelines section 15378(b)(4), the creation of government funding mechanisms or other government fiscal activities is not considered to be a project under CEQA if it does not involve any commitment to a specific project that may result in potentially significant physical impacts on the environment. The EIR found that the Project, including the construction of any necessary public facilities, would not result in potentially significant impacts on the environment. The findings of the City Council under CEQA with respect to the issuance of the Series 2016 Bonds and the application of the proceeds thereof to finance the acquisition and construction of the Public Facilities are accurately described in the draft Notice of Determination attached as Exhibit A to this resolution (the “**Notice of Determination**”).
- J. All acts, conditions, and things required by California law to exist, to have happened, and to have been performed before and in connection with the consummation of the financing authorized by this resolution do exist, have happened, and have been performed in regular and due time, form, and manner as required by law, and the City is now duly authorized and empowered, under each requirement of law, to authorize the execution and delivery of certain documents in order to further implement the financing in the manner and upon the terms provided in this resolution.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The statements in paragraphs A through J of the Background are true.

Section 2. The City Council hereby authorizes and approves the issuance of the Series 2016 Bonds in accordance with the Indenture in an aggregate principal amount not to exceed \$8,000,000, subject to the following: the true interest cost for the Series 2016 Bonds may not exceed 7.00%.

Section 3. The City Council hereby authorizes the City Manager or his designee to complete, execute, and submit the Notice of Determination to the Sacramento County

Clerk/Recorder and the Governor's Office of Planning and Research, as required by CEQA Guidelines section 15094.

Section 4. The City Council hereby determines that the value of the real property within the CFD that will be subject to the levy of a special tax under the Act to pay debt service on the Series 2016 Bonds (based upon an appraisal made in a manner consistent with the Act and the City's policies concerning the use of the Act) is at least three times the sum of the following: the principal amount of the Series 2016 Bonds, plus the principal amount of all other bonds outstanding that are secured by a special tax levied under the Act on property within the CFD, plus the principal amount of all other bonds outstanding that are secured by special assessments levied on property within the CFD. Accordingly the limitations of section 53345.8(a) of the Act have been duly satisfied.

Section 5. The City Council hereby approves the Master Indenture and authorizes and directs the Sacramento City Treasurer (or Interim Sacramento City Treasurer) or such officer's designee (the "**Treasurer**") to execute and deliver it to the Trustee on the City's behalf in substantially the form on file with the Clerk, with any changes the Treasurer may require or approve with the concurrence of the Sacramento City Attorney or his designee (the "**City Attorney**"), and with approval to be conclusively evidenced by the execution and delivery of the Master Indenture.

Section 6. The City Council hereby approves the First Supplemental Indenture and its terms and conditions. The date, maturity date or dates, fixed interest rates, interest-payment dates, forms, registration privileges, place or places of payment, terms of redemption and number of Series 2016 Bonds, and other terms of the Series 2016 Bonds are to be as provided in the First Supplemental Indenture as finally executed and delivered.

- (a) The Treasurer is hereby authorized and directed to execute and deliver to the Trustee, on the City's behalf, the First Supplemental Indenture in substantially the form on file with the Clerk, with any changes the Treasurer may require or approve with the concurrence of the City Attorney, and with approval to be conclusively evidenced by the execution and delivery of the First Supplemental Indenture.
- (b) The City Council hereby authorizes and directs the Treasurer to execute and deliver to the Trustee, on the City's behalf, written instructions providing for the delivery of the Series 2016 Bonds to the purchasers of the Series 2016 Bonds (the "**Purchasers**") upon payment by the Purchasers of the purchase price of the Series 2016 Bonds (the "**Instructions**").
- (c) The Series 2016 Bonds are to be executed by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the Clerk, and each of the Series 2016 Bonds must be in the form set forth in, and otherwise be in accordance with, the Indenture. When the Series 2016 Bonds are so executed, the Treasurer shall deliver them to the Trustee for

authentication. The Trustee is then to deliver the Series 2016 Bonds to the Purchasers in accordance with the Instructions.

Section 7. The City Council hereby determines, in accordance with City Code section 3.60.170.D, that it is in the City's best interest to suspend competitive bidding for construction contracts that concern the Public Facilities and were awarded by the Developer before formation of the CFD on July 28, 2015.

Section 8. The City Council hereby approves the Acquisition Agreement and authorizes and directs the Treasurer to execute and deliver it to the Developer on the City's behalf in substantially the form on file with the Clerk, with any changes the Treasurer may require or approve with the concurrence of the City Attorney, and with approval to be conclusively evidenced by the execution and delivery of the Acquisition Agreement.

Section 9. The City Council hereby approves the Placement Agent Agreement and authorizes the Treasurer to execute and deliver it to the Placement Agent on the City's behalf in substantially the form on file with the Clerk, with any changes the Treasurer may require or approve with the concurrence of the City Attorney, and with approval to be conclusively evidenced by the execution and delivery of the Placement Agent Agreement.

Section 10. The City Council hereby approves the Agreement for Bond-Counsel Services and authorizes and directs the City Attorney to execute and deliver it to Orrick, Herrington & Sutcliffe LLP on the City's behalf in substantially the form on file with the Clerk, with any changes the City Attorney may require or approve, and with approval to be conclusively evidenced by the execution and delivery of the Agreement for Bond-Counsel Services.

Section 11. The City Council hereby approves the Disclosure-Counsel Agreement and authorizes and directs the City Attorney to execute and deliver it to Stradling Yocca Carlson & Rauth, a Professional Corporation, on the City's behalf in substantially the form on file with the Clerk, with any changes the City Attorney may require or approve, and with approval to be conclusively evidenced by the execution and delivery of the Disclosure-Counsel Agreement.

Section 12. The officers of the City, each acting alone, are hereby authorized and directed to do any and all things and to execute and deliver any and all documents and agreements they consider necessary or advisable to carry out, give effect to, and comply with, the terms and intent of this resolution, the Indenture, the Acquisition Agreement, and the Series 2016 Bonds. All actions previously taken by those officers with respect to the Series 2016 Bonds are hereby ratified, confirmed, and approved.

Section 13. This resolution takes effect when adopted.

ACQUISITION-AND-SHORTFALL AGREEMENT

City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements)

This agreement, dated May 3, 2016, for reference, is between the CITY OF SACRAMENTO, a California municipal corporation (the “City”), and ENCORE MCKINLEY VILLAGE, LLC, a Delaware limited-liability company (the “Developer”).

Background

- A. At the Developer’s request, the City has formed a community facilities district under the Mello-Roos Community Facilities District Act of 1982, sections 53311 through 53368.3 of the California Government Code (the “Act”), to finance the acquisition and construction of the public improvements described in Exhibit A, which will be owned by the City or by other public agencies (collectively the “Improvements,” and each an “Improvement”). The district is named City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) (the “District”).
- B. Section 53313.5 of the Act provides that the District may finance the acquisition of facilities benefitting the District only if the facilities have been constructed as if under the direction and supervision of, or the authority of, the local agency that will own or operate the facilities. The purposes of this agreement are (1) to provide for the design, construction, and acquisition of facilities from the proceeds of special-tax bonds issued through the District (the “Bonds”) or directly from special-tax revenues of the District; and (2) to specify the terms and conditions, including prices and timing, for any reimbursement or other payment to the Developer for the Improvements, and for payment of incidental expenses (e.g., the cost of issuing the Bonds and the expenses of administering the District), whether from the proceeds of the Bonds or special-tax revenues.
- C. The parties contemplate that certain of the Improvements will be constructed under a contract or contracts to be awarded by the Developer. The parties further contemplate that the completed Improvements are to be conveyed to, and accepted by, the City (or by another public entity or a regulated public utility) upon full satisfaction of this agreement with respect to those Improvements. The Developer acknowledges that there may be insufficient funds from the sale of the Bonds or from special-tax revenues to reimburse the Developer for the full cost of the Improvements and that the Developer must pay any funding shortfall in full and without reimbursement.
- D. The parties contemplate that the Improvements to be constructed by the Developer may be constructed in phases, that the City may sell the Bonds in successive series to finance the acquisition of the completed phases from the Developer, that the City may issue bonds to refund one or more series of the Bonds, and that the City may reimburse the Developer from special-tax revenues whether or not the Bonds are issued.

With these background facts in mind, the parties agree as follows:

1. **Sale of Bonds.** The City may initiate the issuance and sale of the Bonds, subject to the following:
 - (a) The Bonds will not be sold until this agreement is signed by all parties and all required security has been posted.
 - (b) The amount of the Bonds and any phasing of the Bonds will be as specified in Exhibit B.
 - (c) The City will determine, in its sole discretion, the timing of the issuance and sale of the Bonds, their aggregate principal amount, and the terms and conditions upon which they will be sold.
 - (d) The City will not issue additional Bonds (including refunding bonds) that mature beyond September 1, 2046.
 - (e) The Developer shall cooperate with the City on the following matters:
 - (1) the issuance and sale of the Bonds; and
 - (2) the annual levy of special taxes on all taxable property within the District to raise revenues needed to pay principal and interest on the Bonds, to pay the formation costs (including City expenses and consultant expenses), to pay the annual administrative expenses that the City and the District incur in levying and collecting the special taxes and in paying the principal and interest on the Bonds (including the fees of fiscal agents and paying agents), to replenish the reserve fund for the Bonds, to accumulate funds for future Bond payments, and to otherwise reimburse the Developer for the cost of the Improvements.
2. **Improvement Fund.** As provided in the indenture under which the Bonds are issued and sold (the “**Indenture**”), the City shall deposit, hold, invest, and disburse the proceeds of the Bonds and shall set aside a portion of the proceeds in a separate fund for constructing and acquiring the Improvements (the “**Improvement Fund**”). The City may withdraw monies from the Improvement Fund in accordance with Indenture to pay for all or a portion of the costs of design, construction, and acquisition and to pay other costs, all as determined by the City and as provided in this agreement or in the Indenture.
3. **Direct Funding.**
 - (a) Capitalized terms in this section, if not otherwise defined in this agreement, have the meanings given them in the Rate and Method of Apportionment of Special Tax attached as Exhibit C to the Resolution of Formation for the District (Resolution No. 2015-0242).

- (b) The City shall levy the Maximum Special Tax on Taxable Property in each of the 20 years after the Fiscal Year in which the Special Tax is first levied on those properties, except as follows:
- (1) If, in any Fiscal Year after the first levy of the Special Tax, more than 25% of the homes within the District are reassessed, in accordance with article XIII A, section 2, of the California Constitution, below their factored base-year values*, then City may, in its sole discretion, discontinue levying the Special Tax in excess of what is needed for the Bond Requirements.
 - (2) The levy of the Special Tax in excess of the Bond Requirements will resume when, in any subsequent Fiscal Year, less than 10% of the homes within the District are subject to the reassessment.
- (c) The City shall use Special Tax revenues in excess of what is needed to pay principal and interest on the Bonds, maintain the Required Coverage, and pay Administrative Expenses (collectively, the “**Bond Requirements**”) to pay the Developer for the acquisition of Improvements or to reimburse the Developer for eligible fees. The City shall deposit funding for these payments in the Improvement Fund. Beginning in the 21st year after the Special Tax is first levied on Developed Property or Final Mapped Property, the City may, in its sole discretion, levy the special tax in excess of what is needed to pay the Bond Requirements.

4. **Acquisition.**

- (a) *Acquisition of Increments.* The City may acquire Improvements incrementally, as shown on Exhibit C.
- (b) *Completion.* The City will not acquire an Improvement or portion of an Improvement unless, as required by the *Guidelines for Special District Acquisition Projects* attached as Exhibit D to this agreement (the “**Guidelines**”), the City Manager determines in writing, as part of the verification process and record, that the Improvement or portion of an Improvement has been completed in accordance with section 5 and is a functional, usable unit of infrastructure capable of being incorporated into the City’s infrastructure system.
- (c) *Acquisition Price.* When an Improvement or portion of an Improvement to be acquired by the City is completed, and when the Developer has given the City all documents, including lien releases, the City requires for the Improvement or portion of an Improvement, the City shall determine the acquisition price in accordance with

* “Factored base-year value,” also known as “Proposition 13 value,” means the base-year value of a property (i.e., its value at the time of acquisition) adjusted for inflation since the base year, not to exceed 2% a year. (Cal. Const., art. XIII A, §2; Cal. Rev. & Tax. Code, § 51, subd. (a)(1),)

the Guidelines. The acquisition price for each Improvement or portion of an Improvement will consist of the following: (1) the Developer's actually paid construction cost as determined by the amounts set forth in contracts, invoices, cancelled checks, and purchase orders entered into by the Developer with its contractors and suppliers in accordance with the Guidelines; plus, (2) to compensate for engineering costs, an amount equal to 15% of the amount determined under clause (1). "**Engineering costs**" means engineering costs, surveying costs, construction-management costs, plan-check fees, and inspection fees. The City shall promptly notify the Developer in writing of the acquisition price once the City has determined it.

(d) *Payment by City.*

- (1) Within 30 days after the City notifies the Developer of the acquisition price, the City shall pay the Developer, from the Improvement Fund, the amount of the acquisition price minus a retention equal to 150% of the value of punch-list work not yet completed. The City shall hold the retention amount on each acquired Improvement or portion of an Improvement until the punch-list work for the Improvement or portion of an Improvement is completed and the City has accepted the work. Alternatively, at the City Manager's sole discretion, the City may release the retention amount for an acquired Improvement or a portion of an Improvement before the punch-list work has been completed and the City has accepted the work.
- (2) Notwithstanding section 4(d)(1), the Developer is not entitled under any circumstances to reimbursement for more than the cost of the Improvements, except as follows: the Developer may obtain both reimbursement under this agreement and fee credits available under an applicable development-impact-fee program (the "**Program**") if (A) the Improvement is eligible for fee credits under the Program; (B) the Developer has entered into all agreements required for reimbursement by the Program; and (C) the Developer has met all other requirements of the Program.

(e) *Timing of Acquisition.* When construction of an Improvement or portion of an Improvement to be acquired by the City has been completed, the City shall accept and acquire it. When an Improvement or portion of an Improvement is to be conveyed to another public entity or a regulated public utility, the Developer shall convey it to the entity or utility in accordance with the entity's or utility's policies and procedures, and the City shall pay for it from the Improvement Fund, subject to the following: proceeds from the Bonds may not be used to finance Improvements to be owned or operated by an entity other than the City unless the City and the other entity have entered into a joint community facilities agreement or a joint exercise of powers agreement in accordance with section 53316.2 of the Act.

(f) *Payment from Improvement Fund.* The City's obligation to pay for the acquisition of the Improvements is limited to monies in the Improvement Fund after deducting other cash reimbursements. If the monies in the Improvement Fund that are available for the acquisition of the Improvements and the payment of incidental expenses are less than the total cost of the Improvements and expenses, then the Developer shall pay the shortfall. The Developer may carry forward any shortfall in anticipation of being reimbursed by the City from monies in the Improvement Fund that subsequently become available, and, subject to any applicable legal or other constraints or restrictions, the City shall pay the Developer the shortfall as and when monies become available in the Improvement Fund.

(g) *Expenditure Limit.* The total reimbursed from the District under this agreement and any separate *Agreement to Reimburse Fees from Tax and Bond Proceeds* related to the District, from any combination of proceeds from the Bonds and special-tax revenues generated through the District, may not exceed an amount equal to \$10,000,000 plus any interest earned on money in the Improvement Fund.

5. **Construction Standards.** The Developer shall design, bid, and construct the Improvements in accordance with those portions of the Guidelines that the City Manager determines in his or her sole discretion to be applicable to the particular Improvements. Among other things, the Guidelines specify the procedures for inspection of, approval of, application for, and manner of payment for the Land (defined below in section 6(a)) and Improvements. Compliance with the Guidelines is one way of satisfying the following provisions of the Act, and, so long as these provisions are satisfied, the City Manager may, in his or her reasonable discretion, waive the requirement for compliance with portions of the Guidelines:

(a) Under section 53313.5 of the Act, the District's special-tax revenues and proceeds from the Bonds may be used to finance the purchase of Improvements that are completed after adoption of the resolution of formation only if the Improvements are constructed as if they had been constructed under the direction and supervision of, or the authority of, the public agency that will own or operate the Improvements.

(b) Under section 53314.9(a)(3) of the Act, the District's special-tax revenues and proceeds from the Bonds may be used to reimburse the Developer for advances of work in-kind, whether made before or after formation of the District, only if the work has been performed or constructed as if the work had been performed or constructed under the direction and supervision of, or the authority of, the local agency that accepts the work.

6. **Ownership and Transfer of the Improvements.** Improvements to be owned by a public entity or a regulated public utility rather than by the City must be conveyed to, and accepted by, the entity or utility in accordance with the entity's or utility's policies and

procedures for acquiring the Improvements. For Improvements to be owned by the City, the following apply:

- (a) *Real Property Interests.* As used in this agreement, “**Land**” means either of the following: the real-property interests to be conveyed to the City in accordance with a drainage-improvement agreement or other improvement agreement that covers the Improvement or portion of an Improvement to be acquired, including basin-site property to be held in fee by the City and any easements the City requires for ownership, operation, and maintenance of, and access to, the Improvements; or, if there is no such agreement, fee-simple title or such lesser real-property interest to be conveyed to the City as the City determines to be necessary or convenient in conjunction with the Improvement or portion of an Improvement to be acquired. The Developer shall sign and deliver to the City (or shall cause to be signed and delivered) the documents required to complete the transfer of all Land, together with a policy of title insurance, provided at the Developer’s expense, ensuring that each of the interests to be transferred is free and clear of all liens, taxes, assessments, easements, leases, or other encumbrances (recorded or not) except for the “Permitted Encumbrances” described in the applicable drainage-improvement agreement or other improvement agreement or, if there is no such agreement, the encumbrances that the City determines, in its sole discretion, will not interfere with the intended use of the Land or the related Improvement. Completion of the transfer of title to the Land must be evidenced by recordation of the City’s acceptance of title.
- (b) *Improvements.* The Developer shall transfer the Improvements to the City by grant deed, dedication under a subdivision map, irrevocable offer of dedication under a subdivision map, or such equivalent documents as the City determines in its reasonable discretion to be required for that purpose, consistent with any applicable subdivision-improvement agreement, drainage-improvement agreement, or other improvement agreement.
- (c) *Maintenance Pending Transfer.* Pending transfer to the City of title to the Land and the Improvements, the Developer shall pay the entire cost of maintaining the Land and the Improvements in accordance with the Guidelines.
- (d) *Entry upon City Property.* Where the Improvements or any portion of the Improvements is to be constructed upon City-owned property, the Developer must obtain from the City a written agreement authorizing entry and specifying the City’s and the Developer’s rights and liabilities, including insurance and indemnification requirements.

7. **Warranties.** The Guidelines specify the Developer’s warranty and related obligations.

8. **Payment for Incidental and Other Expenses Relating to the Improvements.**

- (a) *Incidental and Other Expenses.* If the Developer incurs incidental expenses that pertain to the Improvements but are not included within the 15% allowance for Engineering Costs under subsection 4(c) above (such as environmental studies), or if items the City or another public entity or a regulated public utility is to acquire from the Developer (such as Land) are acquired under this agreement before completion of any of the Improvements or any portion of the Improvements, then the City may use available monies in the Improvement Fund or from special taxes to reimburse the Developer for those expenses or items so long as (1) the reimbursement is in accordance with the Indenture and any applicable legal or other restrictions and (2) the Developer submits supporting documentation that the City Manager determines to be satisfactory.
- (b) *Advance of Funds.* If the Developer advances funds to the City to pay for the City's incidental expenses, such as the costs of conducting the District formation proceedings and the costs of issuing and selling the Bonds, then the City may use available monies in the Improvement Fund to reimburse the Developer for the advanced funding so long as (1) the reimbursement is in accordance with the Indenture and any applicable legal or other restrictions and (2) the Developer submits supporting documentation that the City Treasurer determines to be satisfactory.
- (c) *City Expenses.* To the extent that there are unfunded or unreimbursed City expenses for review, inspection, and project management pertaining to the Improvements, the City may reimburse itself for those expenses from proceeds of the Bonds or from special-tax revenues.

9. **Limitation of Liability; Excess Costs.** All City obligations arising out of, or related to, this agreement are special and limited obligations of the City, and the City's obligations to make any payments under this agreement are to be paid exclusively from the monies, if any, in the Improvement Fund. This agreement does not constitute a general debt or general liability of the City. The Developer's reimbursement under this agreement will be solely from proceeds of the Bonds and the District's special-tax revenues. The Developer is not entitled by this agreement or otherwise to reimbursement for sums advanced or expenditures made by the Developer under this agreement, whether for the Land, the Improvements, or the maintenance of the Land and Improvements, from any of the following: the City's general fund, any other City funds, the City's taxing power, or the City's other assets. Cost overruns on the Improvements or any portion of the Improvements will be the Developer's sole responsibility, except that the Developer may apply cost savings from any portion of the Improvements to another portion. The Developer is solely and fully liable for, and shall pay, all costs of the Improvements and all incidental expenses that are in excess of the available monies in the Improvement Fund. The City's elected officials, officers, employees, and agents (including contractors and

consultants) are not liable in their individual capacities to the Developer or any other party by reason of their signing this agreement or acting or failing to act in connection with this agreement.

10. **Indemnification; Waiver and Release.**

- (a) *Definitions.* The following definitions apply in sections 10(b), 10(c), 10(d), 10(e), and 10(j):
- (1) **“Claim”** means any liability, claim, demand, damage, or cost (including reasonable attorneys’ fees, whether for outside counsel or the City Attorney) arising directly or indirectly from any actions or omissions by any of the following in connection with the design, construction, operation, maintenance, or repair of the Improvements: the Developer; any of the Developer's engineers, contractors, or subcontractors; any person or entity employed by the Developer; or other person or entity acting on behalf of, or as the authorized agent for, the Developer or any of the Developer’s engineers, contractors, or subcontractors.
 - (2) **“Hazardous Substance Claim”** means any liability, claim, demand, damage, or cost (including reasonable attorneys’ fees, whether for outside counsel or the City Attorney) that arises from, or in any way relates to, the presence, use, storage, treatment, transportation, release, or disposal of any Hazardous Substances (defined in Exhibit E) by any person or entity (except persons or entities acting on the City’s behalf or under the City’s control) on, under, about, around, or from any portion of the Land on or before the date that portion is conveyed to City in accordance with section 6(a).
- (b) *Indemnification by the Developer.* The Developer shall fully indemnify, defend, protect, and hold harmless the City and the City’s elected officials, officers, employees, and agents from and against each Claim that arises from any death, bodily injury, personal injury, property damage, economic loss, or violation of law, subject to the following: the Developer will not be liable under this section 10(b) for a Claim alleging the City’s sole and active negligence while performing design review or approval or while inspecting construction in connection with the Improvements. Nothing in this agreement constitutes the City’s waiver of any immunity or defense it may have relating to any Claim, including immunity or defenses relating to design review, design approval, or construction inspection.
- (c) *Indemnification Regarding Hazardous Substances.* The Developer shall fully indemnify, defend, protect, and hold harmless the City and the City’s elected officials, officers, employees, and agents from and against all Hazardous Substance Claims, subject to the following: the Developer’s obligation under this section 10(c) does not apply to the incorporation of building materials as part of the Improvements so long

as the incorporation is performed in accordance with applicable laws and is not in violation of Environmental Laws (defined in Exhibit E) in effect at the time of the incorporation.

- (d) *Duration of Indemnification Obligations.* With respect to the Improvements and to each portion of the Improvements that the Developer constructs, the Developer's obligations under sections 10(b) and 10(c) will expire on a phase-by-phase basis, as follows:
- (1) The Developer's obligations under section 10(b) will expire for a phase on the date that is one year after the City's written acceptance of the phase as complete, except that section 10(b) will remain in effect for any Claim made before that date and for any Claim that relates directly or indirectly to such a Claim.
 - (2) The Developer's obligations under section 10(c) will survive the termination of this agreement with respect to a phase until the date that is two years after the City's written acceptance of the phase as complete, except that section 10(c) will remain in effect with respect to any Claim made before that date and for Claims that relate directly or indirectly to such a Claim.
 - (3) This section 10(d) applies only to sections 10(b) and 10(c) of this agreement and does not affect any liability the Developer might have under applicable law to the extent the Developer is a contaminator of the Land.
- (e) *Additional Provisions Regarding Indemnification Obligations.*
- (1) The City does not waive any rights it has against the Developer under this section 10 because of any insurance coverage provided under this agreement.
 - (2) Except as expressly provided in section 10(b) for Claims based upon the City's sole and active negligence, the Developer's obligations under this section 10 will not be limited or waived in any way because the City prepared, supplied, or approved plans and specifications for the Improvements or inspected or failed to inspect construction of the Improvements.
 - (3) The Developer's obligations under this section 10 are to be interpreted and applied broadly so as to provide the City with the maximum coverage that accords with the language used.
 - (4) Except as expressly provided, nothing in this section 10 is to be interpreted as limiting the scope of the parties' indemnification and defense rights and obligations.

(5) The Developer shall cause all engineering and construction contracts that relate to the Improvements and entered into after July 28, 2015, to require that the engineer or contractor fully and without limitation indemnify, defend, protect, and hold harmless the City and the City's elected officials, officers, employees, and agents from and against any liability, claim, demand, damage, or cost (including reasonable attorneys' fees, whether for outside counsel or the City Attorney) that arises directly or indirectly from any death, bodily injury, personal injury, property damage, economic loss, or violation of law, but only to the extent that (A) the liability, claim, demand, damage, or cost arises from actions or omissions of the engineer or contractor, or of any person or entity employed by, or acting as the authorized agent for, the engineer or contractor, in connection with the design, construction, maintenance, operation, or repair of the Improvements; and (B) the engineer, contractor, or other party is contractually responsible for a portion or aspect of the Improvements (for example, a contractor responsible for constructing a portion of the Improvements would not be held responsible for the design, nor would an engineer who designed a portion of the Improvements be held responsible for construction not in accordance with the design). If an engineering or construction contract contains the language contained in Exhibit F or other language the City has approved in writing, and if the City is satisfied in its sole discretion with the adequacy of the engineer's or contractor's insurance, then the Developer will have satisfied its obligation under this section 10(e)(5).

(f) *Waiver by the Developer.* The Developer and its successors and assigns hereby waive and release all claims of whatever nature that may arise against the City or the City's elected officials, officers, employees, and agents in connection with the design or construction of the Improvements. This waiver and release includes all claims arising under section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Thus, this agreement releases and extinguishes, without limitation, all claims that the parties do not know or suspect to exist as well as all claims that the parties do know or suspect to exist.

(g) *Disclaimer by the City Regarding Hazardous Substances.* The City has not conducted any review, examination, or assessment to assess, identify, or detect the presence of any Hazardous Substances (defined in Exhibit E) on, under, about, or around the Land (defined in section 6(a)). Between the City and the Developer, any liability associated with the presence of any Hazardous Substances on, under, about, or around the Land, including any interests in the Land dedicated to the City as provided in this

agreement, will be governed by the indemnity provisions in this section 10 regardless of whether any such review, examination, or assessment was or is conducted.

- (h) *Indemnification by City.* The City shall fully indemnify, defend, protect, and hold harmless the Developer and the Developer's officers, employees, and agents from and against any liability, claim, demand, damage, or cost (including reasonable attorneys' fees) arising from any death, bodily injury, personal injury, property damage, economic loss, damage to the environment, or violation of law to the extent arising from either of the following:
 - (1) the use, storage, treatment, transportation, release, or disposal of Hazardous Substances (defined in Exhibit E) by any person or entity (except persons or entities acting on the Developer's behalf or under the Developer's control) on, under, about, around, or from any portion of the Land after the date that portion is conveyed to the City in accordance with section 6(a); or
 - (2) any act (including those covered by section 10(h)(1)) by the City or the City's elected officials, officers, employees, and agents in the use and operation of the Improvements.
 - (i) The parties' rights and obligations under this section 10 will survive termination of this agreement, and section 10(h) does not limit, in any way, the City's obligations under any applicable drainage-improvement agreement or other improvement agreement.
 - (j) Neither this section 10 nor any other section of this agreement (including the exhibits) modifies the Developer's or the City's rights or obligations toward each other or third parties concerning the closed 28th Street Landfill or any release of Hazardous Substances from the landfill. The 28th Street Landfill is described in Waste Discharge Requirements Order No. R5-2004-0039 issued in March 2004 by the Regional Water Quality Control Board – Central Valley Region.
11. **Audit.** The City is entitled, after giving 10-days' written notice to the Developer, to review during the Developer's normal business hours all of the Developer's books and records pertaining to costs and expenses the Developer incurred in constructing the Improvements, including any construction contracts, subcontracts, change orders, invoices, and payroll records.
12. **Termination.**
- (a) *Mutual Consent.* The City and the Developer may agree in writing to terminate this agreement, and upon termination—

- (1) the City may let contracts for any remaining work related to the Improvements not already acquired from the Developer and may use all or any portion of the monies in the Improvement Fund to pay for that work; and
- (2) the Developer will have no claim or right to any further payments for the Improvements except as otherwise may be provided in the written termination agreement.

(b) *City Election for Cause.*

- (1) The City may terminate this agreement, without the Developer's consent, if any of the following events occurs:
 - (A) The Developer voluntarily files for reorganization or other relief under any federal or state bankruptcy or insolvency law.
 - (B) The Developer has any involuntary bankruptcy or insolvency action filed against it, or suffers a trustee in bankruptcy or insolvency proceedings or a receiver to take possession of its assets, or suffers an attachment or levy of execution to be made against the property it owns within the District, and the action, possession, attachment, or levy is not terminated or released within 60 days after occurring.
 - (C) The Developer abandons the construction or acquisition of the Improvements.
 - (D) The Developer breaches any material covenant or defaults in the performance of any material obligation of this agreement.
 - (E) The Developer transfers any of its obligations under this agreement without the City's prior written consent.
 - (F) The Developer or any of its successors or assigns challenges the validity of the District, the Bonds, or the levy of the special tax within the District, except that the Developer may review the annual levy of the special tax for conformity with the special-tax formula.
 - (G) The Developer materially fails to complete the Improvements.
- (2) The City shall give the Developer written notice when an event described in section 12(b)(1) occurs. As soon as is practicable after receiving the notice, the Developer shall meet and confer with the City Manager and with other appropriate City staff and consultants to discuss options available to assure timely completion of the Improvements, including the option of the City

terminating this agreement. If the City elects to terminate this agreement, then the City shall notify the Developer in writing (and any mortgagee or trust beneficiary the Developer has identified to the City, in writing, as entitled to receive the notice) of the grounds for termination, and the Developer will have 60 days after receiving the notice to eliminate or mitigate the grounds for termination to the City's satisfaction. If the mitigation or elimination selected is such that, by its nature, it cannot be completed within 60 days, and if the Developer begins the mitigation or elimination within the 60-day period and diligently pursues completion, then the period for completion will be extended for as long as the City determines is reasonably necessary. If, at the end of the 60-day period and any extension, the Developer has not eliminated or completely mitigated the grounds for termination to the City's satisfaction, then—

- (A) the City may terminate this agreement;
- (B) the City may assume the Developer's contracts for, and may award new contracts for, any remaining work related to Improvements not already acquired from the Developer and continue with that work until it has been completed to the City's satisfaction;
- (C) the City may use all or any portion of the monies in the Improvement Fund to pay for any remaining work related to Improvements not already acquired from the Developer; and
- (D) the Developer will have no claim or right to any further payments for the Improvements.

(c) *Liability for taxes after termination.* After termination of this agreement, the Developer's land within the District will remain fully liable for payment of the special taxes required for debt service on the Bonds and for payment of the special taxes required to complete the Improvements that benefit the Developer's land.

13. **Severability.** If a court with jurisdiction rules that any nonmaterial part of this agreement is invalid, unenforceable, or contrary to law or public policy, then the rest of this agreement remains valid and fully enforceable.

14. **Successors and Assigns.** This agreement binds and inures to the benefit of the parties' successors and assigns. The Developer may not assign or otherwise transfer this agreement or any interest in it without the City's prior written consent, which the City may not withhold or delay unreasonably. The City may condition its consent on any factor the City considers relevant in the circumstances, including the acceptability of the proposed assignee's financial condition.

15. **Waiver.** A party’s failure to insist on strict performance of this agreement or to exercise any right or remedy upon breach of this agreement will not constitute a waiver of the performance, right, or remedy. A party’s waiver of another party’s breach of any provision in this agreement will not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provision. A waiver is binding only if set forth in a writing signed by the waiving party.
16. **Notices.** Any notice, payment, or instrument required or permitted by this agreement to be given or delivered to either party will be considered properly given only when mailed or delivered in the manner provided by this section 16 to the persons identified below. A notice, payment, or instrument that is mailed will be effective or will be considered to have been given on the third day after it is deposited in the U.S. Mail (certified mail and return receipt requested), addressed as set forth below, with postage prepaid. A notice, payment, or instrument sent in any other manner will be effective or will be considered properly given when actually delivered. A party may change its address for these purposes by giving written notice of the change to the other party in the manner provided in this section 16.

If to the City:

City of Sacramento
 Public Improvement Financing
 New City Hall
 915 I Street, Third Floor
 Sacramento, California 95814
 Attention: Mark Griffin, Manager

with a copy to—

City of Sacramento
 Office of the City Treasurer
 Historic City Hall
 915 I Street, Third Floor
 Sacramento, California 95814
 Attention: Debt-Management Team

If to the Developer:

Encore McKinley Village, LLC
 c/o The New Home Company
 2220 Douglas Blvd, Suite 240
 Roseville, California 95661
 Attention: Kevin Carson

with copies to—

RCI-McKinley Village, LLC
 c/o Riverview Capital Investments, Inc.
 3301 C Street, Suite 1000, 2nd Floor
 Sacramento, California 95816
 Attention: Phil Angelides

and

Encore Housing Opportunity Fund II, L.P.
 One Letterman Drive
 Building C, Suite 3800
 San Francisco, California 94129
 Attention: Hector Calderon

17. **Interpretation.** This agreement is to be interpreted and applied in accordance with California law. Exhibits A, A-1, B, C, D, E, and F are part of this agreement. **“Include”** and its variants are terms of enlargement rather than of limitation. For example, “includes” means “includes but not limited to,” and “including” means “including but not limited to.” **“Sole Discretion”** means that the party exercising discretion or judgment may do so based

solely on its own, unfettered assessment of its own interests, without considering how its decision affects the other party, and without constraint by the implied covenant of good faith and fair dealing. “**Reasonable Discretion**” means that the party exercising discretion or judgment shall do so as a reasonable person in comparable circumstances and in accordance with commonly accepted industry principles and practices.

18. **Counterparts.** The parties may sign this agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement.
19. **Amendments.** This agreement may be amended only by another written agreement signed by all of the parties.
20. **Term of Agreement.** This agreement is effective on the date all parties have signed it, as indicated by the dates in the signature blocks below, and will terminate one year after both of the following have occurred: the Developer has conveyed the Land to the City, and the City has accepted all of the Improvements as complete.
21. **No Agency.** Neither the Developer nor any of the Developer’s agents, engineers, contractors, or subcontractors is an agent of the City in connection with the performance of any of the Developer’s obligations under this agreement.
22. **Other Agreements.** This agreement does not cancel, supersede, modify, or otherwise affect the following: any other agreements that have been or may be made by the parties regarding the subject matter of this agreement, including any development agreements, credit-reimbursement agreement, subdivision-improvement agreements, drainage-improvement agreements, or other improvement agreements; or any approvals or permits that have been issued by any party regarding the subject matter of this agreement.
23. **Consultation with Attorneys.** The parties to this agreement have consulted with their own attorneys concerning this agreement and have been fully advised by their attorneys with respect to their rights and obligations under this agreement. Relying on that consultation and advice, each party voluntarily enters into this agreement.
24. **Recording.** Any party may record this agreement in the office of the Sacramento County Clerk/Recorder. Upon the Developer’s request, and if the Developer is not then in default under this agreement, the City shall execute any documents required to remove this agreement from the title to a residential lot within the Developer’s property at the time of closing to a residential purchaser. Upon the City’s acceptance of a phase of the Improvements, and if the Developer requests, the City shall take any action that is reasonably required to remove this agreement from the title to any of the Developer’s land for which building permits were or could have been issued for the phase.

25. **Entire Agreement.** This agreement sets forth the parties' entire understanding regarding the matters set forth and is intended to be their final, complete, and exclusive expression of those matters except for any matters also covered by a development agreement, credit-reimbursement agreement, subdivision-improvement agreement, drainage-improvement agreement, or other improvement agreement entered into before or concurrently with this agreement.

(Signature page follows)

City of Sacramento

By: _____
John Colville
Interim City Treasurer
Date: _____, 2016

Attest
Sacramento City Clerk

By: _____
Approved for Financial Provisions
Finance Department
Public Improvement Financing

By: _____
Approved for Construction Provisions
Public Works Department

By: _____
Approved for Construction Provisions
Department of Utilities

By: _____
Approved as to Form
Sacramento City Attorney

By: _____
Senior Deputy City Attorney

Encore McKinley Village, LLC

By: McKinley Village, LLC, a Delaware limited-liability company, its managing member

By: The New Home Company Northern California, LLC, a Delaware limited-liability company, member

By: _____
Signature

Print Name

Print Title
Date: _____, 2016

By: RCI–McKinley Village, LLC, a Delaware limited-liability company, member

By: Riverview Capital Investments, Inc., a California corporation, its managing member

By: _____
Philip N. Angelides, President
Date: _____, 2016

City of Sacramento

By: _____
John Colville
Interim City Treasurer
Date: _____, 2016

Attest
Sacramento City Clerk

By: _____

Approved for Financial Provisions
Finance Department
Public Improvement Financing

By: _____

Approved for Construction Provisions
Public Works Department

By: _____

Approved for Construction Provisions
Department of Utilities

By: _____

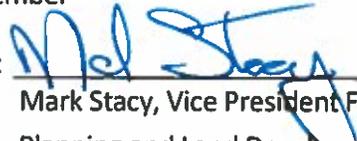
Approved as to Form
Sacramento City Attorney

By: _____
Senior Deputy City Attorney

Encore McKinley Village, LLC

By: McKinley Village, LLC, a Delaware limited-liability company, its managing member

By: The New Home Company Northern California, LLC, a Delaware limited-liability company, member

By:  _____
Mark Stacy, Vice President Forward
Planning and Land Development
Date: 4/27, 2016

By: RCI-McKinley Village, LLC, a Delaware limited-liability company, member

By: Riverview Capital Investments, Inc., a California corporation, its managing member

By: _____
Philip N. Angelides, President
Date: _____, 2016

City of Sacramento

By: _____
John Colville
Interim City Treasurer
Date: _____, 2016

Attest
Sacramento City Clerk

By: _____

Approved for Financial Provisions
Finance Department
Public Improvement Financing

By: _____

Approved for Construction Provisions
Public Works Department

By: _____

Approved for Construction Provisions
Department of Utilities

By: _____

Approved as to Form
Sacramento City Attorney

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By: McKinley Village, LLC, a Delaware limited-liability company, its managing member

By: The New Home Company Northern California, LLC, a Delaware limited-liability company, member

By: _____
Signature

Print Name

Print Title

Date: _____, 2016

By: RCI-McKinley Village, LLC, a Delaware limited-liability company, member

By: Riverview Capital Investments, Inc., a California corporation, its managing member

By: _____
Philip N. Angelides, President

Date: 4/26, 2016

Acquisition-and-Shortfall Agreement
City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements)

EXHIBIT A

Improvements and Budgeted Amounts

Phase No. 1 Improvements

Identified by Incremental Portions	Budgeted Amounts
McKinley Village Way (CalTrans Right-of-Way to Central Park)	\$917,993
McKinley Village Way (DeForest Way to DeForest Way at Central Park/Clubhouse Loop)	\$506,104
DeForest Way (McKinley Village Way to McKinley Village Way at Central Park/Clubhouse Loop)	\$612,706
McKinley Village Way (Clubhouse to Reich Street)	\$858,849
Storm Drain Pump Station	\$2,114,742
Sewer Lift Station	\$2,092,285
Offsite – Alhambra Sanitary Sewer Force Main	\$486,352
Total for Phase 1 Improvements	\$7,589,031

Phase No. 2 Improvements

Identified by Incremental Portions	Budgeted Amounts
McKinley Village Way (McKinley Village Way/Reich Street to C Street)	\$1,041,990
28th Street and A Street (28th Street from C Street to A Street)	\$546,250
28th Street and A Street (A Street from 28th Street to A Street Bridge)	\$682,489
28th Street and A Street (A Street from A Street Bridge East Approach to CalTrans Right-of-Way)	\$35,000
Total for Phase 2 Improvements	\$2,305,729

Note: Budgeted amounts are estimates. Actual amounts subject to reimbursement will be determined by the acquisition price.

Under no circumstances can the total reimbursed from the District under this agreement and any separate Agreement to Reimburse Fees from Tax and Bond Proceeds related to the District, from any combination of proceeds from the Bonds and special-tax revenues generated through the District, exceed an amount equal to \$10,000,000 plus any interest earned on money in the Improvement Fund.

Acquisition-and-Shortfall Agreement
City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements)

EXHIBIT B

Amount of Bonds and Phasing Thereof

Phase 1: Up to \$8,000,000 in Bonds.

Phase 2: Up to \$10,000,000 in new-money Bonds, less the amount of Bonds issued in Phase 1.

Subsequent Phases: Up to \$10,000,000 in new-money Bonds, less the aggregate amount of Bonds issued in Phases 1 and 2.

Notes:

1. New-money Bonds issued for Phase 2 and any Subsequent Phases may be accompanied by a refunding of all or a portion of the Bonds issued for Phase 1 and of any previously issued Bonds, but the limitations above on Bonds issued for Phase 2 and for Subsequent Phases applies only to the new-money Bonds and not to the amount of any refunding Bonds.
2. Under no circumstances can the total reimbursed from the District under this agreement and any separate Agreement to Reimburse Fees from Tax and Bond Proceeds related to the District, from any combination of proceeds from the Bonds and special-tax revenues generated through the District, exceed an amount equal to \$10,000,000 plus any interest earned on money in the Improvement Fund.

Acquisition-and-Shortfall Agreement
City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements)

EXHIBIT C

Increments of Improvements Eligible for Acquisition

Phase 1 Improvements:

	<u>Facility Increment (Hard)</u>	<u>15% Soft Costs</u>	<u>Facility Increment (Hard + Soft)</u>	<u>Facility Segment Hard + 15%</u>
McKinley Village Way (CalTrans Right-Of-Way to Central Park)				\$ 917,993
Sewer	\$ 78,273	\$ 11,741	\$ 90,014	
Storm Drain	\$ 280,319	\$ 42,048	\$ 322,367	
Water	\$ 120,243	\$ 18,036	\$ 138,279	
Roadway Facilities	\$ 319,420	\$ 47,913	\$ 367,333	
McKinley Village Way (DeForest Way to DeForest Way at Central Park/ Clubhouse Loop)				\$ 506,104
Sewer	\$ 62,810	\$ 9,422	\$ 72,232	
Storm Drain	\$ 72,450	\$ 10,868	\$ 83,318.00	
Water	\$ 97,635	\$ 14,645	\$ 112,280	
Roadway Facilities	\$ 207,195	\$ 31,079	\$ 238,274	
DeForest Way (McKinley Village Way to McKinley Village Way at Central Park/Clubhouse Loop)				\$ 612,706
Sewer	\$ 71,015	\$ 10,652	\$ 81,667	
Storm Drain	\$ 173,212	\$ 25,982	\$ 199,194	
Water	\$ 78,326	\$ 11,749	\$ 90,075	
Roadway Facilities	\$ 210,235	\$ 31,535	\$ 241,770	
McKinley Village Way (Clubhouse to Reich Street)				\$ 858,849
Sewer	\$ 89,105	\$ 13,366	\$ 102,471	
Storm Drain	\$ 242,655	\$ 36,398	\$ 279,053	
Water	\$ 133,477	\$ 20,022	\$ 153,499	
Roadway Facilities	\$ 281,588	\$ 42,238	\$ 323,826	
Storm Drain Pump Station	\$ 1,838,906	\$ 275,836	\$ 2,114,742	\$ 2,114,742
Sewer Lift Station	\$ 1,819,378	\$ 272,907	\$ 2,092,285	\$ 2,092,285
Offsite - Alhambra Sanitary Sewer Force Main	\$ 422,915	\$ 63,437	\$ 486,352	\$ 486,352
	\$ 6,599,157	\$ 989,874	\$ 7,589,031	\$ 7,589,031

Phase 2 Improvements:

	<u>Facility Increment (Hard)</u>	<u>15% Soft Costs</u>	<u>Facility Increment (Hard + Soft)</u>	<u>Facility Segment Hard + 15%</u>
McKinley Village Way (McKinley Village Way/Reich Street to C Street)				\$ 1,041,990
Storm Drain	\$ 285,900	\$ 42,885	\$ 328,785	
Water	\$ 85,000	\$ 12,750	\$ 97,750	
Roadway Facilities	\$ 535,178	\$ 80,277	\$ 615,455	
28th Street and A Street (28th Street from C Street to A Street)				\$ 546,250
Storm Drain	\$ 5,000	\$ 750	\$ 5,750	
Water	\$ 20,000	\$ 3,000	\$ 23,000	
Roadway Facilities	\$ 450,000	\$ 67,500	\$ 517,500	
28th Street and A Street (A Street from 28th Street to A Street Bridge)				\$ 682,489
Storm Drain	\$ 30,000	\$ 4,500	\$ 34,500	
Water	\$ 5,000	\$ 750	\$ 5,750	
Roadway Facilities	\$ 558,469	\$ 83,770	\$ 642,239	
28th Street and A Street (A Street from A Street Bridge East Approach to CalTrans Right-Of-Way)				\$ 35,000
Roadway Facilities	\$ 30,435	\$ 4,565	\$ 35,000	
	\$ 2,004,982	\$ 300,747	\$ 2,305,729	\$ 2,305,729

Acquisition-and-Shortfall Agreement
City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements)

EXHIBIT D

City of Sacramento
Departments of Utilities and Public Works
Guidelines for Special District Acquisition Projects

Introduction

The City of Sacramento Policies and Procedures Manual for Special Assessment and Community Facilities Districts provides for the use of acquisition districts. Listed in this exhibit are guidelines that must be followed to qualify improvement project costs for reimbursement by the contemplated community facilities or assessment district (the “**District**”). Reimbursement is dependent upon the City’s actual receipt of special-tax proceeds or proceeds from assessment or special-tax bonds (the “**Bonds**”) if the Bonds are issued and upon the legality of reimbursement for individual expense items under applicable law.

1.0 Definitions

- 1.1 **Acquisition Agreement.** An agreement between the Developer and the City allowing the District to acquire certain public facilities from the Developer.
- 1.2 **Acquisition Facility or Acquisition Facilities.** Those public-facility improvements described in Acquisition Agreements, an Engineer’s Report, or a Hearing Report, as applicable, filed in the District proceedings.
- 1.3 **Advertisement.** A published public notice that solicits bids for a project in accordance with these guidelines and applicable law.
- 1.4 **Bid Documents.** Plans, specifications, and proposal documents that are prepared by, or under the supervision of, the Design Engineer; conform with policies, rules, regulations, and laws applicable to the City; and are suitable for the solicitation and submittal of bids by contractors for construction of an Acquisition Facility.
- 1.5 **Completed Facility.** A Facility that is eligible as an Acquisition Facility by virtue of its having been completed before transfer to the City and its being a functional, usable unit of infrastructure capable of being incorporated into the City’s infrastructure system.
- 1.6 **Construction Security.** Performance bonds and labor-and-material payment bonds or other security, provided by the Contractor to the Developer in a form assignable to the City, which guarantee that the Contractor will meet all contractual obligations.

- 1.7 **Contractor.** A person or entity that is under contract to construct the Acquisition Facility and who possesses the appropriate California contractor's license or licenses for the work.
- 1.8 **Design Engineer.** A California-licensed professional civil engineer the Developer has retained for the purpose of designing and supervising construction of the Acquisition Facilities.
- 1.9 **The Developer.** The person or entity identified as the "Developer" in the Acquisition Agreement to which these guidelines are attached as an exhibit.
- 1.10 **District Engineer.** An engineer appointed by the City.
- 1.11 **Engineer's Estimate.** A cost estimate for the Acquisition Facilities prepared by the Design Engineer and approved by the District Engineer.
- 1.12 **Engineer's Report.** The report required by The Municipal Improvement Act of 1913 that identifies the specific improvements to be constructed, the cost of the improvements, the boundaries of the district, and the maximum assessment by parcel that may be imposed in any given tax year.
- 1.13 **Facility.** An element or increment of an entire Acquisition Facility. A Facility is eligible for acquisition when it is complete and available for public benefit (i.e., when it is a Completed Facility).
- 1.14 **Plans.** Final bid drawings prepared by the Design Engineer and its consultants and approved by the City for construction of the Acquisition Facilities.
- 1.15 **Purchase Price.** The amount the District is to pay for the Acquisition Facilities in accordance with the Acquisition Agreement.
- 1.16 **Hearing Report.** The report required by the Mello-Roos Act of 1982 that identifies the boundaries of the District, the specific improvements to be financed by the District and the maximum special tax rate each property owner will be responsible for paying in any given tax year.
- 1.17 **Specifications.** Documents prepared by the Design Engineer or its consultants that describe in detail for construction-contract purposes the material and workmanship required to complete an Acquisition Facility.

2.0 Pre-Advertisement Procedures for Contracts Awarded on or after July 28, 2015

- 2.1 The Developer shall submit project schedules to the District Engineer.

- 2.2 As and if required, the City shall endeavor to obtain necessary interests in real property, but only if the Developer has provided full and complete funding and has signed a funding agreement for this purpose in a form acceptable to the City Attorney. The Developer shall negotiate all utility relocations.
- 2.3 The Design Engineer shall prepare and submit Plans and Specifications to the City for review and approval. The Plans must indicate those portions of the Improvements that are Acquisition Facilities qualified for reimbursement from the District. These indications are not to be construed as the City's approval or disapproval of eligibility for cost reimbursement. The City will determine, independently of Plan notes and Plan approval, whether an Acquisition Facility qualifies for reimbursement through the District.
- 2.4 The Developer shall pay City plan-check fees and inspection fees (normal and specific) in accordance with normal City procedures.
- 2.5 The Developer shall provide construction security in the same manner as is provided for normal City public-works projects.
- 2.6 The Design Engineer shall prepare bidding documents for the Acquisition Facilities and shall submit the documents to the District Engineer for review and approval. The bidding documents must be in conformance with all ordinances, laws, policies, rules, and regulations applicable to the City, including but not limited to the following:
 - (a) Compliance with all applicable City and State of California requirements for public-works contracts, including but not limited to Sacramento City Code sections 3.60.180 (concerning prevailing wages, hours of work, etc.) and 3.60.190 (concerning apprentices).
 - (b) The invitation to bidders must be publicly advertised.
 - (c) The Developer must sign a non-collusion affidavit in a form acceptable to the City.
 - (d) The bid documents must comply with all other applicable City requirements.
 - (e) The Developer must sign a certificate affirming compliance with all of the requirements set forth in this section 2.6.
- 2.7 The District Engineer shall review the bidding documents to determine whether they meet the following requirements:
 - (a) The Design Engineer's estimate is reasonable and has been approved by the District Engineer.

- (b) The bidding procedures are consistent with advertising and bid-opening procedures for public contracts, and the bid forms clearly describe each bid item and are in a format that is substantially similar to the format of the cost breakdown in the Acquisition Agreements, Engineer's Report, or Hearing Report, as applicable.
- (c) The construction contract requires the contractor and its subcontractors to comply with Sacramento City Code sections 3.60.180 (concerning prevailing wages, hours of work, etc.) and 3.60.190 (concerning apprentices).
- (d) The bidding documents include a non-collusion affidavit in a form acceptable to the City.
- (e) The number of allotted working days specified in the contract documents is reasonable for the proposed work.
- (f) Any liquidated-damage clauses are consistent with City policy.

3.0 Advertisement and Bid Opening Procedures for Contracts Awarded on or after July 28, 2015

- 3.1 The Developer may advertise the project only after the City has approved the Plans and the District Engineer has approved the Bid Documents. The City Manager, in his or her sole discretion, may waive this requirement and allow the Developer to advertise the project before City approval of the Plans. However, the final Bid Documents and final bids must include appropriate bid addendums and be approved by the District Engineer.
- 3.2 The Developer must advertise the project in a newspaper of general circulation published within the County of Sacramento, as follows: for a daily newspaper, the advertisement must be published at least 10 consecutive times; and for a weekly newspaper, the advertisement must be published at least two consecutive times. The Developer may use other advertising procedures in addition to the procedures specified in this section 3.2.
- 3.3 The Developer shall conduct a bid opening at a location open to the public. The bids must be sealed, must be submitted on or before the specified date and time, and must be publicly opened with each bidder's name and total bid announced at the opening in the presence of all interested parties.
- 3.4 The Developer shall notify the City and the District Engineer at least 10 days before the bid-opening date and shall provide the District Engineer with a copy of the public advertisement or advertisements and all final bid documents. Any addenda to the bid documents must be included in the final bid documents.

3.5 The District Engineer or the District Engineer's representative shall attend each pre-bid meeting (if any) and the public bid opening.

4.0 Construction Contract Award for Contracts Awarded on or after July 28, 2015

4.1 The Developer shall provide the District Engineer with a summary of all bids and a copy of the lowest bid proposal submitted, together with a written evaluation of the bids and a recommendation for award. The Developer shall provide the following information with the evaluation and recommendation, in the form of a certificate stating the following:

- (a) That there are no pending disputes over the bidding procedures.
- (b) That all bidders received the same set of bid documents and all of the addenda issued.
- (c) That all applicable City approvals required for the work have been obtained.
- (d) That the bid proposal has not been conditioned in any way.

The Developer shall retain the original of all bids received for a minimum of four years after the date of the acceptance of the Acquisition Facility by the City.

4.2 Within five working days after receipt of the bid material specified in section 4.1, the District Engineer shall review the bid summary and a copy of the lowest bid and shall determine whether (a) to concur in the Developer's recommendation or (b) to notify the Developer that additional review time will be required, specifying the date by which review will be complete.

4.3 The District Engineer shall give the Developer written notification of the determination under section 4.2 within the time stated in that section.

4.4 If the lowest bidder is not recommended, if the District Engineer does not concur with the Developer's recommendation, or if the District Engineer is aware of any irregularities or possible disputes over the bidding procedure, then the Developer or the District Engineer shall notify the City Manager. This notice must be in writing and must be submitted to the City within five working days after the determination required by section 4.2 has been made. Within ten days after receiving the notice, the City Manager shall review the bid documents and procedures and advise the Developer of the City's decision regarding the award of the contract.

4.5 The Developer may reject all bids but may not reject individual bids without the District Engineer's concurrence.

- 4.6 The Developer must obtain the District Engineer's written concurrence before awarding the construction contract.
- 4.7 The Developer shall award the contract, with the District Engineer's concurrence, within 60 days after the bid opening and shall authorize the Contractor to proceed with the work within 60 days after award.
- 4.8 The Developer shall provide the following items to the District Engineer within 30 days after the Developer has authorized the Contractor to proceed:
 - (a) A copy of the signed contract with the Contractor, specifying the award date.
 - (b) A written statement (1) that the contract award amount is within the Engineer's Estimate and does not exceed the overall funds available from the District; or (2) that the contract award amount exceeds the Engineer's Estimate or the overall funds available from the District, and the Developer will pay all amounts by which the contract exceeds the estimate and funds available.

5.0 Construction for Contracts Awarded on or after July 28, 2015

- 5.1 Either the Developer or the Design Engineer shall schedule and conduct a pre-construction meeting before work on the Acquisition Facilities begins. The pre-construction meeting must be attended by the Developer, the Design Engineer, the District Engineer, the Contractor, representatives of each agency issuing permits, representatives of affected utilities, and other interested parties. The District Engineer and the City must receive written notice of the pre-construction meeting at least five days before the meeting, and the meeting date must be scheduled for a time, place, and date acceptable to the District Engineer and the City.
- 5.2 The District Engineer shall review the construction progress no less frequently than monthly and shall meet no less frequently than monthly with parties identified in section 5.1 of this exhibit to discuss project status.
- 5.3 The Contractor shall coordinate all inspections on Acquisition Facilities in accordance with City policy and the improvement agreement applicable to the Acquisition Facilities.
- 5.4 The Developer shall provide the District Engineer with copies of all progress payments to the Contractor.
- 5.5 If the Developer desires to be reimbursed for any contract change-order work, then before allowing the Contractor to undertake the work the Developer must obtain from the City Representative overseeing the work (as designated in the drainage or other improvement agreement) the representative's written acknowledgment of the need to perform the change-order work in order to complete the project satisfactorily. The District Engineer

shall subsequently determine if any adjustments are to be made to the Reimbursement Amount set forth in the Acquisition Agreement as a result of the change order.

- 5.6 The District Engineer must review and approve in advance any revisions to the Plans.
- 5.7 For the purposes of these guidelines, the construction will be considered complete when the Acquisition Facility is fully completed and available for public benefit, when the City has accepted the Acquisition Facility in accordance with the applicable drainage or other improvement agreement, and when the Developer has obtained the following, as applicable:
- (a) Approval of the City if a grading permit is required.
 - (b) Approval of all facilities shown on the Plans or included in the Acquisition Facilities by the affected utility companies or other affected departments of the City or the County of Sacramento.
 - (c) Approval of the City of all erosion-control improvements required by the Plans or the grading permit.
 - (d) Approval by the City Surveyor of all monumentation.
 - (e) Approval of the City of all street improvements (e.g., storm drains, street lighting, traffic signals) shown on the Plans.

6.0 Prevailing Wages and Apprentices for All Contracts

- 6.1 The Contractor and all subcontractors shall comply with Sacramento City Code sections 3.60.180 (concerning prevailing wages, hours of work, etc.) and 3.60.190 (concerning apprentices) for all work performed on the Acquisition Facilities. The Developer shall certify to the District Engineer, in writing, that the Contractor and all subcontractors have complied with the requirements of Sacramento City Code sections 3.60.180 and 3.60.190. Upon request, the Developer shall provide copies of certified payrolls to the District Engineer.
- 6.2 Work performed on the Acquisition Facilities will be eligible for reimbursement from the District's special-tax proceeds or the District's bond proceeds only if all public-improvement work that is within the District and required as a condition of regulatory approval for the Developer's project, including work not funded through the District, has been performed in compliance with Sacramento City Code sections 3.60.180 and 3.60.190.

7.0 Reimbursement for All Contracts

7.1 The Developer shall submit to the District Engineer a finalized copy of Plans and Specifications that incorporates all approved changes, and a copy of any recorded tract map or maps. In addition, after completion of an Acquisition Facility, the Developer shall submit a request for reimbursement to the District Engineer that follows the format provided in Schedule A to this exhibit (titled “Developer Reimbursement Request Format”) and includes the following for that Acquisition Facility:

- (a) Final quantities and final costs on each contract item, certified to the satisfaction of the District Engineer, and the total of all construction costs for the particular Facility accompanied by any other supporting documentation necessary to justify reimbursement.
- (b) Approved contract change orders with final quantities and final costs.
- (c) Certification that the Contractor and all subcontractors have complied on the project with all applicable City and State of California public-works provisions, including Sacramento City Code sections 3.60.180 (concerning prevailing wages, hours of work, etc.) and 3.60.190 (concerning apprentices).
- (d) Itemized breakdown of other reimbursable costs as delineated in the applicable Acquisition Agreement.
- (e) Copies of invoices, vouchers, canceled checks, and other available materials to support all of the Developer’s expenditures claimed for reimbursement.
- (f) Copies of all recorded notices of completion.
- (g) Certification or proof of advertisement as required by these guidelines.
- (h) Copies of final mechanics-lien releases for the Facility. If the Facility is an increment of a larger Acquisition Facility, the lien releases may be unconditional lien releases upon receipt of the progress payments applicable to the Facility.
- (i) Documentation that all required easements have been transferred to the City or that other arrangements for such transfer, as required by the City, have been made.
- (j) Documentation that all fee interests required for the Acquisition Facilities have been transferred to City or that other arrangements for such transfer, as required by the City, have been made.
- (k) Submission of written certifications from other agencies or utilities involved in the reimbursement request, confirming that the Facility was inspected and completed

according to approved Plans and Specifications and that any utilities or agency cost reimbursements are disclosed in the District reimbursement requests.

(l) Where applicable, all equipment manuals for the Acquisition Facilities.

(m) All warranties relating to the Acquisition Facilities.

In addition, the Developer shall submit to the District Engineer a finalized copy of Plans and Specifications that incorporates all approved changes, and copies of all recorded tract maps.

7.2 The District Engineer shall review the request for reimbursement and all supporting data and may rely on the authenticity of all supporting data, documents, representations, and certifications provided by the Developer and each Design Engineer without independent verification by the District Engineer. The Developer shall sign a certification on all submitted data. If additional information is required during the review process to comply with section 7.1, then the District Engineer may request in writing that the Developer supply the supplemental data, and the Developer shall promptly comply with such a request.

7.3 Upon review of the submitted information, if complete, the District Engineer shall determine whether and to what extent the costs and expenses claimed are reimbursable, and shall provide a written recommendation to the City Manager, who shall make a final determination of reimbursement eligibility.

Acquisition-and-Shortfall Agreement
City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements)

SCHEDULE A TO EXHIBIT D
Developer Reimbursement Request Format

City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements)
REQUEST FOR PAYMENT

ENCORE MCKINLEY VILLAGE, LLC (the “**Developer**”) hereby requests payment in accordance with the Acquisition and Shortfall Agreement between the Developer and the CITY OF SACRAMENTO (the “**City**”), which is dated as of May __, 2016, and designated as City Agreement No. 2016-__ (the “**Agreement**”), in the total amount of \$_____, for the Improvement or Improvements or portions of the Improvement or Improvements identified in Exhibit A to the Agreement, all as more fully described in Exhibit A to this request. In connection with this request, the undersigned hereby represents to the City as follows:

1. I am an officer of the Developer, duly authorized to sign this request on the Developer’s behalf, and am knowledgeable about the matters set forth in this request.

2. All costs of the Improvements or portions of Improvements for which payment is requested are actual costs and have not been inflated in any respect. The items for which payment is requested have not been the subject of any prior payment request submitted to the City.

3. Documentation that supports each cost for which payment is requested (e.g., third-party invoices) is attached as Exhibit A to this request.

4. The Improvements or portions of Improvements for which payment is requested were constructed in accordance with all applicable City standards.

I hereby declare under penalty of perjury under the laws of the State of California that the representations set out above are true.

Signed on _____, at _____.
(Print Date) (Print City and State)

Encore McKinley Village, LLC

By: _____
(Signature)

(Print Name)

(Print Title)

Attached as Exhibit A is a list of all Improvements or portions of Improvements for which payment is requested, with supporting documentation.

Acquisition-and-Shortfall Agreement
City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements)

EXHIBIT E

Hazardous Substances

1. As used this agreement, “**Hazardous Substances**” means any of the following:
 - (a) Those substances included within the definitions of hazardous substance, hazardous waste, hazardous material, toxic substance, solid waste, pollutant, or contaminant under any Environmental Law, as defined below.
 - (b) Those substances listed in the United States Department of Transportation Table (49 C.F.R. § 172.101), or by the Environmental Protection Agency, or any successor agency, as hazardous substances (40 C.F.R. Part 302).
 - (c) Other substances, materials, and wastes that are or become regulated or classified as hazardous or toxic under federal, state, or local laws or regulations.
 - (d) Any material, waste, or substance that is—
 - (1) a petroleum or refined petroleum product;
 - (2) asbestos;
 - (3) polychlorinated biphenyl;
 - (4) designated as a hazardous substance pursuant to 33 U.S.C. § 1321 or listed pursuant to 33 U.S.C. § 1317;
 - (5) an inflammable explosive; or
 - (6) a radioactive material.
2. As used this agreement, “**Environmental Law**” means all federal, state, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, and requirements of any government authority regulating, relating to, imposing liability for, or establishing standards of conduct concerning any Hazardous Substance, or pertaining to environmental conditions on, under, about, or around the detention basin site or any of the easement areas which the Developer is required to convey to the City, and does convey to the City, in accordance with this agreement, as now or may at any later time be in effect, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (42 U.S.C. § 9601 et seq.); the Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. § 6901 et seq.); the Clean Water Act, also known as the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. § 1251 et seq.); the Toxic Substances Control Act (TSCA) (15 U.S.C. § 2601 et seq.); the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. § 1801 et seq.); the Insecticide, Fungicide,

Rodenticide Act (7 U.S.C. § 136 et seq.); the Superfund Amendments and Reauthorization Act (42 U.S.C. § 6901 et seq.); the Clean Air Act (42 U.S.C. § 7401 et seq.); the Safe Drinking Water Act (42 U.S.C. § 300f et seq.); the Solid Waste Disposal Act (42 U.S.C. § 6901 et seq.); the Surface Mining Control and Reclamation Act (30 U.S.C. § 1201 et seq.); the Emergency Planning and Community Right to Know Act (42 U.S.C. § 11001 et seq.); the Occupational Safety and Health Act (29 U.S.C. §§ 655 and 657); the California Underground Storage of Hazardous Substances Act (Cal. Health and Safety Code § 25280 et seq.); the California Hazardous Substances Account Act (Cal. Health and Safety Code § 25100 et seq.); the California Safe Drinking Water and Toxic Enforcement Act (Cal. Health and Safety Code § 24249.5 et seq.); the Porter-Cologne Water Quality Act (Cal. Water Code § 13000 et seq.), together with any amendments of or regulations promulgated under the statutes cited above, and any other federal, state, or local law, statute, ordinance, or regulation now in effect or later enacted that pertains to the regulation or protection of the environment, including ambient air, soil, soil vapor, groundwater, surface water, and land use.

Acquisition-and-Shortfall Agreement

EXHIBIT F

Construction Contract Language

Contractor shall fully indemnify, defend, protect, and hold harmless the City and the City's elected officials, officers, employees, and agents from and against all liabilities, claims, demands, damages, and costs (including reasonable attorneys' fees, whether for outside counsel or the City Attorney) that arise directly or indirectly from any death, bodily injury, personal injury, property damage, economic loss, or violation of law (collectively, "**Claims**"), but only to the extent the Claims result from actions or omissions by any of the following in connection with the design, construction, operation, maintenance, or repair of that portion of the Improvement designed or constructed by Contractor: Contractor; any of Contractor's engineers or subcontractors; any subcontractors of Contractor's engineers; or any other person or entity employed by Contractor or acting on behalf of, or as the authorized agent for, Contractor.

MASTER INDENTURE

between the

CITY OF SACRAMENTO

and

U.S. BANK NATIONAL ASSOCIATION,

as Trustee

Relating to the

CITY OF SACRAMENTO
MCKINLEY VILLAGE COMMUNITY FACILITIES DISTRICT NO. 2015-04
(IMPROVEMENTS) SPECIAL TAX BONDS

Dated as of June 1, 2016

MASTER INDENTURE

This Master Indenture (the “Master Indenture”), dated as of June 1, 2016, between the City of Sacramento, a California municipal corporation (the “City”), and U.S. Bank National Association, a national banking association duly organized and existing under and by virtue of the laws of the United States and authorized to accept and execute trusts of the character herein set forth, as trustee (the “Trustee”);

WITNESSETH:

WHEREAS, at an election held in the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) (the “Community Facilities District”) on July 29, 2015, the qualified electors therein duly authorized the issuance of ten million dollars (\$10,000,000) principal amount of special tax bonds under the Mello-Roos Community Facilities Act of 1982, as amended (being Section 53311 et seq. of the Government Code of the State of California), and all laws amendatory thereof or supplemental thereto (collectively, the “Act”), for the purpose of financing the acquisition and construction of certain public facilities and financing certain governmental fees; and

WHEREAS, at such election the qualified electors in the Community Facilities District additionally authorized the levy and collection of a special tax under the Act to be used for the purpose of paying the interest on and principal of and redemption premiums, if any, on such bonds; and

WHEREAS, the City Council of the City has determined to authorize the issuance of City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds (the “Bonds”) in series pursuant hereto and pursuant to one or more Supplemental Indentures and to secure the Bonds in the manner provided herein; and

WHEREAS, the City has determined that all things necessary to cause the Bonds, when duly executed by the City and authenticated by the Trustee and delivered as provided herein, to be legal and valid special tax obligations of the City enforceable in accordance with their terms, and to constitute the Master Indenture a valid agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery hereof and the execution and delivery of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THE MASTER INDENTURE WITNESSETH, that in order to secure the payment of the interest on and principal of and redemption premiums, if any, on all Bonds at any time issued and outstanding hereunder according to their tenor, and to secure the observance and performance of all the agreements, conditions, covenants and terms therein and herein set forth, and to declare the conditions and terms upon and subject to which the Bonds shall be issued and received, and in consideration of the premises and of the mutual agreements and covenants contained herein and of the purchase and acceptance of the Bonds by the respective registered owners thereof from time to time, and for other valuable considerations, the receipt whereof is hereby acknowledged, the City does hereby agree and covenant with the

Trustee, for the benefit of the respective registered owners from time to time of the Bonds, as follows:

ARTICLE I

DEFINITIONS; EQUAL SECURITY

SECTION 1.01. Definitions. Unless the context otherwise requires, all terms defined in this section shall for all purposes hereof and of any Supplemental Indenture and of the Bonds and of any certificate, opinion, report, request or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein:

Accountant's Report

“Accountant's Report” means a report signed by an Independent Certified Public Accountant.

Acquisition and Construction Fund

“Acquisition and Construction Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Acquisition and Construction Fund established pursuant to Section 2.04 (to be maintained by the Treasurer).

Act

“Act” means collectively the Mello-Roos Community Facilities Act of 1982, as amended (being Sections 53311 et seq. of the Government Code of the State of California), and all laws amendatory thereof or supplemental thereto.

Bond Redemption Fund

“Bond Redemption Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Bond Redemption Fund established pursuant to Section 5.02 (to be maintained by the Trustee).

Bond Reserve Fund

“Bond Reserve Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Bond Reserve Fund established pursuant to Section 5.02 (to be maintained by the Trustee).

Bond Year

“Bond Year” means the twelve-month period terminating on September 1 of each year; provided, that the first Bond Year shall commence on the date of the execution, authentication and initial delivery of the first Series issued hereunder.

Bonds, Serial Bonds, Term Bonds

“Bonds” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds at any time Outstanding hereunder that are executed, authenticated and delivered in accordance with the provisions hereof. “Serial Bonds” means Bonds for which no Sinking Fund Account Payments are established. “Term Bonds” means Bonds which are redeemable or payable on or before their specified maturity date or dates from Sinking Fund Account Payments established for the purpose of redeeming or paying such Bonds on or before their specified maturity date or dates.

Business Day

“Business Day” means any day (other than a Saturday or a Sunday) on which the Trustee is open for corporate trust business at its Principal Corporate Trust Office.

Certificate of the City

“Certificate of the City” means an instrument in writing signed by the City Manager or the Treasurer, or by any other officer of the City duly authorized by the City Council for that purpose.

City

“City” means the City of Sacramento, a California municipal corporation.

City Council

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

City Clerk

“City Clerk” means the City Clerk of the City.

City Manager

“City Manager” means the City Manager of the City.

Code

“Code” means the Internal Revenue Code of 1986 and all regulations of the United States Department of the Treasury issued thereunder from time to time to the extent that such regulations are, at the time, applicable and in effect, and in this regard reference to any

particular section of the Code shall include reference to any successor to such section of the Code.

Community Facilities District

“Community Facilities District” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements), a community facilities district duly organized and existing in the City under and by virtue of the Act.

Community Facilities Fund

“Community Facilities Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Community Facilities Fund established pursuant to Section 5.02 (to be maintained by the Treasurer).

Costs of Issuance

“Costs of Issuance” means, with respect to any Series, all costs and expenses payable by or reimbursable to the City that are related to the authorization, sale, execution, authentication and initial delivery of such Series, including, but not limited to, costs of preparation and reproduction of documents, rating agency fees, fees and charges of the Trustee (including fees and expenses of its counsel), legal fees and charges and fees and charges of other consultants and professionals, together with all costs for the preparation of the Bonds of such Series, and any other cost or expense in connection with the authorization, sale, execution, authentication and initial delivery of such Series.

Costs of Issuance Fund

“Costs of Issuance Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Costs of Issuance Fund established pursuant to Section 2.05 (to be maintained by the Trustee).

Debt Service

“Debt Service” means, for any Bond Year, the sum of (1) the interest payable during such Bond Year on all Outstanding Bonds, assuming that all Outstanding Serial Bonds are retired as scheduled and that all Outstanding Term Bonds are redeemed or paid as scheduled at the times of and in amounts equal to the sum of all Sinking Fund Account Payments (except to the extent that such interest is to be paid from the proceeds of sale of any Bonds), plus (2) the principal amount of all Outstanding Serial Bonds maturing by their terms in such Bond Year, plus (3) the Sinking Fund Account Payments required to be deposited in the Sinking Fund Account in such Bond Year.

Event of Default

“Event of Default” means an event described as such in Section 9.01.

Expense Fund

“Expense Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Expense Fund established pursuant to Section 5.02 (to be maintained by the Treasurer).

Expenses

“Expenses” means all expenses paid or incurred by the City for the cost of planning and designing the Facilities or the facilities to be financed with the Fees, including the cost of environmental evaluations, and all costs associated with the determination of the amount of the Special Tax, the collection of the Special Tax and the payment of the Special Tax, together with all costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District, and any other expenses incidental to the acquisition, construction, completion and inspection of the Facilities and the facilities to be financed with the Fees; all as determined in accordance with Generally Accepted Accounting Principles.

Facilities

“Facilities” means the public facilities authorized to be acquired and constructed in and for the Community Facilities District under and pursuant to the Act at the special election held in the Community Facilities District on July 29, 2015.

Federal Securities

“Federal Securities” means (a) any securities now or hereafter authorized both the interest on and principal of which are guaranteed by the full faith and credit of the United States of America, and (b) any of the following obligations of federal agencies not guaranteed by the full faith and credit of the United States of America: (1) participation certificates or senior debt obligations of the Federal Home Loan Mortgage Corporation, (2) bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act and bonds of any federal home loan bank established under such act, and (3) stocks, bonds, debentures, participations and other obligations of or issued by the Federal National Mortgage Association, the Student Loan Marketing Association, the Government National Mortgage Association and the Federal Home Loan Mortgage Corporation, as and to the extent that such securities or obligations are eligible for the legal investment of City funds, together with any repurchase agreements which are secured by any of such securities or obligations that (1) have a fair market value (determined at least daily) at least equal to one hundred two percent (102%) of the amount invested in the repurchase agreement, (2) are in the possession of the Trustee or a third party acting solely as custodian for the Trustee who holds a perfected first lien therein, and (3) are free from all third party claims.

Fees

“Fees” means the governmental fees authorized to be financed with the proceeds of the Bonds at the special election held in the Community Facilities District on July 29, 2015.

Fiscal Year

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

Fitch

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

Generally Accepted Accounting Principles

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

Holder

“Holder” means any person who shall be the registered owner of any Outstanding Bond, as shown on the registration books maintained by the Trustee pursuant to Section 3.03.

Indenture

“Indenture” means the Master Indenture and all Supplemental Indentures.

Independent Certified Public Accountant

“Independent Certified Public Accountant” means any nationally recognized certified public accountant or firm of such accountants, appointed and paid by the City, and who, or each of whom --

- (1) is in fact independent and not under the domination of the City;
- (2) does not have a substantial financial interest, direct or indirect, in the operations of the City; and
- (3) is not connected with the City as an officer or employee of the City, but who may be regularly retained to audit the accounting records of and make reports thereon to the City.

Legal Investments

“Legal Investments” means any securities in which funds of the City may be legally invested in accordance with the applicable law in effect at the time of such investment and in accordance with the then current investment policy of the City (as established by the City Council).

Master Indenture

“Master Indenture” means this Master Indenture, dated as of June 1, 2016, between the City and the Trustee entered into under and pursuant to the Act.

Maximum Annual Debt Service

“Maximum Annual Debt Service” means, as of any date of calculation, the largest Debt Service in any Bond Year during the period from the date of such calculation through the final maturity date of all Outstanding Bonds.

Mayor

“Mayor” means the Mayor of the City.

Moody’s

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

Opinion of Counsel

“Opinion of Counsel” means a written opinion of counsel (including, without limitation, counsel for the City) retained by the City.

Outstanding

“Outstanding,” when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 8.02) all Bonds except --

- (1) Bonds cancelled and destroyed by the Trustee or delivered to the Trustee for cancellation and destruction;
- (2) Bonds paid or deemed to have been paid within the meaning of Section 10.01; and
- (3) Bonds in lieu of or in substitution for which other Bonds shall have been executed by the City and authenticated and delivered by the Trustee pursuant to Section 3.04.

Principal Corporate Trust Office

“Principal Corporate Trust Office” means the principal office of the Trustee in San Francisco, California, at which at any particular time its corporate trust business is being administered, except that with respect to presentation of Bonds for registration, payment, redemption, transfer or exchange, such term shall mean the office of the Trustee in St. Paul, Minnesota, or such other office designated by the Trustee from time to time as its Principal Corporate Trust Office.

Rebate Fund

“Rebate Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Rebate Fund established pursuant to Section 6.03 (to be maintained by the Treasurer).

Required Bond Reserve

“Required Bond Reserve” means, as of any date of calculation, the least of (a) ten percent (10%) of the principal amount of the Outstanding Bonds, or (b) Maximum Annual Debt Service, or (c) one hundred twenty-five percent (125%) of the average Debt Service payable hereunder in the current and in all future Bond Years, all as determined by the City under the Code and specified in writing to the Trustee; provided, that such requirement (or any portion thereof) may be satisfied by the provision of one or more policies of municipal bond insurance or surety bonds issued by a municipal bond insurer or by a letter of credit issued by a bank, the obligations insured by which insurer or issued by which bank, as the case may be, have at least one rating at the time of issuance of such policy or surety bond or letter of credit equal to “AA” or higher assigned by Fitch or “Aa” or higher assigned by Moody’s or “AA” or higher assigned by Standard & Poor’s, in each case without regard to any numerical modifier or plus or minus sign; and provided further, that the amount of the Required Bond Reserve shall not increase at any time except upon the issuance of a new Series of Bonds; and provided further, that, with respect to the issuance of any issue of Bonds, if the amount on deposit in the Bond Reserve Fund would have to be increased by an amount greater than ten percent (10%) of the stated principal amount of such issue of Bonds (or, if the issue has more than a de minimis amount of original issue discount or premium, of the issue price of such issue of Bonds) then the Required Bond Reserve shall be such lesser amount as is determined by a deposit of such 10%.

Series

“Series” means any series of the Bonds authorized, executed and authenticated pursuant hereto and pursuant to one or more Supplemental Indentures as constituting a single series and delivered on initial issuance in a simultaneous transaction pursuant to Section 2.02, and any Bonds thereafter executed, authenticated and delivered in lieu thereof or in substitution therefor pursuant to Section 3.04.

Sinking Fund Account

“Sinking Fund Account” means the account in the Bond Redemption Fund referred to by that name established pursuant to Section 5.02.

Sinking Fund Account Payments

“Sinking Fund Account Payments” means the payments required by all Supplemental Indentures to be deposited in the Sinking Fund Account for the payment of the Term Bonds.

Special Tax

“Special Tax” means the special tax authorized to be levied and collected annually on all Taxable Land in the Community Facilities District under and pursuant to the Act at the special election held in the Community Facilities District on July 29, 2015.

Special Tax Formula

“Special Tax Formula” means the Rate and Method of Apportionment of Special Tax approved at the election held in the Community Facilities District on July 29, 2015.

Special Tax Fund

“Special Tax Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Special Tax Fund established pursuant to Section 5.01 (to be maintained by the Treasurer).

Standard & Poor’s

“Standard & Poor’s” means Standard & Poor’s Rating Services, a division of The McGraw Hill-Companies, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of New York, and its successors or assigns, except that if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “Standard & Poor’s” shall be deemed to refer to any other nationally recognized securities rating agency selected by the City.

Supplemental Indenture

“Supplemental Indenture” means any indenture then in full force and effect that has been made and entered into by the City and the Trustee, amendatory of or supplemental hereto; but only to the extent that such Supplemental Indenture is specifically authorized hereunder.

Tax Certificate

“Tax Certificate” means any certificate delivered upon the original issuance of a Series relating to Section 148 of the Code, or any functionally similar replacement certificate.

Taxable Land

“Taxable Land” means all land within the Community Facilities District taxable under the Act in accordance with the proceedings for the authorization of the issuance of the Bonds and the levy and collection of the Special Tax.

Treasurer

“Treasurer” means the Interim City Treasurer of the City or the City Treasurer of the City, as applicable.

Trustee

“Trustee” means U.S. Bank National Association, a national banking association duly organized and existing under and by virtue of the laws of the United States and authorized to accept and execute trusts of the character herein set forth, at its Principal Corporate Trust Office, and its successors or assigns, or any other bank or trust company having a corporate trust office in San Francisco, California which may at any time be substituted in its place as provided in Section 7.01.

Written Request of the City

“Written Request of the City” means an instrument in writing signed by the City Manager or the Treasurer, or by any other officer of the City duly authorized by the City Council for that purpose.

SECTION 1.02. Equal Security. In consideration of the acceptance of the Bonds by the Holders thereof, the Master Indenture shall be deemed to be and shall constitute a contract between the City and the Holders from time to time to secure the full and final payment of the interest on and principal of and redemption premiums, if any, on all Bonds which may from time to time be authorized, sold, executed, authenticated and delivered hereunder, subject to the agreements, conditions, covenants and terms contained herein; and all agreements, conditions, covenants and terms contained herein required to be observed or performed by or on behalf of the City shall be for the equal and proportionate benefit, security and protection of all Holders without distinction, preference or priority as to security or otherwise of any Bonds over any other Bonds by reason of the number thereof or the time of execution, authentication or delivery thereof or otherwise for any cause whatsoever, except as expressly provided herein or therein.

ARTICLE II

ISSUANCE OF BONDS

SECTION 2.01. Authorization and Purpose of Bonds.

(a) The City Council has reviewed all proceedings heretofore taken relative to the authorization of the Bonds and has found, as a result of such review, and hereby finds and

determines that all acts, conditions and things required by law to exist, happen and be performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by the Act, and the City is now authorized, pursuant to each and every requirement of the Act and hereof, to issue the Bonds in one or more Series as from time to time shall be authorized and established by the City pursuant to the Act and pursuant hereto and pursuant to one or more Supplemental Indentures, which Series shall be entitled to the benefit, protection and security hereof. The Bonds shall be designated the "City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds," together with such further appropriate particular designation added to or incorporated in the title of the Bonds of each Series as the City may determine or as shall be required by the Act, and each Bond shall bear upon its face the designation so determined for the Series to which it belongs. Additionally, the Bonds may contain or have endorsed thereon such other descriptive provisions, specifications and words not inconsistent with the provisions hereof as may be desirable or necessary to comply with custom or the rules of any securities exchange or commission or brokerage board or otherwise as may be determined by the City prior to the delivery thereof.

(b) The purpose for which the Bonds are to be issued is to provide funds to finance the acquisition and construction of the Facilities, finance the Fees, refund any Outstanding Bonds, make deposits to the Bond Reserve Fund or otherwise provide for the satisfaction of the Required Bond Reserve, pay the Costs of Issuance, fund interest on the Bonds, pay Expenses, and pay other incidental expenses relating to any of the foregoing, as further provided herein or in any Supplemental Indenture.

(c) From and after the issuance of any Series, the findings and determinations of the City Council respecting such Series shall be conclusive evidence of the existence of the facts so found and determined in any action or proceeding in any court in which the validity of any Bonds of such Series is at issue, and no bona fide purchaser of any Bonds of such Series shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceeding required prior to such issuance or to the application of the purchase price paid for such Series. The validity of the issuance of any Series shall not be dependent on or affected in any way by any proceedings taken by the City for the acquisition and construction of any Facilities or the financing of any Fees, or any contracts made by the City in connection therewith, or the failure to complete the acquisition and construction of any Facilities or the financing of any Fees. The recital contained in the Bonds that the Bonds are issued pursuant to the Act and pursuant hereto and pursuant to one or more Supplemental Indentures shall be conclusive evidence of their validity and of the regularity of their initial issuance, and all Bonds shall be incontestable from and after their initial issuance, which shall be the date the definitive Bonds (or any temporary Bond exchangeable therefor) shall have been delivered to the purchaser thereof and the purchase price thereof shall have been received.

SECTION 2.02. [Conditions for the Issuance of Bonds](#). The City may at any time issue a Series payable from the proceeds of the Special Tax as provided herein on a parity with all other Series theretofore issued hereunder, but only subject to the following conditions, which are hereby made conditions precedent to the issuance of any such Series other than the Series 2015 Bonds:

(a) The issuance of such Series shall have been authorized pursuant to the Act and pursuant hereto and shall have been provided for by a Supplemental Indenture which shall specify the following:

(1) The purpose for which such Series is to be issued;

(2) The principal amount and designation of such Series and the denomination or denominations of the Bonds of such Series;

(3) The date, the maturity date or dates, the interest payment dates and the dates on which Sinking Fund Account Payments are due, if any, for such Series; provided, that (i) the Serial Bonds of such Series shall be payable as to principal on September 1 of each year in which principal of such Series falls due, and the Term Bonds of such Series shall be subject to mandatory redemption on September 1 of each year in which Sinking Fund Account Payments for such Series are due; (ii) the Bonds of such Series shall be payable as to interest semiannually on March 1 and September 1 of each year, except that the first installment of interest may be payable on either March 1 or September 1 and shall be for a period of not longer than twelve (12) months and the interest shall be payable thereafter semiannually on March 1 and September 1, (iii) all the Bonds of such Series of like maturity shall be identical in all respects, except as to number or denomination, and (iv) serial maturities of Serial Bonds of such Series or Sinking Fund Account Payments for Term Bonds of such Series, or any combination thereof, shall be established to provide for the redemption or payment of the Bonds of such Series on or before their respective maturity dates;

(4) The redemption premiums and redemption terms, if any, for such Series;

(5) The form of the Bonds of such Series;

(6) The amount, if any, to be deposited from the proceeds of sale of such Series in the Bond Redemption Fund, and its use to pay interest on the Bonds of such Series;

(7) The amount, if any, to be deposited from the proceeds of sale of such Series in the Bond Reserve Fund; provided, that the Required Bond Reserve shall be satisfied at the time that such Series becomes Outstanding;

(8) The amounts, if any, to be deposited from the proceeds of sale of such Series in the separate accounts for such Series to be maintained in the Acquisition and Construction Fund and in the Costs of Issuance Fund; and

(9) Such other provisions that are appropriate or necessary and are not inconsistent with the provisions hereof;

(b) No Event of Default hereunder or under any Supplemental Indenture shall have occurred and shall be then continuing; and

(c) Either (1) none of the Bonds theretofore issued hereunder will be Outstanding after the issuance and delivery of such Series or (2) the Debt Service in each Bond Year that begins after the issuance of such Series is not increased by reason of the issuance of such Series.

SECTION 2.03. [Procedure for the Issuance of Bonds](#). At any time after the sale of any Series in accordance with the Act, such Series shall be executed by the City and shall be delivered to the Trustee and thereupon shall be authenticated and delivered by the Trustee, but only upon receipt by the Trustee of the following documents or money:

(a) An executed copy of the Supplemental Indenture authorizing the issuance of such Series;

(b) A Written Request of the City as to the delivery of such Series;

(c) An Opinion of Counsel to the effect that (i) the Supplemental Indenture has been duly executed and delivered by, and constitutes the valid and binding obligation of, the City; and (ii) the Bonds of such Series constitute the valid and binding special tax obligations of the City;

(d) A Certificate of the City containing such statements as may be reasonably necessary to show compliance with the requirements of Section 2.02;

(e) The proceeds of sale of such Series; and

(f) Such further documents or money as are required by the provisions of the Supplemental Indenture authorizing the issuance of such Series.

SECTION 2.04. [Acquisition and Construction Fund](#). There is hereby established in the treasury of the City a fund to be known as the “City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Acquisition and Construction Fund,” into which fund shall be deposited (in a separate account to be maintained therein) the amount required to be deposited therein by the provisions of each Supplemental Indenture providing for the issuance of a Series. All money in the Acquisition and Construction Fund shall be applied by the Treasurer in the manner provided by the Act for payment of costs of the acquisition and construction of the Facilities (or for making reimbursements to the City for such costs theretofore paid by it), including payment of costs incidental to or connected with such acquisition and construction; for the payment or reimbursement of Fees; or for the repayment of funds advanced to or for the Community Facilities District; provided, that any money remaining in the separate account in the Acquisition and Construction Fund created in connection with the issuance of such Series (after the completion of the payment of the costs of the acquisition and construction of the Facilities and the payment or reimbursement of Fees for which such Series was issued) shall be withdrawn by the Treasurer from the Acquisition and Construction Fund and deposited by the Treasurer in the Special Tax Fund.

SECTION 2.05. [Costs of Issuance Fund](#). There is hereby established with the Trustee a fund to be known as the “City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Costs of Issuance Fund,” into which fund shall be deposited (in a separate account to be maintained therein) the amount required to be deposited therein by the provision of each Supplemental Indenture providing for the issuance of a Series. All money in the Costs of Issuance Fund shall be applied by the Trustee as directed in writing by the City in the manner provided by law for payment of Costs of

Issuance; provided, that any money remaining in the separate account in the Costs of Issuance Fund created in connection with the issuance of such Series (after the completion of the payment of the Costs of Issuance relating to such Series as specified in writing by the City to the Trustee) shall be withdrawn by the Trustee from the Costs of Issuance Fund and deposited in the Bond Redemption Fund and the separate account in the Costs of Issuance Fund created in connection with the issuance of such Series will be closed.

ARTICLE III

TERMS AND PROVISIONS OF BONDS

SECTION 3.01. Terms of Bonds.

(a) The interest on and principal of and redemption premiums, if any, on the Bonds shall be payable in lawful money of the United States of America at the Principal Corporate Trust Office of the Trustee.

(b) The Bonds of each Series shall be issued as fully registered Bonds in such denominations as may be authorized in the Supplemental Indenture authorizing the issuance of such Series (but not to exceed the principal amount of Bonds of such Series maturing on any one date) and shall be dated as provided in the Supplemental Indenture authorizing the issuance of such Series and shall be numbered as determined by the City.

(c) Each Bond shall bear interest from the interest payment date next preceding the date of authentication thereof, unless it is authenticated on a day during the period from the sixteenth (16th) day of the month next preceding an interest payment date to such interest payment date, both dates inclusive, in which event it shall bear interest from such interest payment date, or unless it is authenticated on a day on or before the fifteenth (15th) day of the month next preceding the first interest payment date, in which event it shall bear interest from its date; provided, that if at the time of authentication of any Bond interest is then in default on any Outstanding Bonds, such Bond shall bear interest from the interest payment date to which interest has previously been paid or made available for payment on the Outstanding Bonds. Payment of interest on the Bonds due on or before the maturity or prior redemption thereof shall be made only to the person whose name appears in the registration books required to be kept by the Trustee pursuant to Section 3.03 as the registered owner thereof at the close of business as of the fifteenth (15th) day of the month next preceding each interest payment date, such interest to be paid by check mailed by first class mail to such registered owner at his address as it appears on such books (except that in the case of a Holder of one million dollars (\$1,000,000) or more in aggregate principal amount of Outstanding Bonds, payment shall be made at such Holder's option by federal wire transfer of immediately available funds according to written instructions provided by such Holder to the Trustee at least fifteen (15) days before such interest payment date to an account in a bank or trust company or savings bank that is a member of the Federal Reserve System and that is located in the United States of America). Payment of the principal of and redemption premiums, if any, on the Bonds shall be made only to the person whose name appears in the registration books required to be kept by the Trustee pursuant to Section 3.03 as the registered owner thereof, such principal and redemption premiums, if any, to be paid only on

the surrender of the Bonds at the Principal Corporate Trust Office of the Trustee at maturity or on redemption prior to maturity.

(d) The Bonds shall recite in substance that they are special tax obligations of the City and the interest on and principal of and redemption premiums, if any, on the Bonds are payable solely from the proceeds of the Special Tax and the other funds provided herein for such payment, and that the City is not obligated to pay the Bonds except from the proceeds of the Special Tax and such other funds; that the General Fund of the City is not liable and the full faith and credit of the City is not pledged for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds, and that no tax or assessment other than the Special Tax shall ever be levied or collected to pay the interest on or principal of or redemption premiums, if any, on the Bonds; that the Bonds are not secured by a legal or equitable pledge of or charge, lien or encumbrance upon any of the property of the City or any of its income or receipts except the money in the Special Tax Fund and such other funds; and that neither the payment of the interest on or principal of or redemption premiums, if any, on the Bonds is a general debt, liability or obligation of the City.

SECTION 3.02. [Execution of Bonds](#). The Bonds shall be signed on behalf of the City by the manual or a facsimile signature of the Mayor and countersigned by the manual or a facsimile signature of the City Clerk. In case any officer of the City who shall have signed any of the Bonds shall cease to be such officer before the Bonds so signed shall have been delivered to the purchaser by the Trustee, such Bonds may nevertheless be delivered and issued and, upon such delivery and issuance, shall be as binding upon the City as though the officer who signed the same had continued to be such officer until such delivery and issuance. Also, any Bond may be signed on behalf of the City by any officer of the City who on the actual date of the execution of such Bond shall be the proper officer of the City, although on the nominal date of such Bond such person shall not have been such officer of the City. Only those Bonds that bear thereon a certificate of authentication executed by the Trustee shall be entitled to any benefit, protection or security hereunder or be valid or obligatory for any purpose, and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated have been duly authorized, sold, executed and delivered hereunder and are entitled to the benefits hereof.

SECTION 3.03. [Transfer and Exchange of Bonds](#). The Trustee will keep at its Principal Corporate Trust Office sufficient books for the transfer and exchange of the Bonds, which books shall at all times during normal business hours with reasonable prior notice be open to inspection by the City or by any Holder. Any Bond may, in accordance with its terms, be transferred or exchanged on such books by the person in whose name it is registered, in person or by his duly authorized attorney, upon payment by the Holder requesting such transfer or exchange of any tax or other governmental charge required to be paid with respect to such transfer or exchange and upon surrender of such Bond for cancellation accompanied by delivery of a duly executed written instrument of transfer or exchange in a form acceptable to the Trustee. Whenever any Bond or Bonds shall be surrendered for transfer or exchange, the City shall execute and the Trustee shall authenticate and deliver a new Bond or Bonds of the same Series and maturity date and of authorized denominations for the same aggregate principal amount, except that neither the City nor the Trustee shall be required (i) to transfer or exchange any Bonds of any Series during the fifteen-day period prior to the selection of any Bonds of such Series for redemption under Article IV, or (ii) to transfer or exchange any Bond which has been

selected for redemption in whole or in part, except the unredeemed portion of such Bond selected for redemption in part, from and after the day that such Bond has been selected for redemption in whole or in part under Article IV.

The City and the Trustee may deem and treat the registered owner of any Bond as the absolute owner of such Bond for all purposes hereof, whether such Bond shall be overdue or not, and neither the City nor the Trustee shall be affected by any notice or knowledge to the contrary; and payment of the interest on such Bond shall be made only to the registered owner thereof at the close of business as the fifteenth (15th) day of the month next preceding each interest payment date and payment of the principal of and redemption premium, if any, on such Bond shall be made only to the registered owner thereof, which payments shall be valid and effectual to satisfy and discharge the liability on such Bond to the extent of the sum or sums so paid.

SECTION 3.04. Mutilated, Destroyed, Stolen or Lost Bonds. In case any Bond shall become mutilated in respect of the body of such Bond or shall be believed by the Trustee to have been destroyed, stolen or lost, upon proof of ownership satisfactory to the Trustee and upon the surrender of such mutilated Bond at the Principal Corporate Trust Office of the Trustee, or upon the receipt of evidence satisfactory to the Trustee of such destruction, theft or loss and upon receipt of indemnity satisfactory to the Trustee, and also upon payment of all expenses incurred by the City and the Trustee in the premises, the City shall execute and the Trustee shall authenticate and deliver at its Principal Corporate Trust Office a new Bond or Bonds of the same Series and maturity date for the same aggregate principal amount of like tenor and date and bearing such numbers and notations as the Trustee shall determine in exchange and substitution for and upon cancellation of the mutilated Bond or in lieu of and in substitution for the Bond so destroyed, stolen or lost.

If any such destroyed, stolen or lost Bond shall have matured or shall have been called for redemption, payment of the amount due thereon may be made by the Trustee upon receipt of like proof, indemnity and payment of expenses.

Any replacement Bonds issued pursuant to this section shall be entitled to equal and proportionate benefits with all other Bonds issued hereunder, and the City and the Trustee shall not be required to treat both the original Bond and any replacement Bond as being Outstanding for the purpose of determining the principal amount of Bonds which may be issued hereunder or for the purpose of determining any percentage of Bonds Outstanding hereunder, but both the original and the replacement Bond shall be treated as one and the same.

SECTION 3.05. Temporary Bonds. Any Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery, which temporary Bonds shall be printed, lithographed or typewritten, shall be of such denominations as may be determined by the City, shall be issued in fully registered form, shall contain such reference to any of the provisions hereof as may be appropriate and shall be executed by the City 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 may be surrendered in exchange therefor at the Principal Corporate Trust Office of the Trustee, and the Trustee shall deliver in exchange for such temporary Bonds an

equal aggregate principal amount of definitive Bonds of authorized denominations of the same Series and maturity date or dates, and until so exchanged, the temporary Bonds shall be entitled to the same benefits as definitive Bonds issued hereunder.

SECTION 3.06. [Use of Depository for Bonds.](#)

(a) If provided in any Supplemental Indenture for any Series, The Depository Trust Company, New York, New York, may be appointed as depository for the Bonds of such Series, and the Bonds of any such Series shall be initially registered in the name of “Cede & Co.,” as nominee of The Depository Trust Company, and shall be initially issued as one Bond for each of the maturities bearing interest at a particular rate of interest per annum in the principal amounts set forth in the Supplemental Indenture providing for their issuance, and registered ownership of the Bonds of such Series, or any portion thereof, may not thereafter be transferred except:

(i) To any successor of Cede & Co., as nominee of The Depository Trust Company, or its nominee, or to any substitute depository designated pursuant to clause (ii) of this section (a “substitute depository”); provided, that any successor of Cede & Co., as nominee of The Depository Trust Company or substitute depository, shall be qualified under any applicable laws to provide the services proposed to be provided by it;

(ii) To any substitute depository designated by the City, upon (1) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository, or (2) a determination by the City to substitute another depository for The Depository Trust Company (or its successor) because The Depository Trust Company or its successor (or any substitute depository or its successor) is no longer able to carry out its functions as depository; provided, that any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(iii) To any person as provided below, upon (1) the resignation of The Depository Trust Company or its successor (or substitute depository or its successor) from its functions as depository, or (2) a determination by the City to remove The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository.

(b) In the case of any transfer pursuant to clause (i) or clause (ii) of subsection (a) hereof, upon receipt of all the Bonds of any Series by the Trustee, together with a Written Request of the City to the Trustee, a new Bond for each maturity of such Series bearing a particular rate of interest per annum shall be executed by the City and authenticated and delivered by the Trustee in the aggregate principal amount of the Bonds of such Series, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such Written Request of the City. In the case of any transfer pursuant to clause (iii) of subsection (a) hereof, upon receipt of all the Bonds of any Series by the Trustee, together with a Written Request of the City to the Trustee, a new Bond or Bonds for each maturity of such Series bearing a particular rate of interest per annum shall be executed by the City and authenticated and delivered by the Trustee in such denominations and registered in the names of such persons as are requested in such Written Request of the City, subject to the

limitations of Section 3.03, and thereafter, the Bonds of such Series shall be transferred pursuant to Section 3.03; provided, that the Trustee shall not be required to deliver such new Bonds on a date prior to sixty (60) days after receipt of such Written Request of the City.

(c) So long as any Bonds are registered in the name of Cede & Co. or its registered assigns, the City and the Trustee shall be entitled to treat the person in whose name any Bond of any Series is registered as the owner thereof for all purposes hereof and any applicable laws, notwithstanding any notice to the contrary received by the City or the Trustee; and the City and the Trustee shall have no responsibility for transmitting payments to, communication with, notifying, or otherwise dealing with any beneficial owners of the Bonds of such Series, and neither the City nor the Trustee shall have any responsibility or obligation, legal or otherwise, to the beneficial owners or to any other party, including The Depository Trust Company or its successor (or substitute depository or its successor), except to The Depository Trust Company or its successor (or substitute depository or its successor) as a Holder of the Bonds of such Series.

(d) So long as any Bonds are registered in the name of Cede & Co. or its registered assigns, the City and the Trustee shall cooperate with Cede & Co., as sole Holder, or its registered assigns, in effecting payment of the interest on and principal of and redemption premiums, if any, on such Bonds by arranging for payment in such manner that funds for such payments are properly identified and are made immediately available on the date they are due.

ARTICLE IV

REDEMPTION OF BONDS

SECTION 4.01. Privilege of Redemption of Bonds. Any Series subject to redemption prior to maturity pursuant to a Supplemental Indenture shall be redeemable, upon notice being given as provided in this article, at such times, upon payment of such redemption premiums, if any, and upon such terms (in addition to and consistent with the terms contained in this article) as may be prescribed in the Supplemental Indenture authorizing the issuance of such Series.

SECTION 4.02. Selection of Bonds for Redemption. If less than all the Bonds of any Series are to be redeemed at the option of the City at any one time, the City shall select the maturity date or dates of the Bonds of such Series to be redeemed, and if less than all the Bonds of any Series of any one maturity date are to be redeemed at any one time, the Trustee shall select the Bonds of such Series or the portions thereof of such maturity date to be redeemed in integral multiples of five thousand dollars (\$5,000) in any manner that it deems appropriate. The City shall notify the Trustee in writing at least fifteen (15) days prior to the date fixed for the selection of any Bonds for redemption, and after such selection the Trustee shall promptly notify the City in writing of the numbers of the Bonds selected for redemption in whole or in part.

SECTION 4.03. Notice of Redemption. The Trustee shall mail a notice of redemption pursuant to Section 11.09 to the respective Holders of all Bonds selected for redemption in whole or in part and to all securities information services selected by the City and

designated to the Trustee in writing to comply with custom or the rules of any securities exchange or commission or brokerage board or otherwise as may be determined by the City in its sole discretion and to the original underwriter or first purchaser of the Bonds selected for redemption. Such notice shall state the date of such notice, the Bonds to be redeemed, the date of issue of such Bonds, the redemption date, the redemption price, the place of redemption (being the address of the Principal Corporate Trust Office of the Trustee), the CUSIP number (if any) of the maturity or maturities and, if less than all of any such maturity, the numbers of the Bonds of such maturity to be redeemed and, in the case of Bonds to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed, and shall give notice that further interest on such Bonds or the portions thereof redeemed will not accrue from and after the redemption date, and shall require that such Bonds be surrendered at the Principal Corporate Trust Office of the Trustee for payment of the redemption price thereof. If any Bond so chosen for redemption shall not be redeemable in whole, such notice shall also state that such Bond is to be redeemed in part only and that upon presentation of such Bond for redemption there will be issued in lieu of the unredeemed portion of principal thereof a new Bond or Bonds and maturity date of authorized denominations equal in aggregate principal amount to such unredeemed portion.

With respect to any notice of optional redemption or extraordinary redemption from prepayments of the Special Tax, unless, upon the giving of notice, the Bonds to be redeemed have been deemed to have been paid within the meaning of Article X of this Master Indenture, the notice must state that the redemption will be conditional upon the receipt by the Trustee on or before the date fixed for redemption of amounts sufficient to pay the principal of, and premium, if any, and interest on, the Bonds to be redeemed, and that if those amounts have not been so received the notice will be of no force and effect and the City will not be required to redeem the Bonds. If any such notice of redemption contains such a condition and such amounts are not so received, the redemption will not be made and the Trustee shall within a reasonable time thereafter give notice to the effect that the amounts were not so received and the redemption was not made, the notice to be given by the Trustee in the same manner, and to the same parties, as the notice of redemption was given. The failure to redeem Bonds subject to a conditional redemption notice will not constitute an Event of Default.

Any notice of optional redemption or extraordinary redemption from prepayments of the Special Tax may be rescinded by written notice given to the Trustee by the City no later than five Business Days before the date specified for redemption. The Trustee shall give notice of such rescission as soon thereafter as practicable in the same manner, and to the same parties, as the notice of redemption was given.

SECTION 4.04. [Partial Redemption of Bonds](#). Upon surrender of any Bond redeemed in part only, the City shall execute and the Trustee shall authenticate and deliver to the registered owner thereof at the expense of the City a new Bond or Bonds of the same Series and maturity date and of authorized denominations equal in aggregate principal amount to the unredeemed portion of the Bond surrendered.

SECTION 4.05. [Effect of Redemption of Bonds](#). If notice of redemption has been duly given as aforesaid and money for the payment of the principal of and redemption premiums, if any, on, together with interest to the redemption date on, the Bonds or portions

thereof so called for redemption is held by the Trustee, then on the redemption date designated in such notice such Bonds or such portions thereof shall become due and payable, and from and after the date so designated interest on the Bonds or such portions thereof so called for redemption shall cease to accrue and the Holders of such Bonds shall have no rights in respect thereof except to receive payment of the principal or such portions thereof and the redemption premiums, if any, thereon and the interest accrued thereon to the redemption date.

ARTICLE V

PAYMENT OF BONDS

SECTION 5.01. [Deposit of Proceeds of the Special Tax in the Special Tax Fund.](#) The City agrees and covenants that all proceeds of the Special Tax, when and as received, will be received and held by it in trust hereunder, and will be deposited as and when received in the “City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Special Tax Fund,” which fund is hereby established in the treasury of the City and which fund the City hereby agrees and covenants to maintain with the Treasurer so long as any Bonds are Outstanding hereunder, and all such money in the Special Tax Fund shall be accounted for separately and apart from all other accounts, funds, money or other resources of the City, and shall be disbursed, allocated and applied solely to the uses and purposes hereinafter set forth in this article. Subject only to the provisions of this Master Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein, there are hereby pledged to secure the payment of the principal of and premium, if any, and interest on the Bonds in accordance with their terms and the provisions of this Master Indenture, all of the proceeds of the Special Tax received by or on behalf of the City and any other amounts held in the Special Tax Fund, the Bond Redemption Fund, and the Bond Reserve Fund. This pledge constitutes a lien on and security interest in such assets and will attach, be perfected, and be valid and binding without any physical delivery or further act.

Notwithstanding anything to the contrary in this Master Indenture, as soon as practicable after the receipt by the City of any prepayment of the Special Tax, the Treasurer shall (i) deposit any component thereof representing the “Remaining Facilities Amount” (as defined in the Special Tax Formula) in the Acquisition and Construction Fund, (ii) deposit any component thereof representing the “Administrative Fees and Expenses” (as defined in the Special Tax Formula) in the Expense Fund, and (iii) transfer to Trustee for deposit in the Bond Redemption Fund, any remaining amounts, for the extraordinary redemption of Bonds pursuant to the terms of any Supplemental Resolution. The respective amounts of the deposits and transfers described in clauses (i), (ii) and (iii) will be determined by the Treasurer.

SECTION 5.02. [Allocation of Money in the Special Tax Fund.](#) All money in the Special Tax Fund shall be set aside by the Treasurer in the following respective funds and accounts (each of which funds and accounts the City agrees and covenants to maintain with the Treasurer or the Trustee, as the case may be, so long as any Bonds are Outstanding hereunder) in the following order of priority, and all money in each of such funds and accounts shall be applied, used and withdrawn only for the purposes hereinafter authorized in this section, namely:

(1) City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Bond Redemption Fund (maintained by the Trustee). On or before the first (1st) day in each March and September, the Treasurer shall, from the money in the Special Tax Fund, transfer to the Trustee for deposit in the Bond Redemption Fund an amount of money equal to the aggregate amount of interest becoming due and payable on all Outstanding Bonds on such March 1 or September 1, as the case may be, and on or before the first (1st) day in September 1 in each year, the Treasurer shall, from the then remaining money in the Special Tax Fund, transfer to the Trustee for deposit in the Bond Redemption Fund an amount of money equal to the aggregate amount of principal becoming due and payable on all Outstanding Serial Bonds on such September 1 plus the Sinking Fund Account Payments required to be made on such September 1 into the Sinking Fund Account; provided, that all of the aforesaid payments shall be made without priority of any payment over any other payment, and in the event that the money in the Bond Redemption Fund on any March 1 or September 1 is not equal to the amount of interest becoming due on all Bonds on such date, or in the event that the money in the Bond Redemption Fund on any September 1 is not equal to the amount of principal of the Bonds becoming due on such date plus the amount of the Sinking Fund Account Payments becoming due on such date, as the case may be, then such money shall be applied pro rata in such proportion as such interest and principal and Sinking Fund Account Payments bear to each other; and provided further, that no deposit need be made into the Bond Redemption Fund if the amount of money contained therein is at least equal to the amount required by the terms of this paragraph to be deposited therein at the times and in the amounts herein provided.

All money in the Bond Redemption Fund shall be used and withdrawn by the Trustee solely to pay the interest on the Bonds as it shall become due and payable (including accrued interest on any Bonds purchased or redeemed prior to maturity) plus the principal of and redemption premiums, if any, on the Bonds as they shall mature or upon the prior redemption thereof, except that any money in the Sinking Fund Account shall be used only to purchase or redeem or retire Term Bonds and any money deposited in the Bond Redemption Fund from the proceeds of a Series of Bonds to be used to pay interest on that Series of Bonds shall be used only to pay interest on that Series of Bonds.

(2) City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Bond Reserve Fund (maintained by the Trustee). On or before the first (1st) day in September in each year, the Treasurer shall, from the then remaining money in the Special Tax Fund, transfer to the Trustee for deposit in the Bond Reserve Fund such amount of money as shall be required to restore the Bond Reserve Fund to an amount equal to the Required Bond Reserve; and for this purpose all investments in the Bond Reserve Fund shall be valued on or before September 1 of each year at the face value thereof if such investments mature within twelve (12) months from the date of valuation, or if such investments mature more than twelve (12) months after the date of valuation, at the price at which such investments are redeemable by the holder at his or her option, if so redeemable, or if not so redeemable, at the lesser of (i) the par value of such investments, or (ii) the market value of such investments; provided, that no deposit need be made into the Bond Reserve Fund if the amount contained therein is at least equal to the Required Bond Reserve. In making any

valuations hereunder, the Trustee may utilize computerized securities pricing services that may be available to it, including those available through its regular accounting system and rely thereon.

All money in the Bond Reserve Fund shall be used and withdrawn by the Trustee solely for the purpose of (i) paying the interest on or principal of the Bonds in the event there is insufficient money in the Bond Redemption Fund available for this purpose; (ii) reinstating the amount available under any municipal bond insurance policy, surety bond, or letter of credit held in satisfaction of all or a portion of the Required Bond Reserve; or (iii) retiring Bonds, in whole or in part, to the extent that the amount on deposit in the Bond Reserve Fund exceeds the Required Bond Reserve due to a redemption or defeasance of Bonds; provided, that if as a result of any of the valuations required by the first paragraph of this Section 5.02(2) it is determined that the amount of money in the Bond Reserve Fund exceeds the Required Bond Reserve, the Trustee shall withdraw the amount of money representing such excess from such fund and shall deposit such amount of money in the Bond Redemption Fund.

(3) City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Expense Fund (maintained by the Treasurer). On September 1 in each year, the Treasurer shall, from the then remaining money in the Special Tax Fund, transfer to and deposit in the Expense Fund a sum equal to the amount required by the City for the payment of budgeted Expenses during the twelve-month period beginning on such date, or to reimburse the City for the payment of unbudgeted Expenses during the prior twelve-month period. All money in the Expense Fund shall be used and withdrawn by the Treasurer only for transfer to or for the account of the City to pay budgeted Expenses as herein provided, or to reimburse the City for the payment of unbudgeted Expenses as herein provided, or to pay interest on or principal of or redemption premiums, if any, on the Bonds in the event that no other money is available therefor.

All money remaining in the Special Tax Fund on September 1 of each year, after transferring all of the sums required to be transferred therefrom on or prior to such date by the provisions of Sections 5.02(1), (2) and (3), shall be withdrawn from the Special Tax Fund by the Treasurer for and deposited in the “City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Community Facilities Fund,” which fund the City hereby agrees and covenants to maintain with the Treasurer so long as any Bonds are Outstanding hereunder, and all money in the Community Facilities Fund shall be used and withdrawn by the City solely for the benefit of the Community Facilities District in accordance with the Act; provided, that the Treasurer shall not make any such withdrawal of money in the Special Tax Fund if and when (to the Treasurer’s actual knowledge) an Event of Default is then existing hereunder.

ARTICLE VI

COVENANTS OF THE CITY

SECTION 6.01. Punctual Payment and Performance. The City will punctually pay the interest on and principal of and redemption premium, if any, to become due on every Bond issued hereunder in strict conformity with the terms of the Act and hereof and of the Bonds, and will faithfully observe and perform all the agreements, conditions, covenants and terms contained herein and in all Supplemental Indentures and in the Bonds required to be observed and performed by it.

SECTION 6.02. Against Indebtedness and Encumbrances. The City will not issue any evidences of indebtedness payable from the proceeds of the Special Tax except as provided herein, and will not create, nor permit the creation of, any pledge, lien, charge or other encumbrance upon any money in the Special Tax Fund other than as provided herein; provided, that the City may at any time, or from time to time, issue evidences of indebtedness for any lawful purpose of the Community Facilities District which are payable from any money in the Community Facilities Fund as may from time to time be deposited therein (as provided in Section 5.02) so long as any payments due thereunder shall be subordinate in all respects to the use of the proceeds of the Special Tax as provided herein.

SECTION 6.03. Against Federal Income Taxation.

(a) The City will not take any action, or fail to take any action, if such action or failure to take such action would adversely affect the exclusion from gross income of the interest on the Bonds pursuant to Section 103 of the Code, and specifically the City will not directly or indirectly use or make any use of the proceeds of the Bonds or any other funds of the City or take or omit to take any action that would cause the Bonds to be “arbitrage bonds” subject to federal income taxation by reason of Section 148 of the Code or “private activity bonds” subject to federal income taxation by reason of Section 141(a) of the Code or obligations subject to federal income taxation because they are “federally guaranteed” as provided in Section 149(b) of the Code; and to that end the City, with respect to the proceeds of the Bonds and such other funds, will comply with all requirements of such sections of the Code; provided, that if the City shall obtain an opinion of nationally recognized bond counsel to the effect that any action required under this section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest on the Bonds pursuant to Section 103 of the Code, the City may rely conclusively on such opinion in complying with the provisions hereof. In the event that at any time the City is of the opinion that for purposes of this section it is necessary to restrict or limit the yield on the investment of any money held by the Treasurer hereunder or otherwise the City shall so instruct the Treasurer in writing, and the Treasurer shall take such action as may be necessary in accordance with such instructions.

(b) Without limiting the generality of the foregoing, the City will pay from time to time all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code and all regulations of the United States Department of the Treasury issued thereunder to the extent that such regulations are, at the time, applicable and in effect, which obligation shall survive payment in full or defeasance of the Bonds, and to that end, there is

hereby established in the treasury of the City a fund to be known as the “City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Rebate Fund” to be held in trust and administered by the Treasurer. The City will comply with the provisions of each Tax Certificate with respect to making deposits in the Rebate Fund, and all money held in the Rebate Fund is pledged to provide payments to the United States of America as provided herein and in each Tax Certificate and no other person shall have claim to such money except as provided in each Tax Certificate.

(c) In connection with the issuance of a Series of Bonds, the City may exclude the application of the covenants contained in this Section 6.03 to such Series of Bonds.

SECTION 6.04. [Payment of Claims](#). The City will pay and discharge any and all lawful claims which, if unpaid, might become payable from the proceeds of the Special Tax or any part thereof or upon any funds in the hands of the Treasurer or the Trustee allocated to the payment of the interest on or principal of or redemption premiums, if any, on the Bonds, or which might impair the security of the Bonds.

SECTION 6.05. [Accounting Records and Other Reports](#).

(a) The City will keep, or in the case of transactions made by the Trustee it will cause the Trustee to keep, appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the receipt, investment, disbursement, allocation and application of the proceeds of the Special Tax and of the proceeds of the Bonds, which accounting records shall at all times during normal business hours with reasonable prior notice be subject to the inspection of any Holder (or his representative authorized in writing).

(b) The City will prepare annually not later than October 30 of each year (commencing in the year 2016) and file with the California Debt and Investment Advisory Commission by mail, postage prepaid, or any other method approved by the California Debt and Investment Advisory Commission all information required to be filed pursuant to Section 53359.5(b) of the Act. Additionally, the City will notify the California Debt and Investment Advisory Commission by mail, postage prepaid, or any other method approved by the California Debt and Investment Advisory Commission, within ten (10) days if the Trustee fails to pay any interest on or principal of any of the Bonds on any scheduled payment date or if funds are withdrawn from the Bond Reserve Fund to pay any interest on or principal of the Bonds.

SECTION 6.06. [Protection of Security and Rights of Holders](#). The City will preserve and protect the security of the Bonds and the rights of the Holders and will warrant and defend their rights against all claims and demands of all persons.

SECTION 6.07. [Levy and Collection of the Special Tax](#). The City, so long as any Bonds are Outstanding, will annually levy the Special Tax against all Taxable Land in the Community Facilities District in accordance with the Special Tax Formula and, subject to the limitations in the Special Tax Formula and the Act, make provision for the collection of the Special Tax in amounts which will be sufficient, together with the money then on deposit in the Bond Redemption Fund, after making reasonable allowances for contingencies and errors in the estimates, to yield proceeds equal to the amounts required for compliance with the agreements,

conditions, covenants and terms contained herein, and which in any event will be sufficient to pay the interest on and principal of and Sinking Fund Account Payments for and redemption premiums, if any, on the Bonds as they become due and payable and to replenish the Bond Reserve Fund and to pay all current Expenses as they become due and payable in accordance with the provisions and terms hereof. The Special Tax shall be collected in the same manner as ordinary ad valorem property taxes for the County of Sacramento are collected and, except as otherwise provided in Section 6.08 or by the Act, shall be subject to the same penalties and the same collection procedure, sale, and lien priority in case of delinquency as is provided for ad valorem property taxes.

SECTION 6.08. [Foreclosure of Special Tax Liens](#). The City will annually on or before October 1 of each year review the public records of the County of Sacramento relating to the collection of the Special Tax in order to determine the amount of the Special Tax collected in the prior Fiscal Year, and (a) on the basis of such review the City will, not later than the succeeding December 1, institute foreclosure proceedings as authorized by the Act against all parcels that are delinquent in the payment of such Special Tax in such Fiscal Year by one thousand dollars (\$1,000) or more in order to enforce the lien of all such delinquent installments of such Special Tax, and will diligently prosecute and pursue such foreclosure proceedings to judgment and sale, and (b) on the further basis of such review, if the City determines that the total amount so collected is less than ninety-five percent (95%) of the total amount of the Special Tax levied in such Fiscal Year, the City will, not later than the succeeding December 1, institute foreclosure proceedings as authorized by the Act against all parcels that are delinquent in the payment of such Special Tax in such Fiscal Year to enforce the lien of all the delinquent installments of such Special Tax, and will diligently prosecute and pursue such foreclosure proceedings to judgment and sale; provided, that any actions taken to enforce delinquent Special Tax liens shall be taken only consistent with Sections 53356.1 through 53356.7, both inclusive, of the Government Code of the State of California; and provided further, that the City shall not be obligated to enforce the lien of any delinquent installment of the Special Tax for any Fiscal Year in which the City shall have received one hundred percent (100%) of the amount of such installment from the County of Sacramento pursuant to the so-called "Teeter Plan."

SECTION 6.09. [Continuing Disclosure](#). The City will comply with and carry out all of the provisions of each continuing disclosure certificate or continuing disclosure agreement executed by the City in connection with the issuance of a Series of Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof, and notwithstanding any other provision hereof, failure of the City to comply with any continuing disclosure certificate or continuing disclosure agreement shall not be considered an Event of Default hereunder; provided, that any Holder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this section.

SECTION 6.10. [Further Assurances](#). The City will adopt, deliver, execute, make and file any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Holders of the rights and benefits provided herein, including without limitation the filing of all financing statements, agreements, instruments or other documents in the forms and in the locations necessary to perfect and protect, and to

continue the perfection of, the pledge of the Special Taxes provided herein to the fullest extent possible under applicable law of the State of California.

ARTICLE VII

THE TRUSTEE

SECTION 7.01. The Trustee. U.S. Bank National Association, at its Principal Corporate Trust Office, is hereby appointed Trustee for the purpose of receiving all money which the City is required to transfer to it hereunder and for applying and using such money as provided herein for the purpose of paying the interest on and principal of and redemption premiums, if any, on the Bonds. The City agrees that it will at all times maintain a Trustee having a Principal Corporate Trust Office in San Francisco or Los Angeles, California.

The City may remove the Trustee initially appointed and any successor thereto and may appoint a successor or successors thereto by an instrument in writing; provided, that any such successor shall be a bank or trust company doing business and having a corporate trust office in San Francisco or Los Angeles, California, having a combined capital (exclusive of borrowed capital) and surplus of at least one hundred million dollars (\$100,000,000) and subject to supervision or examination by a federal or state banking authority, and if such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. The Trustee may at any time resign by giving written notice of such resignation to the City and by giving notice of such resignation by mail pursuant to Section 11.09 to the Holders, and upon receiving such notice of resignation, the City shall promptly appoint a successor Trustee by an instrument in writing having the qualifications required hereby. Any resignation or removal of a Trustee and appointment of a successor Trustee shall become effective only upon the acceptance of appointment by the successor Trustee. If within thirty (30) days after notice of the removal or resignation of the Trustee no successor Trustee shall have been appointed by the City and shall have accepted such appointment, the removed or resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, which court may thereupon, after such notice, if any, as it may deem proper and prescribe and as may be required by law, appoint a successor Trustee having the qualifications required hereby.

Notwithstanding anything to the contrary contained herein, any corporation or association into which the Trustee may be merged or with which it may be consolidated, or any corporation or association resulting from any merger or consolidation to which the Trustee shall be a party, or any corporation or association succeeding to the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto.

The Trustee is hereby authorized to pay interest on the Bonds due on or before the maturity or prior redemption thereof to the Holders as their names appear at the close of business as of the fifteenth (15th) day of the month next preceding each interest payment date on the

registration books required to be kept by it pursuant to Section 3.03 as the registered owners thereof, such interest to be paid by check mailed by first class mail to the Holders at their addresses appearing on such books (except that in the case of a Holder of one million dollars (\$1,000,000) or more in principal amount of Outstanding Bonds, payment shall be made at such Holder's option by wire transfer of immediately available funds to an account in a bank or trust company or savings bank that is a member of the Federal Reserve System and that is located in the United States of America according to written instructions provided by such Holder to the Trustee at least fifteen (15) days before such interest payment date) and to pay to the Holders the principal of and redemption premiums, if any, on the Bonds upon presentation and surrender of the Bonds to the Trustee at maturity or on redemption prior to maturity. The Trustee shall cancel and destroy all Bonds paid by it at maturity or on redemption prior to maturity and all Bonds surrendered to it by the City, and shall (if requested by the City) deliver to the City a certificate of such destruction, and the Trustee shall keep accurate records of all Bonds cancelled and destroyed by it hereunder. All money held by or on behalf of the Trustee for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds, whether at maturity or upon prior redemption, shall be held in trust for the account of the Holders thereof, and the Trustee shall not be required to pay Holders or the City any interest on, or be liable to the City, the Holders or any other person for any interest earned on, any money so held.

The City shall from time to time, subject to any agreement between the City and the Trustee then in force, pay the Trustee compensation for its services, reimburse the Trustee for all its advances and expenditures, including but not limited to advances to and fees and expenses of independent accountants, counsel and engineers or other experts employed by it in the exercise and performance of its rights and obligations hereunder, and indemnify and save the Trustee harmless against loss, expenses, costs, claims and liabilities (including without limitation those of its attorneys and agents) not arising from its own negligence or willful misconduct which it may incur in the exercise and performance of its rights and obligations hereunder, which obligation shall survive the resignation or removal of any Trustee or the defeasance of the Bonds.

SECTION 7.02. [Liability of the Trustee](#). The recitals of facts, agreements and covenants contained herein and in the Bonds shall be taken as statements, agreements and covenants of the City, and the Trustee does not assume any responsibility for the correctness of the same and does not make any representation as to the sufficiency or validity hereof or of the Bonds or of the Special Tax, or as to the financial or technical feasibility of the acquisition and construction of any of the Facilities, and shall not incur any responsibility in respect thereof other than in connection with the rights and obligations expressly assigned to or imposed upon it herein or in the Bonds, and shall not be liable in connection with the performance of its duties hereunder except for its own negligence or willful misconduct. The Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts, and no provision hereof shall require the Trustee to expend or risk its own funds or otherwise incur any liability for the performance of its duties hereunder, or in the exercise of any of its rights or powers hereunder.

The Trustee shall perform only those duties expressly set forth herein, and no implied duties or obligations shall be read herein against the Trustee. The Trustee shall have no responsibility with respect to any information, statement, or recital in any official statement,

offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds.

SECTION 7.03. [Notice to the Trustee](#) The Trustee shall be protected in acting upon any Bond, certificate, consent, notice, opinion, report, request, resolution or other document or paper believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, including, without limitation, counsel to the City, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection with respect to any action taken or suffered hereunder in good faith and in accordance therewith. The Trustee shall not be deemed to have knowledge of any default or Event of Default hereunder unless and until an officer at its Principal Corporate Trust Office responsible for the administration of its obligations hereunder shall have actual knowledge thereof or the Trustee shall have received written notice thereof at its Principal Corporate Trust Office.

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

ARTICLE VIII

AMENDMENT OF OR SUPPLEMENT TO THE MASTER INDENTURE

SECTION 8.01. [Procedure for Amendment of or Supplement to the Master Indenture.](#)

(a) Amendment or Supplement With Consent of Holders. The Master Indenture and the rights and obligations of the City and of the Holders may be amended or supplemented at any time by the execution and delivery of a Supplemental Indenture by the City and the Trustee, which Supplemental Indenture shall become binding when the written consents of the Holders of a majority in aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 8.02, shall have been filed with the Trustee; provided, that no such amendment or supplement shall (1) extend the maturity of or reduce the interest rate on or otherwise alter or impair the obligation of the City to pay the interest on or principal of or Sinking Fund Account Payment for or redemption premium, if any, on any Bond at the time and place and at the rate and in the currency and from the funds provided herein without the express written consent of the Holder of such Bond, or (2) permit the issuance by the City of any obligations payable from the proceeds of the Special Tax on a parity with the Bonds other than as provided herein, or jeopardize the ability of the City to levy and collect the Special Tax, or (3) reduce the percentage of Bonds required for the written consent to any such amendment or

supplement, or (4) modify any rights or obligations of the Trustee without its prior written assent thereto. The written consent of the Holders of a Series of Bonds may be effected (a) through a consent by the underwriter of such Series of Bonds at the time of the issuance of such Series of Bonds and (b) through a provision of a Supplemental Resolution that deems any Holder purchasing such Series of Bonds to consent for purposes of this Section 8.01(a) by virtue of its purchase of such Series of Bonds.

(b) Amendment or Supplement Without Consent of Holders. The Master Indenture and the rights and obligations of the City and of the Holders may also be amended or supplemented at any time by the execution and delivery of a Supplemental Indenture by the City and the Trustee, which Supplemental Indenture shall become binding upon execution without the prior written consent of any Holders, but only for any one or more of the following purposes --

(i) To add to the agreements and covenants required herein to be performed by the City other agreements and covenants thereafter to be performed by the City which shall not (in the opinion of the City) adversely affect the interests of the Holders, or to surrender any right or power reserved herein to or conferred herein upon the City which shall not (in the opinion of the City) materially adversely affect the interests of the Holders;

(ii) To make such provisions for the purpose of curing any ambiguity or of curing, correcting or supplementing any defective provision contained herein or in regard to questions arising hereunder which the City may deem desirable or necessary and not inconsistent herewith and which shall not (in the opinion of the City) materially adversely affect the interests of the Holders;

(iii) To authorize the issuance under the Act and hereunder of a Series and to provide the conditions and terms under which such Series may be issued, subject to and in accordance with the provisions of Article II;

(iv) To authorize the issuance under and subject to the Act of any refunding bonds for any of the Bonds and to provide the conditions and terms under which such refunding bonds may be issued, subject to and in accordance with the provisions of Article II;

(v) To make such additions, deletions or modifications as may be necessary or appropriate to insure compliance with Section 148(f) of the Code relating to the required rebate of excess investment earnings to the United States of America, or otherwise as may be necessary to insure the exclusion from gross income for purposes of federal income taxation of the interest on the Bonds or the exemption of such interest from State of California personal income taxes;

(vi) To make such additions, deletions or modifications as may be necessary or appropriate to maintain any then current rating on the Bonds;

(vii) To permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by that act or similar federal statute and

which shall not (in the opinion of the City) materially adversely affect the interests of the Holders; and

(viii) For any other purpose that does not (in the opinion of the City) materially adversely affect the interests of the Holders.

SECTION 8.02. Disqualified Bonds. Bonds owned or held for the account of the City shall not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Bonds provided for in this article or in Article IX, and shall not be entitled to consent to or take any other action provided for in this article or in Article IX.

SECTION 8.03. Endorsement or Replacement of Bonds After Amendment or Supplement. After the effective date of any action taken as hereinabove provided, the City may determine that the Bonds may bear a notation by endorsement in form approved by it as to such action, and in that case upon demand of the Holder of any Bond Outstanding on such effective date and presentation of his Bond for such purpose at the Principal Corporate Trust Office of the Trustee a suitable notation as to such action shall be made on such Bond. If the City shall so determine, new Bonds so modified as, in the opinion of the City, shall be necessary to conform to such action shall be prepared and executed, and in that case upon demand of the Holder of any Bond Outstanding on such effective date such new Bonds shall, upon surrender of such Outstanding Bonds, be exchanged at the Principal Corporate Trust Office of the Trustee, without cost to each Holder, for Bonds then Outstanding.

SECTION 8.04. Amendment or Supplement by Mutual Consent. The provisions of this article shall not prevent any Holder from accepting any amendment or supplement as to any particular Bonds held by him; provided, that due notation thereof is made on such Bonds.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES OF HOLDERS

SECTION 9.01. Events of Default and Remedies of Holders. If one or more of the following events (herein “Events of Default”) shall happen, that is to say --

(a) if default shall be made by the City in the due and punctual payment of any interest on or principal of or Sinking Fund Account Payment for any of the Bonds when and as the same shall become due and payable, whether at maturity, by proceedings for redemption or otherwise;

(b) if default shall be made by the City in the observance or performance of any of the other agreements or covenants contained herein required to be observed or performed by it, and such default shall have continued for a period of thirty (30) days after the City shall have been given notice in writing of such default by the Trustee; or

(c) if the City shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States

of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with or without the consent of the City seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the City or of the whole or any substantial part of its property;

then in each and every such case during the continuance of such Event of Default the Trustee may take the following remedial steps --

(a) by mandamus or other suit or proceeding at law or in equity to compel the City Council or the City or any of the officers or employees of the City to perform each and every term, provision and covenant contained in this Indenture and in the Bonds and carry out their duties under the Act and the agreements and covenants with the Holders contained herein;

(b) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Holders; or

(c) by suit in equity upon the nonpayment of the Bonds to require the City Council or the City or its officers and employees to account as the trustee of an express trust.

SECTION 9.02. [Application of Proceeds of Special Tax After Default](#). If an Event of Default shall occur and be continuing, all proceeds of the Special Tax thereafter received by the City shall be immediately transferred to the Trustee and the Trustee shall apply all proceeds of the Special Tax and any other funds thereafter received by the Trustee under any of the provisions of this Indenture as follows and in the following order:

(a) To the payment of any expenses necessary in the opinion of the Trustee to protect the interests of the Holders of the Bonds, including the costs and expenses of the Trustee and the Holders in declaring such Event of Default, and payment of reasonable fees and expenses of the Trustee (including reasonable fees and disbursements of its counsel and other agents) incurred in and about the performance of its powers and duties under this Indenture.

(b) To the payment of the principal of and interest and premium, if any, then due on 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 Bond Indenture, as follows:

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

Second: to the payment to the persons entitled thereto of the unpaid principal (including Sinking Fund Account Payments) of and redemption premium, if any, on the Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, with interest on the overdue principal at the rate borne by the respective Bonds, and, if the amount available shall not be sufficient to pay in full all the Bonds due on any date, together with such interest, then to the payment thereof ratably, according to the amounts of principal of and premium, if any, due on such date to the persons entitled thereto, without any discrimination or preference.

(c) Any remaining amounts shall be transferred by the Trustee to the City for deposit in the Special Tax Fund.

SECTION 9.03. Trustee to Represent Holders. The Trustee is hereby irrevocably appointed (and the successive respective Holders of the Bonds, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee) as trustee and true and lawful attorney-in-fact of the Holders of the Bonds for the purpose of exercising and prosecuting on their behalf such rights and remedies as may be available to such Holders under the provisions of the Bonds, this Indenture, the Act and applicable provisions of any other law. Upon the occurrence and continuance of an Event of Default or other occasion giving rise to a right in the Trustee to represent the Holders, the Trustee in its discretion may, and upon the written request of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding, and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of such Holders by such appropriate action, suit, mandamus or other proceedings as it shall deem most effectual to protect and enforce any such right, at law or in equity, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable right or remedy vested in the Trustee or in such Holders under this Indenture, the Act or any other law; and upon instituting such proceeding, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver of the proceeds of the Special Tax and other amounts and assets pledged under this Indenture, pending such proceedings. All rights of action under this Indenture or the Bonds or otherwise may be prosecuted and enforced by the Trustee without the possession of any of the Bonds or the production thereof in any proceeding relating thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in the name of the Trustee for the benefit and protection of all the Holders of such Bonds, subject to the provisions of this Bond Indenture.

SECTION 9.04. Holders' Direction of Proceedings. Anything in this Indenture to the contrary notwithstanding, the Holders of a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, and upon indemnifying the Trustee to its satisfaction therefor, to direct the method of conducting all remedial proceedings taken by the Trustee hereunder, provided that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture, and that the Trustee shall have the right to decline to follow any such direction which in the opinion of the Trustee would be unjustly prejudicial to Holders not parties to such direction.

SECTION 9.05. [Limitation on Holders' Right to Sue](#). No Holder of any Bond shall have the right to institute any suit, action or proceeding at law or in equity, for the protection or enforcement of any right or remedy under this Indenture, the Act or any other applicable law with respect to such Bond, unless (1) such Holder shall have given to the Trustee written notice of the occurrence of an Event of Default; (2) the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding shall have made written request upon the Bond Trustee to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (3) such Holder or said Holders shall have tendered to the Trustee indemnity satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request; and (4) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Holder of Bonds of any remedy hereunder or under law; it being understood and intended that no one or more Holders of Bonds shall have any right in any manner whatever by such Holder's or Holders' action to affect, disturb or prejudice the security of this Indenture or the rights of any other Holders of Bonds, or to enforce any right under this Indenture, the Act or other applicable law with respect to the Bonds, except in the manner herein provided, and that all proceedings at law or in equity to enforce any such right shall be instituted, had and maintained in the manner herein provided and for the benefit and protection of all Holders of the Outstanding Bonds, subject to the provisions of this Indenture.

SECTION 9.06. [Absolute Obligation of the City](#). Nothing in Section 9.05 or in any other provision of this Indenture, or in the Bonds, contained shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the principal of and redemption premium, if any, and interest on the Bonds to the respective Holders of the Bonds at their respective dates of maturity, or upon call for redemption, as herein provided, but only out of the proceeds of the Special Tax and other assets herein pledged therefor, and not otherwise, or affect or impair the right of such Holders, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the Bonds.

SECTION 9.07. [Termination of Proceedings](#). In case any proceedings taken by the Trustee or any one or more Holders on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Holders, then in every such case the City, the Trustee and the Holders, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and respectively, and all rights, remedies, powers and duties of the City, the Trustee and the Holders shall continue as though no such proceedings had been taken.

SECTION 9.08. [Remedies Not Exclusive](#). No remedy herein conferred upon or reserved to the Trustee or to the Holders 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 9.09. [No Waiver of Default](#). No delay or omission of the Trustee or of any Holder of the Bonds to exercise any right or power arising upon the occurrence of any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee or to the Holders of the Bonds may be exercised from time to time and as often as may be deemed expedient.

ARTICLE X

[DEFEASANCE](#)

SECTION 10.01. [Discharge of the Bonds](#).

(a) If the City shall pay or cause to be paid or there shall otherwise be paid to the Holders of all Outstanding Bonds the interest thereon and the principal thereof and the redemption premiums, if any, thereon at the times and in the manner stipulated therein and herein, then all agreements, covenants and other obligations of the City to the Holders of such Bonds hereunder shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall execute and deliver to the City all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee shall pay over or deliver to the City for deposit in the Community Facilities Fund all money or securities held by it pursuant hereto which are not required for the payment of the interest on and principal of and redemption premiums, if any, on such Bonds.

(b) Any Outstanding Bonds shall on the maturity date or redemption date thereof be deemed to have been paid within the meaning of and with the effect expressed in subsection (a) of this section if there shall be on deposit with the Trustee money which is sufficient to pay the interest due on such Bonds on such date and the principal and redemption premiums, if any, due on such Bonds on such date.

(c) Any Outstanding Bonds shall prior to the maturity date or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in subsection (a) of this section if (1) in case any of such Bonds are to be redeemed on any date prior to their maturity date, notice of redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice, (2) there shall have been deposited with an escrow agent or the Trustee either (x) money in an amount which shall be sufficient to pay when due the interest to become due on such Bonds on and prior to the maturity dates or redemption dates thereof, as the case may be, and the principal of and redemption premiums, if any, on such Bonds on and prior to the maturity dates or the redemption dates thereof, as the case may be or (y) Federal Securities which are not subject to redemption except by the holder thereof prior to maturity (including any Federal Securities issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), the interest on and principal of which when paid will provide money which, together with the money, if any, deposited with such escrow agent or the Trustee at the same time, shall be sufficient to pay when due the interest to become due on such Bonds on and prior to the maturity dates or redemption dates thereof, as the case may be, and the principal of and

redemption premiums, if any, on such Bonds on and prior to the maturity dates or the redemption dates thereof, as the case may be, as evidenced by an Accountant's Report on file with the City and the Trustee in the case of a deposit pursuant to clause (y) of this subsection, and (3) in the event such Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the City shall have instructed the Trustee to mail pursuant to Section 11.09 a notice to the Holders of such Bonds that the deposit required by clause (2) above has been made with such escrow agent or the Trustee and that such Bonds are deemed to have been paid in accordance with this section and stating the maturity dates or redemption dates, as the case may be, upon which money will be available for the payment of the principal of and redemption premiums, if any, on such Bonds.

SECTION 10.02. Unclaimed Money. Anything contained herein to the contrary notwithstanding, any money held by the Trustee in trust for the payment and discharge of any of the Bonds or any interest thereon which remains unclaimed for two (2) years after the date when such Bonds or interest thereon have become due and payable, either at their stated maturity dates or by call for redemption prior to maturity, if such money was held by the Trustee on such date, or for two (2) years after the date of deposit of such money if deposited with the Trustee after the date when such Bonds or interest thereon became due and payable, shall be repaid by the Trustee to the City as its absolute property free from trust for deposit in the Community Facilities Fund and for use in accordance with the Act, and the Trustee shall thereupon be released and discharged with respect thereto and the Holders shall look only to the City for the payment of such Bonds and interest thereon; provided, that before the Trustee shall be required to make any such repayment the City shall mail pursuant to Section 11.09 a notice to the Holders of all Outstanding Bonds that such money remains unclaimed and that after a date named in such notice, which date shall not be less than thirty (30) days after the date of the mailing of such notice, the balance of such money then unclaimed will be returned to the City for deposit in the Community Facilities Fund.

ARTICLE XI

MISCELLANEOUS

SECTION 11.01. Liability of City Limited to Proceeds of the Special Tax and Certain Other Funds. Notwithstanding anything contained herein, the City shall not be required to advance any money derived from any source of income other than the proceeds of the Special Tax and the other funds provided herein for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds.

The Bonds are special tax obligations of the City and the interest on and principal of and redemption premiums, if any, on the Bonds are payable solely from the proceeds of the Special Tax and such other funds, and the City is not obligated to pay them except from the proceeds of the Special Tax and such other funds. The General Fund of the City is not liable and the full faith and credit of the City is not pledged for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds, and no tax or assessment other than the Special Tax shall ever be levied or collected to pay the interest on or principal of or redemption premiums, if any, on the Bonds. The Bonds are not secured by a legal or equitable pledge of or

charge, lien or encumbrance upon any property of the City or any of its income or receipts except the proceeds of the Special Tax and such other funds, and neither the payment of the interest on or principal of or redemption premiums, if any, on the Bonds is a general debt, liability or obligation of the City. The Bonds do not constitute an indebtedness of the City within the meaning of any constitutional or statutory debt limitation or restriction, and neither the City Council nor the City nor any officer or employee thereof shall be liable for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds otherwise than from the proceeds of the Special Tax and such other funds as provided herein.

SECTION 11.02. [Benefits of the Master Indenture Limited to Certain Parties.](#) Nothing contained herein, express or implied, is intended to give to any entity or person other than the City Council, the City, the Treasurer, the Trustee and the Holders any right, remedy or claim under or by reason hereof, and any agreement or covenant required herein to be performed by or on behalf of the City Council or the City or any officer or employee thereof shall be for the sole and exclusive benefit of the Trustee and the Holders.

SECTION 11.03. [Successor is Deemed Included in All References to Predecessor.](#) Whenever either the City Council or the City or any officer or employee thereof is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions with respect to the administration, control and management of the Community Facilities District and the Facilities that are presently vested in the City Council or the City or such officer or employee, and all agreements and covenants required herein to be performed by or on behalf of the City Council or the City or any officer or employee thereof shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

SECTION 11.04. [Execution of Documents by Holders.](#) Any declaration, request, consent or other instrument which is permitted or required herein to be executed by Holders may be in one or more instruments of similar tenor, and may be executed by Holders in person or by their attorneys duly authorized in writing. The fact and date of the execution by any Holder or his attorney of any declaration, request, consent or other instrument or of any writing appointing such attorney may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state or territory in which he purports to act that the person signing such declaration, request, consent or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness to such execution duly sworn to before such notary public or other officer. The ownership of Bonds and the amount, maturity, number and date of holding the same shall be provided by the registration books required to be kept by the Trustee pursuant to Section 3.03.

Any declaration, request, consent or other instrument or writing of the Holder of any Bond shall bind all future Holders of such Bond with respect to anything done or suffered to be done by the City in good faith and in accordance therewith.

SECTION 11.05. [Deposit and Investment of Money in Accounts and Funds.](#) All money held by the Treasurer in any fund established herein shall be deposited by the Treasurer in time or demand deposits in any state or nationally chartered bank or trust company, including the Trustee or its affiliates, or in any state or federal savings and loan association, and

shall be secured at all times by such obligations as are required by law to the fullest extent required by law; provided, that all money in the Acquisition and Construction Fund, the Special Tax Fund and the Expense Fund may be invested by the Treasurer in Legal Investments. All money held by the Trustee in the Bond Redemption Fund shall be invested by the Trustee pursuant to a Written Request of the City received by the Trustee at least two (2) days before making any such investment in those Legal Investments specified in such Written Request of the City that mature not later than the date on which it is estimated that such money will be required to be paid out hereunder, and all money held by the Trustee in the Bond Reserve Fund shall be invested by the Trustee pursuant to a Written Request of the City received by the Trustee at least two (2) days before making any such investment in those Federal Securities specified in such Written Request of the City that mature not more than five (5) years from the date of purchase by the Trustee, or the final maturity date of any Outstanding Bonds, whichever is earlier, and the Trustee may conclusively rely that any investment specified in such Written Request of the City is a Legal Investment or a Federal Security hereunder, as the case may be; provided, that in the absence of receipt of any such Written Request of the City, the Trustee shall, to the extent practicable, invest such money in units of a taxable government money-market portfolio composed of or secured by Federal Securities. The Trustee (or any of its affiliates) may act as principal or agent or as sponsor, advisor or manager in connection with the making of any investment by the Trustee hereunder and may impose its customary charges therefor, and the Trustee shall not be responsible for any loss suffered in connection with any investment made in accordance herewith.

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; provided, that the Trustee will furnish the City periodic cash transaction statements which include details for all investment transactions made by the Trustee hereunder.

All interest received on any such money so deposited or invested which exceeds the requirements of the fund from which such money was deposited or invested shall (subject to the requirements of Section 6.03) be deposited in the Bond Redemption Fund, and all losses on any such money so deposited or invested shall be borne by the fund from which the deposit or investment was made.

SECTION 11.06. Waiver of Personal Liability. No member of the City Council or officer or employee of the City shall be individually or personally liable for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds, but nothing herein contained shall relieve any member of the City Council or officer or employee of the City from the performance of any official duty provided hereby or by the Act or by any other applicable provisions of law.

SECTION 11.07. Acquisition of Bonds by City. All Bonds acquired by the City, whether by purchase or gift or otherwise, shall be surrendered to the Trustee for cancellation and destruction by it.

SECTION 11.08. [Content of Certificates and Reports](#). Every certificate or report with respect to compliance with an agreement, condition, covenant or term provided herein shall include (a) a statement that the person or persons making or giving such certificate or report have read such agreement, condition, covenant or term and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the opinion contained in such certificate or report is based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such agreement, condition, covenant or term has been complied with; and (d) a statement as to whether, in the opinion of the signers, such agreement, condition, covenant or term has been complied with.

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

SECTION 11.09. [Notice by Mail](#). Any notice required to be given by mail to any Holders or to any securities information services or to the original underwriter or first purchaser of the Bonds shall be given by mailing a copy of such notice, first class postage prepaid, to such Holders at their addresses appearing in the books required to be kept by the Trustee pursuant to the provisions of Section 3.03 or to such securities information services or to such underwriter or first purchaser not less than thirty (30) days nor more than ninety (90) days following the action or prior to the event concerning which notice thereof is required to be given; provided, that neither failure to receive any such notice nor any immaterial defect contained therein shall affect the sufficiency or validity of the proceedings taken in connection with the action or the event concerning which such notice was given.

SECTION 11.10. [Maintenance of Accounts and Funds](#). Any account or fund required herein to be established and maintained by the Treasurer or the Trustee may be maintained by the Treasurer or the Trustee, as the case may be in its accounting records in its customary manner either as an account or a fund, and may, for the purposes of such accounting records, any audits thereof and any financial reports or statements with respect thereto, be treated either as an account or as a fund; but all such accounting records with respect to all such accounts and funds shall at all times be maintained by the Treasurer and the Trustee in accordance with industry standards and with due regard for the protection of the security of the Bonds and the rights of the Holders.

SECTION 11.11. [Article and Section Headings, Gender and References](#). The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the construction, effect or

meaning hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding articles, sections or subdivisions hereof; and the words “hereby,” “herein,” “hereof,” “hereto,” “herewith” and “hereunder” and other words of similar import refer to the Master Indenture as a whole and not to any particular article, section or subdivision hereof.

SECTION 11.12. [Partial Invalidity](#). If any one or more of the agreements, conditions, covenants or terms or portions thereof required hereby to be observed or performed by the City or the Trustee should be contrary to law, then such agreement or agreements, such condition or conditions, such covenant or covenants or such term or terms or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements, conditions, covenants or terms or portions thereof and shall in no way affect the validity hereof or of the Bonds; and the Holders shall retain all the rights and benefits accorded to them under the Act or any other applicable provisions of law. The City hereby declares that it would have executed the Master Indenture and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized the issuance of the Bonds pursuant hereto irrespective of the fact that any one or more of the articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

SECTION 11.13. [Execution in Counterparts](#). The Master Indenture may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

SECTION 11.14. [Governing Law](#). The Master Indenture shall be governed by and construed and interpreted in accordance with the laws of the State of California.

SECTION 11.15. [Notices](#). All written notices to be given hereunder shall be given by first class mail to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other parties in writing from time to time, namely:

If to the City:

City of Sacramento
Historic City Hall
915 I Street, 3rd Floor
Sacramento, California 95814
Attention: Debt-Management Team

If to the Trustee:

U.S. Bank National Association
1 California Street, Suite 1000
San Francisco, CA 94111
Attention: David A. Jason, Vice President, San Francisco Office

SECTION 11.16. [Effective Date of the Master Indenture](#). The Master Indenture shall take effect from and after its execution and delivery.

IN WITNESS WHEREOF, the City of Sacramento has caused the Master Indenture to be signed in its name by the City Treasurer, and U.S. Bank National Association, as Trustee, in token of its acceptance of the trusts created hereunder, has caused the Master Indenture to be signed in its corporate name by its officer thereunto duly authorized, all as of the date and year first above written.

CITY OF SACRAMENTO

By _____
John Colville, Interim City Treasurer

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By _____
Authorized Officer

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MASTER INDENTURE

between the

CITY OF SACRAMENTO

and

U.S. BANK NATIONAL ASSOCIATION,

as Trustee

Relating to the

CITY OF SACRAMENTO
MCKINLEY VILLAGE COMMUNITY FACILITIES DISTRICT NO. 2015-04
(IMPROVEMENTS) SPECIAL TAX BONDS

Dated as of June 1, 2016

MASTER INDENTURE

This Master Indenture (the “Master Indenture”), dated as of June 1, 2016, between the City of Sacramento, a California municipal corporation (the “City”), and U.S. Bank National Association, a national banking association duly organized and existing under and by virtue of the laws of the United States and authorized to accept and execute trusts of the character herein set forth, as trustee (the “Trustee”);

WITNESSETH:

WHEREAS, at an election held in the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) (the “Community Facilities District”) on July 28, 2015, the qualified electors therein duly authorized the issuance of ten million dollars (\$10,000,000) principal amount of special tax bonds under the Mello-Roos Community Facilities Act of 1982, as amended (being Section 53311 et seq. of the Government Code of the State of California), and all laws amendatory thereof or supplemental thereto (collectively, the “Act”), for the purpose of financing the acquisition and construction of certain public facilities and financing certain governmental fees; and

WHEREAS, at such election the qualified electors in the Community Facilities District additionally authorized the levy and collection of a special tax under the Act to be used for the purpose of paying the interest on and principal of and redemption premiums, if any, on such bonds; and

WHEREAS, the City Council of the City has determined to authorize the issuance of City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds (the “Bonds”) in series pursuant hereto and pursuant to one or more Supplemental Indentures and to secure the Bonds in the manner provided herein; and

WHEREAS, the City has determined that all things necessary to cause the Bonds, when duly executed by the City and authenticated by the Trustee and delivered as provided herein, to be legal and valid special tax obligations of the City enforceable in accordance with their terms, and to constitute the Master Indenture a valid agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery hereof and the execution and delivery of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THE MASTER INDENTURE WITNESSETH, that in order to secure the payment of the interest on and principal of and redemption premiums, if any, on all Bonds at any time issued and outstanding hereunder according to their tenor, and to secure the observance and performance of all the agreements, conditions, covenants and terms therein and herein set forth, and to declare the conditions and terms upon and subject to which the Bonds shall be issued and received, and in consideration of the premises and of the mutual agreements and covenants contained herein and of the purchase and acceptance of the Bonds by the respective registered owners thereof from time to time, and for other valuable considerations, the receipt whereof is hereby acknowledged, the City does hereby agree and covenant with the

Trustee, for the benefit of the respective registered owners from time to time of the Bonds, as follows:

ARTICLE I

DEFINITIONS; EQUAL SECURITY

SECTION 1.01. Definitions. Unless the context otherwise requires, all terms defined in this section shall for all purposes hereof and of any Supplemental Indenture and of the Bonds and of any certificate, opinion, report, request or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein:

Accountant's Report

“Accountant's Report” means a report signed by an Independent Certified Public Accountant.

Acquisition and Construction Fund

“Acquisition and Construction Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Acquisition and Construction Fund established pursuant to Section 2.04 (to be maintained by the Treasurer).

Act

“Act” means collectively the Mello-Roos Community Facilities Act of 1982, as amended (being Sections 53311 et seq. of the Government Code of the State of California), and all laws amendatory thereof or supplemental thereto.

Bond Redemption Fund

“Bond Redemption Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Bond Redemption Fund established pursuant to Section 5.02 (to be maintained by the Trustee).

Bond Reserve Fund

“Bond Reserve Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Bond Reserve Fund established pursuant to Section 5.02 (to be maintained by the Trustee).

Bond Year

“Bond Year” means the twelve-month period terminating on September 1 of each year; provided, that the first Bond Year shall commence on the date of the execution, authentication and initial delivery of the first Series issued hereunder.

Bonds, Serial Bonds, Term Bonds

“Bonds” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds at any time Outstanding hereunder that are executed, authenticated and delivered in accordance with the provisions hereof. “Serial Bonds” means Bonds for which no Sinking Fund Account Payments are established. “Term Bonds” means Bonds which are redeemable or payable on or before their specified maturity date or dates from Sinking Fund Account Payments established for the purpose of redeeming or paying such Bonds on or before their specified maturity date or dates.

Business Day

“Business Day” means any day (other than a Saturday or a Sunday) on which the Trustee is open for corporate trust business at its Principal Corporate Trust Office.

Certificate of the City

“Certificate of the City” means an instrument in writing signed by the City Manager or the Treasurer, or by any other officer of the City duly authorized by the City Council for that purpose.

City

“City” means the City of Sacramento, a California municipal corporation.

City Council

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

City Clerk

“City Clerk” means the City Clerk of the City.

City Manager

“City Manager” means the City Manager of the City.

Code

“Code” means the Internal Revenue Code of 1986 and all regulations of the United States Department of the Treasury issued thereunder from time to time to the extent that such regulations are, at the time, applicable and in effect, and in this regard reference to any

particular section of the Code shall include reference to any successor to such section of the Code.

Community Facilities District

“Community Facilities District” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements), a community facilities district duly organized and existing in the City under and by virtue of the Act.

Community Facilities Fund

“Community Facilities Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Community Facilities Fund established pursuant to Section 5.02 (to be maintained by the Treasurer).

Costs of Issuance

“Costs of Issuance” means, with respect to any Series, all costs and expenses payable by or reimbursable to the City that are related to the authorization, sale, execution, authentication and initial delivery of such Series, including, but not limited to, costs of preparation and reproduction of documents, rating agency fees, fees and charges of the Trustee (including fees and expenses of its counsel), legal fees and charges and fees and charges of other consultants and professionals, together with all costs for the preparation of the Bonds of such Series, and any other cost or expense in connection with the authorization, sale, execution, authentication and initial delivery of such Series.

Costs of Issuance Fund

“Costs of Issuance Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Costs of Issuance Fund established pursuant to Section 2.05 (to be maintained by the Trustee).

Debt Service

“Debt Service” means, for any Bond Year, the sum of (1) the interest payable during such Bond Year on all Outstanding Bonds, assuming that all Outstanding Serial Bonds are retired as scheduled and that all Outstanding Term Bonds are redeemed or paid as scheduled at the times of and in amounts equal to the sum of all Sinking Fund Account Payments (except to the extent that such interest is to be paid from the proceeds of sale of any Bonds), plus (2) the principal amount of all Outstanding Serial Bonds maturing by their terms in such Bond Year, plus (3) the Sinking Fund Account Payments required to be deposited in the Sinking Fund Account in such Bond Year.

Event of Default

“Event of Default” means an event described as such in Section 9.01.

Expense Fund

“Expense Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Expense Fund established pursuant to Section 5.02 (to be maintained by the Treasurer).

Expenses

“Expenses” means all expenses paid or incurred by the City for the cost of planning and designing the Facilities or the facilities to be financed with the Fees, including the cost of environmental evaluations, and all costs associated with the determination of the amount of the Special Tax, the collection of the Special Tax and the payment of the Special Tax, together with all costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District, and any other expenses incidental to the acquisition, construction, completion and inspection of the Facilities and the facilities to be financed with the Fees; all as determined in accordance with Generally Accepted Accounting Principles.

Facilities

“Facilities” means the public facilities authorized to be acquired and constructed in and for the Community Facilities District under and pursuant to the Act at the special election held in the Community Facilities District on July 28, 2015.

Federal Securities

“Federal Securities” means (a) any securities now or hereafter authorized both the interest on and principal of which are guaranteed by the full faith and credit of the United States of America, and (b) any of the following obligations of federal agencies not guaranteed by the full faith and credit of the United States of America: (1) participation certificates or senior debt obligations of the Federal Home Loan Mortgage Corporation, (2) bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act and bonds of any federal home loan bank established under such act, and (3) stocks, bonds, debentures, participations and other obligations of or issued by the Federal National Mortgage Association, the Student Loan Marketing Association, the Government National Mortgage Association and the Federal Home Loan Mortgage Corporation, as and to the extent that such securities or obligations are eligible for the legal investment of City funds, together with any repurchase agreements which are secured by any of such securities or obligations that (1) have a fair market value (determined at least daily) at least equal to one hundred two percent (102%) of the amount invested in the repurchase agreement, (2) are in the possession of the Trustee or a third party acting solely as custodian for the Trustee who holds a perfected first lien therein, and (3) are free from all third party claims.

Fees

“Fees” means the governmental fees authorized to be financed with the proceeds of the Bonds at the special election held in the Community Facilities District on July 28, 2015.

Fiscal Year

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

Fitch

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

Generally Accepted Accounting Principles

“Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

Holder

“Holder” means any person who shall be the registered owner of any Outstanding Bond, as shown on the registration books maintained by the Trustee pursuant to Section 3.03.

Indenture

“Indenture” means the Master Indenture and all Supplemental Indentures.

Independent Certified Public Accountant

“Independent Certified Public Accountant” means any nationally recognized certified public accountant or firm of such accountants, appointed and paid by the City, and who, or each of whom --

- (1) is in fact independent and not under the domination of the City;
- (2) does not have a substantial financial interest, direct or indirect, in the operations of the City; and
- (3) is not connected with the City as an officer or employee of the City, but who may be regularly retained to audit the accounting records of and make reports thereon to the City.

Legal Investments

“Legal Investments” means any securities in which funds of the City may be legally invested in accordance with the applicable law in effect at the time of such investment and in accordance with the then current investment policy of the City (as established by the City Council).

Master Indenture

“Master Indenture” means this Master Indenture, dated as of June 1, 2016, between the City and the Trustee entered into under and pursuant to the Act.

Maximum Annual Debt Service

“Maximum Annual Debt Service” means, as of any date of calculation, the largest Debt Service in any Bond Year during the period from the date of such calculation through the final maturity date of all Outstanding Bonds.

Mayor

“Mayor” means the Mayor of the City.

Moody’s

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

Opinion of Counsel

“Opinion of Counsel” means a written opinion of counsel (including, without limitation, counsel for the City) retained by the City.

Outstanding

“Outstanding,” when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 8.02) all Bonds except --

- (1) Bonds cancelled and destroyed by the Trustee or delivered to the Trustee for cancellation and destruction;
- (2) Bonds paid or deemed to have been paid within the meaning of Section 10.01; and
- (3) Bonds in lieu of or in substitution for which other Bonds shall have been executed by the City and authenticated and delivered by the Trustee pursuant to Section 3.04.

Principal Corporate Trust Office

“Principal Corporate Trust Office” means the principal office of the Trustee in San Francisco, California, at which at any particular time its corporate trust business is being administered, except that with respect to presentation of Bonds for registration, payment, redemption, transfer or exchange, such term shall mean the office of the Trustee in St. Paul, Minnesota, or such other office designated by the Trustee from time to time as its Principal Corporate Trust Office.

Rebate Fund

“Rebate Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Rebate Fund established pursuant to Section 6.03 (to be maintained by the Treasurer).

Required Bond Reserve

“Required Bond Reserve” means, as of any date of calculation, the least of (a) ten percent (10%) of the principal amount of the Outstanding Bonds, or (b) Maximum Annual Debt Service, or (c) one hundred twenty-five percent (125%) of the average Debt Service payable hereunder in the current and in all future Bond Years, all as determined by the City under the Code and specified in writing to the Trustee; provided, that such requirement (or any portion thereof) may be satisfied by the provision of one or more policies of municipal bond insurance or surety bonds issued by a municipal bond insurer or by a letter of credit issued by a bank, the obligations insured by which insurer or issued by which bank, as the case may be, have at least one rating at the time of issuance of such policy or surety bond or letter of credit equal to “AA” or higher assigned by Fitch or “Aa” or higher assigned by Moody’s or “AA” or higher assigned by Standard & Poor’s, in each case without regard to any numerical modifier or plus or minus sign; and provided further, that the amount of the Required Bond Reserve shall not increase at any time except upon the issuance of a new Series of Bonds; and provided further, that, with respect to the issuance of any issue of Bonds, if the amount on deposit in the Bond Reserve Fund would have to be increased by an amount greater than ten percent (10%) of the stated principal amount of such issue of Bonds (or, if the issue has more than a de minimis amount of original issue discount or premium, of the issue price of such issue of Bonds) then the Required Bond Reserve shall be such lesser amount as is determined by a deposit of such 10%.

Series

“Series” means any series of the Bonds authorized, executed and authenticated pursuant hereto and pursuant to one or more Supplemental Indentures as constituting a single series and delivered on initial issuance in a simultaneous transaction pursuant to Section 2.02, and any Bonds thereafter executed, authenticated and delivered in lieu thereof or in substitution therefor pursuant to Section 3.04.

Sinking Fund Account

“Sinking Fund Account” means the account in the Bond Redemption Fund referred to by that name established pursuant to Section 5.02.

Sinking Fund Account Payments

“Sinking Fund Account Payments” means the payments required by all Supplemental Indentures to be deposited in the Sinking Fund Account for the payment of the Term Bonds.

Special Tax

“Special Tax” means the special tax authorized to be levied and collected annually on all Taxable Land in the Community Facilities District under and pursuant to the Act at the special election held in the Community Facilities District on July 28, 2015.

Special Tax Formula

“Special Tax Formula” means the Rate and Method of Apportionment of Special Tax approved at the election held in the Community Facilities District on July 28, 2015.

Special Tax Fund

“Special Tax Fund” means the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Special Tax Fund established pursuant to Section 5.01 (to be maintained by the Treasurer).

Standard & Poor’s

“Standard & Poor’s” means Standard & Poor’s Rating Services, a division of The McGraw Hill-Companies, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of New York, and its successors or assigns, except that if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “Standard & Poor’s” shall be deemed to refer to any other nationally recognized securities rating agency selected by the City.

Supplemental Indenture

“Supplemental Indenture” means any indenture then in full force and effect that has been made and entered into by the City and the Trustee, amendatory of or supplemental hereto; but only to the extent that such Supplemental Indenture is specifically authorized hereunder.

Tax Certificate

“Tax Certificate” means any certificate delivered upon the original issuance of a Series relating to Section 148 of the Code, or any functionally similar replacement certificate.

Taxable Land

“Taxable Land” means all land within the Community Facilities District taxable under the Act in accordance with the proceedings for the authorization of the issuance of the Bonds and the levy and collection of the Special Tax.

Treasurer

“Treasurer” means the Interim City Treasurer of the City or the City Treasurer of the City, as applicable.

Trustee

“Trustee” means U.S. Bank National Association, a national banking association duly organized and existing under and by virtue of the laws of the United States and authorized to accept and execute trusts of the character herein set forth, at its Principal Corporate Trust Office, and its successors or assigns, or any other bank or trust company having a corporate trust office in San Francisco, California which may at any time be substituted in its place as provided in Section 7.01.

Written Request of the City

“Written Request of the City” means an instrument in writing signed by the City Manager or the Treasurer, or by any other officer of the City duly authorized by the City Council for that purpose.

SECTION 1.02. Equal Security. In consideration of the acceptance of the Bonds by the Holders thereof, the Master Indenture shall be deemed to be and shall constitute a contract between the City and the Holders from time to time to secure the full and final payment of the interest on and principal of and redemption premiums, if any, on all Bonds which may from time to time be authorized, sold, executed, authenticated and delivered hereunder, subject to the agreements, conditions, covenants and terms contained herein; and all agreements, conditions, covenants and terms contained herein required to be observed or performed by or on behalf of the City shall be for the equal and proportionate benefit, security and protection of all Holders without distinction, preference or priority as to security or otherwise of any Bonds over any other Bonds by reason of the number thereof or the time of execution, authentication or delivery thereof or otherwise for any cause whatsoever, except as expressly provided herein or therein.

ARTICLE II

ISSUANCE OF BONDS

SECTION 2.01. Authorization and Purpose of Bonds.

(a) The City Council has reviewed all proceedings heretofore taken relative to the authorization of the Bonds and has found, as a result of such review, and hereby finds and

determines that all acts, conditions and things required by law to exist, happen and be performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by the Act, and the City is now authorized, pursuant to each and every requirement of the Act and hereof, to issue the Bonds in one or more Series as from time to time shall be authorized and established by the City pursuant to the Act and pursuant hereto and pursuant to one or more Supplemental Indentures, which Series shall be entitled to the benefit, protection and security hereof. The Bonds shall be designated the “City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds,” together with such further appropriate particular designation added to or incorporated in the title of the Bonds of each Series as the City may determine or as shall be required by the Act, and each Bond shall bear upon its face the designation so determined for the Series to which it belongs. Additionally, the Bonds may contain or have endorsed thereon such other descriptive provisions, specifications and words not inconsistent with the provisions hereof as may be desirable or necessary to comply with custom or the rules of any securities exchange or commission or brokerage board or otherwise as may be determined by the City prior to the delivery thereof.

(b) The purpose for which the Bonds are to be issued is to provide funds to finance the acquisition and construction of the Facilities, finance the Fees, refund any Outstanding Bonds, make deposits to the Bond Reserve Fund or otherwise provide for the satisfaction of the Required Bond Reserve, pay the Costs of Issuance, fund interest on the Bonds, pay Expenses, and pay other incidental expenses relating to any of the foregoing, as further provided herein or in any Supplemental Indenture.

(c) From and after the issuance of any Series, the findings and determinations of the City Council respecting such Series shall be conclusive evidence of the existence of the facts so found and determined in any action or proceeding in any court in which the validity of any Bonds of such Series is at issue, and no bona fide purchaser of any Bonds of such Series shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceeding required prior to such issuance or to the application of the purchase price paid for such Series. The validity of the issuance of any Series shall not be dependent on or affected in any way by any proceedings taken by the City for the acquisition and construction of any Facilities or the financing of any Fees, or any contracts made by the City in connection therewith, or the failure to complete the acquisition and construction of any Facilities or the financing of any Fees. The recital contained in the Bonds that the Bonds are issued pursuant to the Act and pursuant hereto and pursuant to one or more Supplemental Indentures shall be conclusive evidence of their validity and of the regularity of their initial issuance, and all Bonds shall be incontestable from and after their initial issuance, which shall be the date the definitive Bonds (or any temporary Bond exchangeable therefor) shall have been delivered to the purchaser thereof and the purchase price thereof shall have been received.

SECTION 2.02. [Conditions for the Issuance of Bonds](#). The City may at any time issue a Series payable from the proceeds of the Special Tax as provided herein on a parity with all other Series theretofore issued hereunder, but only subject to the following conditions, which are hereby made conditions precedent to the issuance of any such Series other than the Series 2015 Bonds:

(a) The issuance of such Series shall have been authorized pursuant to the Act and pursuant hereto and shall have been provided for by a Supplemental Indenture which shall specify the following:

(1) The purpose for which such Series is to be issued;

(2) The principal amount and designation of such Series and the denomination or denominations of the Bonds of such Series;

(3) The date, the maturity date or dates, the interest payment dates and the dates on which Sinking Fund Account Payments are due, if any, for such Series; provided, that (i) the Serial Bonds of such Series shall be payable as to principal on September 1 of each year in which principal of such Series falls due, and the Term Bonds of such Series shall be subject to mandatory redemption on September 1 of each year in which Sinking Fund Account Payments for such Series are due; (ii) the Bonds of such Series shall be payable as to interest semiannually on March 1 and September 1 of each year, except that the first installment of interest may be payable on either March 1 or September 1 and shall be for a period of not longer than twelve (12) months and the interest shall be payable thereafter semiannually on March 1 and September 1, (iii) all the Bonds of such Series of like maturity shall be identical in all respects, except as to number or denomination, and (iv) serial maturities of Serial Bonds of such Series or Sinking Fund Account Payments for Term Bonds of such Series, or any combination thereof, shall be established to provide for the redemption or payment of the Bonds of such Series on or before their respective maturity dates;

(4) The redemption premiums and redemption terms, if any, for such Series;

(5) The form of the Bonds of such Series;

(6) The amount, if any, to be deposited from the proceeds of sale of such Series in the Bond Redemption Fund, and its use to pay interest on the Bonds of such Series;

(7) The amount, if any, to be deposited from the proceeds of sale of such Series in the Bond Reserve Fund; provided, that the Required Bond Reserve shall be satisfied at the time that such Series becomes Outstanding;

(8) The amounts, if any, to be deposited from the proceeds of sale of such Series in the separate accounts for such Series to be maintained in the Acquisition and Construction Fund and in the Costs of Issuance Fund; and

(9) Such other provisions that are appropriate or necessary and are not inconsistent with the provisions hereof;

(b) No Event of Default hereunder or under any Supplemental Indenture shall have occurred and shall be then continuing; and

(c) Either (1) none of the Bonds theretofore issued hereunder will be Outstanding after the issuance and delivery of such Series or (2) the Debt Service in each Bond Year that begins after the issuance of such Series is not increased by reason of the issuance of such Series.

SECTION 2.03. [Procedure for the Issuance of Bonds](#). At any time after the sale of any Series in accordance with the Act, such Series shall be executed by the City and shall be delivered to the Trustee and thereupon shall be authenticated and delivered by the Trustee, but only upon receipt by the Trustee of the following documents or money:

(a) An executed copy of the Supplemental Indenture authorizing the issuance of such Series;

(b) A Written Request of the City as to the delivery of such Series;

(c) An Opinion of Counsel to the effect that (i) the Supplemental Indenture has been duly executed and delivered by, and constitutes the valid and binding obligation of, the City; and (ii) the Bonds of such Series constitute the valid and binding special tax obligations of the City;

(d) A Certificate of the City containing such statements as may be reasonably necessary to show compliance with the requirements of Section 2.02;

(e) The proceeds of sale of such Series; and

(f) Such further documents or money as are required by the provisions of the Supplemental Indenture authorizing the issuance of such Series.

SECTION 2.04. [Acquisition and Construction Fund](#). There is hereby established in the treasury of the City a fund to be known as the “City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Acquisition and Construction Fund,” into which fund shall be deposited (in a separate account to be maintained therein) the amount required to be deposited therein by the provisions of each Supplemental Indenture providing for the issuance of a Series. All money in the Acquisition and Construction Fund shall be applied by the Treasurer in the manner provided by the Act for payment of costs of the acquisition and construction of the Facilities (or for making reimbursements to the City for such costs theretofore paid by it), including payment of costs incidental to or connected with such acquisition and construction; for the payment or reimbursement of Fees; or for the repayment of funds advanced to or for the Community Facilities District; provided, that any money remaining in the separate account in the Acquisition and Construction Fund created in connection with the issuance of such Series (after the completion of the payment of the costs of the acquisition and construction of the Facilities and the payment or reimbursement of Fees for which such Series was issued) shall be withdrawn by the Treasurer from the Acquisition and Construction Fund and deposited by the Treasurer in the Special Tax Fund.

SECTION 2.05. [Costs of Issuance Fund](#). There is hereby established with the Trustee a fund to be known as the “City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Costs of Issuance Fund,” into which fund shall be deposited (in a separate account to be maintained therein) the amount required to be deposited therein by the provision of each Supplemental Indenture providing for the issuance of a Series. All money in the Costs of Issuance Fund shall be applied by the Trustee as directed in writing by the City in the manner provided by law for payment of Costs of

Issuance; provided, that any money remaining in the separate account in the Costs of Issuance Fund created in connection with the issuance of such Series (after the completion of the payment of the Costs of Issuance relating to such Series as specified in writing by the City to the Trustee) shall be withdrawn by the Trustee from the Costs of Issuance Fund and deposited in the Bond Redemption Fund and the separate account in the Costs of Issuance Fund created in connection with the issuance of such Series will be closed.

ARTICLE III

TERMS AND PROVISIONS OF BONDS

SECTION 3.01. Terms of Bonds.

(a) The interest on and principal of and redemption premiums, if any, on the Bonds shall be payable in lawful money of the United States of America at the Principal Corporate Trust Office of the Trustee.

(b) The Bonds of each Series shall be issued as fully registered Bonds in such denominations as may be authorized in the Supplemental Indenture authorizing the issuance of such Series (but not to exceed the principal amount of Bonds of such Series maturing on any one date) and shall be dated as provided in the Supplemental Indenture authorizing the issuance of such Series and shall be numbered as determined by the City.

(c) Each Bond shall bear interest from the interest payment date next preceding the date of authentication thereof, unless it is authenticated on a day during the period from the sixteenth (16th) day of the month next preceding an interest payment date to such interest payment date, both dates inclusive, in which event it shall bear interest from such interest payment date, or unless it is authenticated on a day on or before the fifteenth (15th) day of the month next preceding the first interest payment date, in which event it shall bear interest from its date; provided, that if at the time of authentication of any Bond interest is then in default on any Outstanding Bonds, such Bond shall bear interest from the interest payment date to which interest has previously been paid or made available for payment on the Outstanding Bonds. Payment of interest on the Bonds due on or before the maturity or prior redemption thereof shall be made only to the person whose name appears in the registration books required to be kept by the Trustee pursuant to Section 3.03 as the registered owner thereof at the close of business as of the fifteenth (15th) day of the month next preceding each interest payment date, such interest to be paid by check mailed by first class mail to such registered owner at his address as it appears on such books (except that in the case of a Holder of one million dollars (\$1,000,000) or more in aggregate principal amount of Outstanding Bonds, payment shall be made at such Holder's option by federal wire transfer of immediately available funds according to written instructions provided by such Holder to the Trustee at least fifteen (15) days before such interest payment date to an account in a bank or trust company or savings bank that is a member of the Federal Reserve System and that is located in the United States of America). Payment of the principal of and redemption premiums, if any, on the Bonds shall be made only to the person whose name appears in the registration books required to be kept by the Trustee pursuant to Section 3.03 as the registered owner thereof, such principal and redemption premiums, if any, to be paid only on

the surrender of the Bonds at the Principal Corporate Trust Office of the Trustee at maturity or on redemption prior to maturity.

(d) The Bonds shall recite in substance that they are special tax obligations of the City and the interest on and principal of and redemption premiums, if any, on the Bonds are payable solely from the proceeds of the Special Tax and the other funds provided herein for such payment, and that the City is not obligated to pay the Bonds except from the proceeds of the Special Tax and such other funds; that the General Fund of the City is not liable and the full faith and credit of the City is not pledged for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds, and that no tax or assessment other than the Special Tax shall ever be levied or collected to pay the interest on or principal of or redemption premiums, if any, on the Bonds; that the Bonds are not secured by a legal or equitable pledge of or charge, lien or encumbrance upon any of the property of the City or any of its income or receipts except the money in the Special Tax Fund and such other funds; and that neither the payment of the interest on or principal of or redemption premiums, if any, on the Bonds is a general debt, liability or obligation of the City.

SECTION 3.02. [Execution of Bonds](#). The Bonds shall be signed on behalf of the City by the manual or a facsimile signature of the Mayor and countersigned by the manual or a facsimile signature of the City Clerk. In case any officer of the City who shall have signed any of the Bonds shall cease to be such officer before the Bonds so signed shall have been delivered to the purchaser by the Trustee, such Bonds may nevertheless be delivered and issued and, upon such delivery and issuance, shall be as binding upon the City as though the officer who signed the same had continued to be such officer until such delivery and issuance. Also, any Bond may be signed on behalf of the City by any officer of the City who on the actual date of the execution of such Bond shall be the proper officer of the City, although on the nominal date of such Bond such person shall not have been such officer of the City. Only those Bonds that bear thereon a certificate of authentication executed by the Trustee shall be entitled to any benefit, protection or security hereunder or be valid or obligatory for any purpose, and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated have been duly authorized, sold, executed and delivered hereunder and are entitled to the benefits hereof.

SECTION 3.03. [Transfer and Exchange of Bonds](#). The Trustee will keep at its Principal Corporate Trust Office sufficient books for the transfer and exchange of the Bonds, which books shall at all times during normal business hours with reasonable prior notice be open to inspection by the City or by any Holder. Any Bond may, in accordance with its terms, be transferred or exchanged on such books by the person in whose name it is registered, in person or by his duly authorized attorney, upon payment by the Holder requesting such transfer or exchange of any tax or other governmental charge required to be paid with respect to such transfer or exchange and upon surrender of such Bond for cancellation accompanied by delivery of a duly executed written instrument of transfer or exchange in a form acceptable to the Trustee. Whenever any Bond or Bonds shall be surrendered for transfer or exchange, the City shall execute and the Trustee shall authenticate and deliver a new Bond or Bonds of the same Series and maturity date and of authorized denominations for the same aggregate principal amount, except that neither the City nor the Trustee shall be required (i) to transfer or exchange any Bonds of any Series during the fifteen-day period prior to the selection of any Bonds of such Series for redemption under Article IV, or (ii) to transfer or exchange any Bond which has been

selected for redemption in whole or in part, except the unredeemed portion of such Bond selected for redemption in part, from and after the day that such Bond has been selected for redemption in whole or in part under Article IV.

The City and the Trustee may deem and treat the registered owner of any Bond as the absolute owner of such Bond for all purposes hereof, whether such Bond shall be overdue or not, and neither the City nor the Trustee shall be affected by any notice or knowledge to the contrary; and payment of the interest on such Bond shall be made only to the registered owner thereof at the close of business as the fifteenth (15th) day of the month next preceding each interest payment date and payment of the principal of and redemption premium, if any, on such Bond shall be made only to the registered owner thereof, which payments shall be valid and effectual to satisfy and discharge the liability on such Bond to the extent of the sum or sums so paid.

SECTION 3.04. Mutilated, Destroyed, Stolen or Lost Bonds. In case any Bond shall become mutilated in respect of the body of such Bond or shall be believed by the Trustee to have been destroyed, stolen or lost, upon proof of ownership satisfactory to the Trustee and upon the surrender of such mutilated Bond at the Principal Corporate Trust Office of the Trustee, or upon the receipt of evidence satisfactory to the Trustee of such destruction, theft or loss and upon receipt of indemnity satisfactory to the Trustee, and also upon payment of all expenses incurred by the City and the Trustee in the premises, the City shall execute and the Trustee shall authenticate and deliver at its Principal Corporate Trust Office a new Bond or Bonds of the same Series and maturity date for the same aggregate principal amount of like tenor and date and bearing such numbers and notations as the Trustee shall determine in exchange and substitution for and upon cancellation of the mutilated Bond or in lieu of and in substitution for the Bond so destroyed, stolen or lost.

If any such destroyed, stolen or lost Bond shall have matured or shall have been called for redemption, payment of the amount due thereon may be made by the Trustee upon receipt of like proof, indemnity and payment of expenses.

Any replacement Bonds issued pursuant to this section shall be entitled to equal and proportionate benefits with all other Bonds issued hereunder, and the City and the Trustee shall not be required to treat both the original Bond and any replacement Bond as being Outstanding for the purpose of determining the principal amount of Bonds which may be issued hereunder or for the purpose of determining any percentage of Bonds Outstanding hereunder, but both the original and the replacement Bond shall be treated as one and the same.

SECTION 3.05. Temporary Bonds. Any Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery, which temporary Bonds shall be printed, lithographed or typewritten, shall be of such denominations as may be determined by the City, shall be issued in fully registered form, shall contain such reference to any of the provisions hereof as may be appropriate and shall be executed by the City 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 may be surrendered in exchange therefor at the Principal Corporate Trust Office of the Trustee, and the Trustee shall deliver in exchange for such temporary Bonds an

equal aggregate principal amount of definitive Bonds of authorized denominations of the same Series and maturity date or dates, and until so exchanged, the temporary Bonds shall be entitled to the same benefits as definitive Bonds issued hereunder.

SECTION 3.06. [Use of Depository for Bonds.](#)

(a) If provided in any Supplemental Indenture for any Series, The Depository Trust Company, New York, New York, may be appointed as depository for the Bonds of such Series, and the Bonds of any such Series shall be initially registered in the name of “Cede & Co.,” as nominee of The Depository Trust Company, and shall be initially issued as one Bond for each of the maturities bearing interest at a particular rate of interest per annum in the principal amounts set forth in the Supplemental Indenture providing for their issuance, and registered ownership of the Bonds of such Series, or any portion thereof, may not thereafter be transferred except:

(i) To any successor of Cede & Co., as nominee of The Depository Trust Company, or its nominee, or to any substitute depository designated pursuant to clause (ii) of this section (a “substitute depository”); provided, that any successor of Cede & Co., as nominee of The Depository Trust Company or substitute depository, shall be qualified under any applicable laws to provide the services proposed to be provided by it;

(ii) To any substitute depository designated by the City, upon (1) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository, or (2) a determination by the City to substitute another depository for The Depository Trust Company (or its successor) because The Depository Trust Company or its successor (or any substitute depository or its successor) is no longer able to carry out its functions as depository; provided, that any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(iii) To any person as provided below, upon (1) the resignation of The Depository Trust Company or its successor (or substitute depository or its successor) from its functions as depository, or (2) a determination by the City to remove The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository.

(b) In the case of any transfer pursuant to clause (i) or clause (ii) of subsection (a) hereof, upon receipt of all the Bonds of any Series by the Trustee, together with a Written Request of the City to the Trustee, a new Bond for each maturity of such Series bearing a particular rate of interest per annum shall be executed by the City and authenticated and delivered by the Trustee in the aggregate principal amount of the Bonds of such Series, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such Written Request of the City. In the case of any transfer pursuant to clause (iii) of subsection (a) hereof, upon receipt of all the Bonds of any Series by the Trustee, together with a Written Request of the City to the Trustee, a new Bond or Bonds for each maturity of such Series bearing a particular rate of interest per annum shall be executed by the City and authenticated and delivered by the Trustee in such denominations and registered in the names of such persons as are requested in such Written Request of the City, subject to the

limitations of Section 3.03, and thereafter, the Bonds of such Series shall be transferred pursuant to Section 3.03; provided, that the Trustee shall not be required to deliver such new Bonds on a date prior to sixty (60) days after receipt of such Written Request of the City.

(c) So long as any Bonds are registered in the name of Cede & Co. or its registered assigns, the City and the Trustee shall be entitled to treat the person in whose name any Bond of any Series is registered as the owner thereof for all purposes hereof and any applicable laws, notwithstanding any notice to the contrary received by the City or the Trustee; and the City and the Trustee shall have no responsibility for transmitting payments to, communication with, notifying, or otherwise dealing with any beneficial owners of the Bonds of such Series, and neither the City nor the Trustee shall have any responsibility or obligation, legal or otherwise, to the beneficial owners or to any other party, including The Depository Trust Company or its successor (or substitute depository or its successor), except to The Depository Trust Company or its successor (or substitute depository or its successor) as a Holder of the Bonds of such Series.

(d) So long as any Bonds are registered in the name of Cede & Co. or its registered assigns, the City and the Trustee shall cooperate with Cede & Co., as sole Holder, or its registered assigns, in effecting payment of the interest on and principal of and redemption premiums, if any, on such Bonds by arranging for payment in such manner that funds for such payments are properly identified and are made immediately available on the date they are due.

ARTICLE IV

REDEMPTION OF BONDS

SECTION 4.01. Privilege of Redemption of Bonds. Any Series subject to redemption prior to maturity pursuant to a Supplemental Indenture shall be redeemable, upon notice being given as provided in this article, at such times, upon payment of such redemption premiums, if any, and upon such terms (in addition to and consistent with the terms contained in this article) as may be prescribed in the Supplemental Indenture authorizing the issuance of such Series.

SECTION 4.02. Selection of Bonds for Redemption. If less than all the Bonds of any Series are to be redeemed at the option of the City at any one time, the City shall select the maturity date or dates of the Bonds of such Series to be redeemed, and if less than all the Bonds of any Series of any one maturity date are to be redeemed at any one time, the Trustee shall select the Bonds of such Series or the portions thereof of such maturity date to be redeemed in integral multiples of five thousand dollars (\$5,000) in any manner that it deems appropriate. The City shall notify the Trustee in writing at least fifteen (15) days prior to the date fixed for the selection of any Bonds for redemption, and after such selection the Trustee shall promptly notify the City in writing of the numbers of the Bonds selected for redemption in whole or in part.

SECTION 4.03. Notice of Redemption. The Trustee shall mail a notice of redemption pursuant to Section 11.09 to the respective Holders of all Bonds selected for redemption in whole or in part and to all securities information services selected by the City and

designated to the Trustee in writing to comply with custom or the rules of any securities exchange or commission or brokerage board or otherwise as may be determined by the City in its sole discretion and to the original underwriter or first purchaser of the Bonds selected for redemption. Such notice shall state the date of such notice, the Bonds to be redeemed, the date of issue of such Bonds, the redemption date, the redemption price, the place of redemption (being the address of the Principal Corporate Trust Office of the Trustee), the CUSIP number (if any) of the maturity or maturities and, if less than all of any such maturity, the numbers of the Bonds of such maturity to be redeemed and, in the case of Bonds to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed, and shall give notice that further interest on such Bonds or the portions thereof redeemed will not accrue from and after the redemption date, and shall require that such Bonds be surrendered at the Principal Corporate Trust Office of the Trustee for payment of the redemption price thereof. If any Bond so chosen for redemption shall not be redeemable in whole, such notice shall also state that such Bond is to be redeemed in part only and that upon presentation of such Bond for redemption there will be issued in lieu of the unredeemed portion of principal thereof a new Bond or Bonds and maturity date of authorized denominations equal in aggregate principal amount to such unredeemed portion.

With respect to any notice of optional redemption or extraordinary redemption from prepayments of the Special Tax, unless, upon the giving of notice, the Bonds to be redeemed have been deemed to have been paid within the meaning of Article X of this Master Indenture, the notice must state that the redemption will be conditional upon the receipt by the Trustee on or before the date fixed for redemption of amounts sufficient to pay the principal of, and premium, if any, and interest on, the Bonds to be redeemed, and that if those amounts have not been so received the notice will be of no force and effect and the City will not be required to redeem the Bonds. If any such notice of redemption contains such a condition and such amounts are not so received, the redemption will not be made and the Trustee shall within a reasonable time thereafter give notice to the effect that the amounts were not so received and the redemption was not made, the notice to be given by the Trustee in the same manner, and to the same parties, as the notice of redemption was given. The failure to redeem Bonds subject to a conditional redemption notice will not constitute an Event of Default.

Any notice of optional redemption or extraordinary redemption from prepayments of the Special Tax may be rescinded by written notice given to the Trustee by the City no later than five Business Days before the date specified for redemption. The Trustee shall give notice of such rescission as soon thereafter as practicable in the same manner, and to the same parties, as the notice of redemption was given.

SECTION 4.04. [Partial Redemption of Bonds](#). Upon surrender of any Bond redeemed in part only, the City shall execute and the Trustee shall authenticate and deliver to the registered owner thereof at the expense of the City a new Bond or Bonds of the same Series and maturity date and of authorized denominations equal in aggregate principal amount to the unredeemed portion of the Bond surrendered.

SECTION 4.05. [Effect of Redemption of Bonds](#). If notice of redemption has been duly given as aforesaid and money for the payment of the principal of and redemption premiums, if any, on, together with interest to the redemption date on, the Bonds or portions

thereof so called for redemption is held by the Trustee, then on the redemption date designated in such notice such Bonds or such portions thereof shall become due and payable, and from and after the date so designated interest on the Bonds or such portions thereof so called for redemption shall cease to accrue and the Holders of such Bonds shall have no rights in respect thereof except to receive payment of the principal or such portions thereof and the redemption premiums, if any, thereon and the interest accrued thereon to the redemption date.

ARTICLE V

PAYMENT OF BONDS

SECTION 5.01. [Deposit of Proceeds of the Special Tax in the Special Tax Fund.](#) The City agrees and covenants that all proceeds of the Special Tax, when and as received, will be received and held by it in trust hereunder, and will be deposited as and when received in the “City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Special Tax Fund,” which fund is hereby established in the treasury of the City and which fund the City hereby agrees and covenants to maintain with the Treasurer so long as any Bonds are Outstanding hereunder, and all such money in the Special Tax Fund shall be accounted for separately and apart from all other accounts, funds, money or other resources of the City, and shall be disbursed, allocated and applied solely to the uses and purposes hereinafter set forth in this article. Subject only to the provisions of this Master Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein, there are hereby pledged to secure the payment of the principal of and premium, if any, and interest on the Bonds in accordance with their terms and the provisions of this Master Indenture, all of the proceeds of the Special Tax received by or on behalf of the City and any other amounts held in the Special Tax Fund, the Bond Redemption Fund, and the Bond Reserve Fund. This pledge constitutes a lien on and security interest in such assets and will attach, be perfected, and be valid and binding without any physical delivery or further act.

Notwithstanding anything to the contrary in this Master Indenture, as soon as practicable after the receipt by the City of any prepayment of the Special Tax, the Treasurer shall (i) deposit any component thereof representing the “Remaining Facilities Amount” (as defined in the Special Tax Formula) in the Acquisition and Construction Fund, (ii) deposit any component thereof representing the “Administrative Fees and Expenses” (as defined in the Special Tax Formula) in the Expense Fund, and (iii) transfer to Trustee for deposit in the Bond Redemption Fund, any remaining amounts, for the extraordinary redemption of Bonds pursuant to the terms of any Supplemental Resolution. The respective amounts of the deposits and transfers described in clauses (i), (ii) and (iii) will be determined by the Treasurer.

SECTION 5.02. [Allocation of Money in the Special Tax Fund.](#) All money in the Special Tax Fund shall be set aside by the Treasurer in the following respective funds and accounts (each of which funds and accounts the City agrees and covenants to maintain with the Treasurer or the Trustee, as the case may be, so long as any Bonds are Outstanding hereunder) in the following order of priority, and all money in each of such funds and accounts shall be applied, used and withdrawn only for the purposes hereinafter authorized in this section, namely:

(1) City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Bond Redemption Fund (maintained by the Trustee). On or before the first (1st) day in each March and September, the Treasurer shall, from the money in the Special Tax Fund, transfer to the Trustee for deposit in the Bond Redemption Fund an amount of money equal to the aggregate amount of interest becoming due and payable on all Outstanding Bonds on such March 1 or September 1, as the case may be, and on or before the first (1st) day in September 1 in each year, the Treasurer shall, from the then remaining money in the Special Tax Fund, transfer to the Trustee for deposit in the Bond Redemption Fund an amount of money equal to the aggregate amount of principal becoming due and payable on all Outstanding Serial Bonds on such September 1 plus the Sinking Fund Account Payments required to be made on such September 1 into the Sinking Fund Account; provided, that all of the aforesaid payments shall be made without priority of any payment over any other payment, and in the event that the money in the Bond Redemption Fund on any March 1 or September 1 is not equal to the amount of interest becoming due on all Bonds on such date, or in the event that the money in the Bond Redemption Fund on any September 1 is not equal to the amount of principal of the Bonds becoming due on such date plus the amount of the Sinking Fund Account Payments becoming due on such date, as the case may be, then such money shall be applied pro rata in such proportion as such interest and principal and Sinking Fund Account Payments bear to each other; and provided further, that no deposit need be made into the Bond Redemption Fund if the amount of money contained therein is at least equal to the amount required by the terms of this paragraph to be deposited therein at the times and in the amounts herein provided.

All money in the Bond Redemption Fund shall be used and withdrawn by the Trustee solely to pay the interest on the Bonds as it shall become due and payable (including accrued interest on any Bonds purchased or redeemed prior to maturity) plus the principal of and redemption premiums, if any, on the Bonds as they shall mature or upon the prior redemption thereof, except that any money in the Sinking Fund Account shall be used only to purchase or redeem or retire Term Bonds and any money deposited in the Bond Redemption Fund from the proceeds of a Series of Bonds to be used to pay interest on that Series of Bonds shall be used only to pay interest on that Series of Bonds.

(2) City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Bond Reserve Fund (maintained by the Trustee). On or before the first (1st) day in September in each year, the Treasurer shall, from the then remaining money in the Special Tax Fund, transfer to the Trustee for deposit in the Bond Reserve Fund such amount of money as shall be required to restore the Bond Reserve Fund to an amount equal to the Required Bond Reserve; and for this purpose all investments in the Bond Reserve Fund shall be valued on or before September 1 of each year at the face value thereof if such investments mature within twelve (12) months from the date of valuation, or if such investments mature more than twelve (12) months after the date of valuation, at the price at which such investments are redeemable by the holder at his or her option, if so redeemable, or if not so redeemable, at the lesser of (i) the par value of such investments, or (ii) the market value of such investments; provided, that no deposit need be made into the Bond Reserve Fund if the amount contained therein is at least equal to the Required Bond Reserve. In making any

valuations hereunder, the Trustee may utilize computerized securities pricing services that may be available to it, including those available through its regular accounting system and rely thereon.

All money in the Bond Reserve Fund shall be used and withdrawn by the Trustee solely for the purpose of (i) paying the interest on or principal of the Bonds in the event there is insufficient money in the Bond Redemption Fund available for this purpose; (ii) reinstating the amount available under any municipal bond insurance policy, surety bond, or letter of credit held in satisfaction of all or a portion of the Required Bond Reserve; or (iii) retiring Bonds, in whole or in part, to the extent that the amount on deposit in the Bond Reserve Fund exceeds the Required Bond Reserve due to a redemption or defeasance of Bonds; provided, that if as a result of any of the valuations required by the first paragraph of this Section 5.02(2) it is determined that the amount of money in the Bond Reserve Fund exceeds the Required Bond Reserve, the Trustee shall withdraw the amount of money representing such excess from such fund and shall deposit such amount of money in the Bond Redemption Fund.

(3) City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Expense Fund (maintained by the Treasurer). On September 1 in each year, the Treasurer shall, from the then remaining money in the Special Tax Fund, transfer to and deposit in the Expense Fund a sum equal to the amount required by the City for the payment of budgeted Expenses during the twelve-month period beginning on such date, or to reimburse the City for the payment of unbudgeted Expenses during the prior twelve-month period. All money in the Expense Fund shall be used and withdrawn by the Treasurer only for transfer to or for the account of the City to pay budgeted Expenses as herein provided, or to reimburse the City for the payment of unbudgeted Expenses as herein provided, or to pay interest on or principal of or redemption premiums, if any, on the Bonds in the event that no other money is available therefor.

All money remaining in the Special Tax Fund on September 1 of each year, after transferring all of the sums required to be transferred therefrom on or prior to such date by the provisions of Sections 5.02(1), (2) and (3), shall be withdrawn from the Special Tax Fund by the Treasurer for and deposited in the “City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Community Facilities Fund,” which fund the City hereby agrees and covenants to maintain with the Treasurer so long as any Bonds are Outstanding hereunder, and all money in the Community Facilities Fund shall be used and withdrawn by the City solely for the benefit of the Community Facilities District in accordance with the Act; provided, that the Treasurer shall not make any such withdrawal of money in the Special Tax Fund if and when (to the Treasurer’s actual knowledge) an Event of Default is then existing hereunder.

ARTICLE VI

COVENANTS OF THE CITY

SECTION 6.01. Punctual Payment and Performance. The City will punctually pay the interest on and principal of and redemption premium, if any, to become due on every Bond issued hereunder in strict conformity with the terms of the Act and hereof and of the Bonds, and will faithfully observe and perform all the agreements, conditions, covenants and terms contained herein and in all Supplemental Indentures and in the Bonds required to be observed and performed by it.

SECTION 6.02. Against Indebtedness and Encumbrances. The City will not issue any evidences of indebtedness payable from the proceeds of the Special Tax except as provided herein, and will not create, nor permit the creation of, any pledge, lien, charge or other encumbrance upon any money in the Special Tax Fund other than as provided herein; provided, that the City may at any time, or from time to time, issue evidences of indebtedness for any lawful purpose of the Community Facilities District which are payable from any money in the Community Facilities Fund as may from time to time be deposited therein (as provided in Section 5.02) so long as any payments due thereunder shall be subordinate in all respects to the use of the proceeds of the Special Tax as provided herein.

SECTION 6.03. Against Federal Income Taxation.

(a) The City will not take any action, or fail to take any action, if such action or failure to take such action would adversely affect the exclusion from gross income of the interest on the Bonds pursuant to Section 103 of the Code, and specifically the City will not directly or indirectly use or make any use of the proceeds of the Bonds or any other funds of the City or take or omit to take any action that would cause the Bonds to be “arbitrage bonds” subject to federal income taxation by reason of Section 148 of the Code or “private activity bonds” subject to federal income taxation by reason of Section 141(a) of the Code or obligations subject to federal income taxation because they are “federally guaranteed” as provided in Section 149(b) of the Code; and to that end the City, with respect to the proceeds of the Bonds and such other funds, will comply with all requirements of such sections of the Code; provided, that if the City shall obtain an opinion of nationally recognized bond counsel to the effect that any action required under this section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest on the Bonds pursuant to Section 103 of the Code, the City may rely conclusively on such opinion in complying with the provisions hereof. In the event that at any time the City is of the opinion that for purposes of this section it is necessary to restrict or limit the yield on the investment of any money held by the Treasurer hereunder or otherwise the City shall so instruct the Treasurer in writing, and the Treasurer shall take such action as may be necessary in accordance with such instructions.

(b) Without limiting the generality of the foregoing, the City will pay from time to time all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code and all regulations of the United States Department of the Treasury issued thereunder to the extent that such regulations are, at the time, applicable and in effect, which obligation shall survive payment in full or defeasance of the Bonds, and to that end, there is

hereby established in the treasury of the City a fund to be known as the “City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds Rebate Fund” to be held in trust and administered by the Treasurer. The City will comply with the provisions of each Tax Certificate with respect to making deposits in the Rebate Fund, and all money held in the Rebate Fund is pledged to provide payments to the United States of America as provided herein and in each Tax Certificate and no other person shall have claim to such money except as provided in each Tax Certificate.

(c) In connection with the issuance of a Series of Bonds, the City may exclude the application of the covenants contained in this Section 6.03 to such Series of Bonds.

SECTION 6.04. [Payment of Claims](#). The City will pay and discharge any and all lawful claims which, if unpaid, might become payable from the proceeds of the Special Tax or any part thereof or upon any funds in the hands of the Treasurer or the Trustee allocated to the payment of the interest on or principal of or redemption premiums, if any, on the Bonds, or which might impair the security of the Bonds.

SECTION 6.05. [Accounting Records and Other Reports](#).

(a) The City will keep, or in the case of transactions made by the Trustee it will cause the Trustee to keep, appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the receipt, investment, disbursement, allocation and application of the proceeds of the Special Tax and of the proceeds of the Bonds, which accounting records shall at all times during normal business hours with reasonable prior notice be subject to the inspection of any Holder (or his representative authorized in writing).

(b) The City will prepare annually not later than October 30 of each year (commencing in the year 2016) and file with the California Debt and Investment Advisory Commission by mail, postage prepaid, or any other method approved by the California Debt and Investment Advisory Commission all information required to be filed pursuant to Section 53359.5(b) of the Act. Additionally, the City will notify the California Debt and Investment Advisory Commission by mail, postage prepaid, or any other method approved by the California Debt and Investment Advisory Commission, within ten (10) days if the Trustee fails to pay any interest on or principal of any of the Bonds on any scheduled payment date or if funds are withdrawn from the Bond Reserve Fund to pay any interest on or principal of the Bonds.

SECTION 6.06. [Protection of Security and Rights of Holders](#). The City will preserve and protect the security of the Bonds and the rights of the Holders and will warrant and defend their rights against all claims and demands of all persons.

SECTION 6.07. [Levy and Collection of the Special Tax](#). The City, so long as any Bonds are Outstanding, will annually levy the Special Tax against all Taxable Land in the Community Facilities District in accordance with the Special Tax Formula and, subject to the limitations in the Special Tax Formula and the Act, make provision for the collection of the Special Tax in amounts which will be sufficient, together with the money then on deposit in the Bond Redemption Fund, after making reasonable allowances for contingencies and errors in the estimates, to yield proceeds equal to the amounts required for compliance with the agreements,

conditions, covenants and terms contained herein, and which in any event will be sufficient to pay the interest on and principal of and Sinking Fund Account Payments for and redemption premiums, if any, on the Bonds as they become due and payable and to replenish the Bond Reserve Fund and to pay all current Expenses as they become due and payable in accordance with the provisions and terms hereof. The Special Tax shall be collected in the same manner as ordinary ad valorem property taxes for the County of Sacramento are collected and, except as otherwise provided in Section 6.08 or by the Act, shall be subject to the same penalties and the same collection procedure, sale, and lien priority in case of delinquency as is provided for ad valorem property taxes.

SECTION 6.08. [Foreclosure of Special Tax Liens](#). The City will annually on or before October 1 of each year review the public records of the County of Sacramento relating to the collection of the Special Tax in order to determine the amount of the Special Tax collected in the prior Fiscal Year, and (a) on the basis of such review the City will, not later than the succeeding December 1, institute foreclosure proceedings as authorized by the Act against all parcels that are delinquent in the payment of such Special Tax in such Fiscal Year by one thousand dollars (\$1,000) or more in order to enforce the lien of all such delinquent installments of such Special Tax, and will diligently prosecute and pursue such foreclosure proceedings to judgment and sale, and (b) on the further basis of such review, if the City determines that the total amount so collected is less than ninety-five percent (95%) of the total amount of the Special Tax levied in such Fiscal Year, the City will, not later than the succeeding December 1, institute foreclosure proceedings as authorized by the Act against all parcels that are delinquent in the payment of such Special Tax in such Fiscal Year to enforce the lien of all the delinquent installments of such Special Tax, and will diligently prosecute and pursue such foreclosure proceedings to judgment and sale; provided, that any actions taken to enforce delinquent Special Tax liens shall be taken only consistent with Sections 53356.1 through 53356.7, both inclusive, of the Government Code of the State of California; and provided further, that the City shall not be obligated to enforce the lien of any delinquent installment of the Special Tax for any Fiscal Year in which the City shall have received one hundred percent (100%) of the amount of such installment from the County of Sacramento pursuant to the so-called "Teeter Plan."

SECTION 6.09. [Continuing Disclosure](#). The City will comply with and carry out all of the provisions of each continuing disclosure certificate or continuing disclosure agreement executed by the City in connection with the issuance of a Series of Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof, and notwithstanding any other provision hereof, failure of the City to comply with any continuing disclosure certificate or continuing disclosure agreement shall not be considered an Event of Default hereunder; provided, that any Holder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this section.

SECTION 6.10. [Further Assurances](#). The City will adopt, deliver, execute, make and file any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Holders of the rights and benefits provided herein, including without limitation the filing of all financing statements, agreements, instruments or other documents in the forms and in the locations necessary to perfect and protect, and to

continue the perfection of, the pledge of the Special Taxes provided herein to the fullest extent possible under applicable law of the State of California.

ARTICLE VII

THE TRUSTEE

SECTION 7.01. The Trustee. U.S. Bank National Association, at its Principal Corporate Trust Office, is hereby appointed Trustee for the purpose of receiving all money which the City is required to transfer to it hereunder and for applying and using such money as provided herein for the purpose of paying the interest on and principal of and redemption premiums, if any, on the Bonds. The City agrees that it will at all times maintain a Trustee having a Principal Corporate Trust Office in San Francisco or Los Angeles, California.

The City may remove the Trustee initially appointed and any successor thereto and may appoint a successor or successors thereto by an instrument in writing; provided, that any such successor shall be a bank or trust company doing business and having a corporate trust office in San Francisco or Los Angeles, California, having a combined capital (exclusive of borrowed capital) and surplus of at least one hundred million dollars (\$100,000,000) and subject to supervision or examination by a federal or state banking authority, and if such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. The Trustee may at any time resign by giving written notice of such resignation to the City and by giving notice of such resignation by mail pursuant to Section 11.09 to the Holders, and upon receiving such notice of resignation, the City shall promptly appoint a successor Trustee by an instrument in writing having the qualifications required hereby. Any resignation or removal of a Trustee and appointment of a successor Trustee shall become effective only upon the acceptance of appointment by the successor Trustee. If within thirty (30) days after notice of the removal or resignation of the Trustee no successor Trustee shall have been appointed by the City and shall have accepted such appointment, the removed or resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, which court may thereupon, after such notice, if any, as it may deem proper and prescribe and as may be required by law, appoint a successor Trustee having the qualifications required hereby.

Notwithstanding anything to the contrary contained herein, any corporation or association into which the Trustee may be merged or with which it may be consolidated, or any corporation or association resulting from any merger or consolidation to which the Trustee shall be a party, or any corporation or association succeeding to the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto.

The Trustee is hereby authorized to pay interest on the Bonds due on or before the maturity or prior redemption thereof to the Holders as their names appear at the close of business as of the fifteenth (15th) day of the month next preceding each interest payment date on the

registration books required to be kept by it pursuant to Section 3.03 as the registered owners thereof, such interest to be paid by check mailed by first class mail to the Holders at their addresses appearing on such books (except that in the case of a Holder of one million dollars (\$1,000,000) or more in principal amount of Outstanding Bonds, payment shall be made at such Holder's option by wire transfer of immediately available funds to an account in a bank or trust company or savings bank that is a member of the Federal Reserve System and that is located in the United States of America according to written instructions provided by such Holder to the Trustee at least fifteen (15) days before such interest payment date) and to pay to the Holders the principal of and redemption premiums, if any, on the Bonds upon presentation and surrender of the Bonds to the Trustee at maturity or on redemption prior to maturity. The Trustee shall cancel and destroy all Bonds paid by it at maturity or on redemption prior to maturity and all Bonds surrendered to it by the City, and shall (if requested by the City) deliver to the City a certificate of such destruction, and the Trustee shall keep accurate records of all Bonds cancelled and destroyed by it hereunder. All money held by or on behalf of the Trustee for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds, whether at maturity or upon prior redemption, shall be held in trust for the account of the Holders thereof, and the Trustee shall not be required to pay Holders or the City any interest on, or be liable to the City, the Holders or any other person for any interest earned on, any money so held.

The City shall from time to time, subject to any agreement between the City and the Trustee then in force, pay the Trustee compensation for its services, reimburse the Trustee for all its advances and expenditures, including but not limited to advances to and fees and expenses of independent accountants, counsel and engineers or other experts employed by it in the exercise and performance of its rights and obligations hereunder, and indemnify and save the Trustee harmless against loss, expenses, costs, claims and liabilities (including without limitation those of its attorneys and agents) not arising from its own negligence or willful misconduct which it may incur in the exercise and performance of its rights and obligations hereunder, which obligation shall survive the resignation or removal of any Trustee or the defeasance of the Bonds.

SECTION 7.02. [Liability of the Trustee](#). The recitals of facts, agreements and covenants contained herein and in the Bonds shall be taken as statements, agreements and covenants of the City, and the Trustee does not assume any responsibility for the correctness of the same and does not make any representation as to the sufficiency or validity hereof or of the Bonds or of the Special Tax, or as to the financial or technical feasibility of the acquisition and construction of any of the Facilities, and shall not incur any responsibility in respect thereof other than in connection with the rights and obligations expressly assigned to or imposed upon it herein or in the Bonds, and shall not be liable in connection with the performance of its duties hereunder except for its own negligence or willful misconduct. The Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts, and no provision hereof shall require the Trustee to expend or risk its own funds or otherwise incur any liability for the performance of its duties hereunder, or in the exercise of any of its rights or powers hereunder.

The Trustee shall perform only those duties expressly set forth herein, and no implied duties or obligations shall be read herein against the Trustee. The Trustee shall have no responsibility with respect to any information, statement, or recital in any official statement,

offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds.

SECTION 7.03. [Notice to the Trustee](#) The Trustee shall be protected in acting upon any Bond, certificate, consent, notice, opinion, report, request, resolution or other document or paper believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, including, without limitation, counsel to the City, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection with respect to any action taken or suffered hereunder in good faith and in accordance therewith. The Trustee shall not be deemed to have knowledge of any default or Event of Default hereunder unless and until an officer at its Principal Corporate Trust Office responsible for the administration of its obligations hereunder shall have actual knowledge thereof or the Trustee shall have received written notice thereof at its Principal Corporate Trust Office.

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

ARTICLE VIII

AMENDMENT OF OR SUPPLEMENT TO THE MASTER INDENTURE

SECTION 8.01. [Procedure for Amendment of or Supplement to the Master Indenture.](#)

(a) Amendment or Supplement With Consent of Holders. The Master Indenture and the rights and obligations of the City and of the Holders may be amended or supplemented at any time by the execution and delivery of a Supplemental Indenture by the City and the Trustee, which Supplemental Indenture shall become binding when the written consents of the Holders of a majority in aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 8.02, shall have been filed with the Trustee; provided, that no such amendment or supplement shall (1) extend the maturity of or reduce the interest rate on or otherwise alter or impair the obligation of the City to pay the interest on or principal of or Sinking Fund Account Payment for or redemption premium, if any, on any Bond at the time and place and at the rate and in the currency and from the funds provided herein without the express written consent of the Holder of such Bond, or (2) permit the issuance by the City of any obligations payable from the proceeds of the Special Tax on a parity with the Bonds other than as provided herein, or jeopardize the ability of the City to levy and collect the Special Tax, or (3) reduce the percentage of Bonds required for the written consent to any such amendment or

supplement, or (4) modify any rights or obligations of the Trustee without its prior written assent thereto. The written consent of the Holders of a Series of Bonds may be effected (a) through a consent by the underwriter of such Series of Bonds at the time of the issuance of such Series of Bonds and (b) through a provision of a Supplemental Resolution that deems any Holder purchasing such Series of Bonds to consent for purposes of this Section 8.01(a) by virtue of its purchase of such Series of Bonds.

(b) Amendment or Supplement Without Consent of Holders. The Master Indenture and the rights and obligations of the City and of the Holders may also be amended or supplemented at any time by the execution and delivery of a Supplemental Indenture by the City and the Trustee, which Supplemental Indenture shall become binding upon execution without the prior written consent of any Holders, but only for any one or more of the following purposes --

(i) To add to the agreements and covenants required herein to be performed by the City other agreements and covenants thereafter to be performed by the City which shall not (in the opinion of the City) adversely affect the interests of the Holders, or to surrender any right or power reserved herein to or conferred herein upon the City which shall not (in the opinion of the City) materially adversely affect the interests of the Holders;

(ii) To make such provisions for the purpose of curing any ambiguity or of curing, correcting or supplementing any defective provision contained herein or in regard to questions arising hereunder which the City may deem desirable or necessary and not inconsistent herewith and which shall not (in the opinion of the City) materially adversely affect the interests of the Holders;

(iii) To authorize the issuance under the Act and hereunder of a Series and to provide the conditions and terms under which such Series may be issued, subject to and in accordance with the provisions of Article II;

(iv) To authorize the issuance under and subject to the Act of any refunding bonds for any of the Bonds and to provide the conditions and terms under which such refunding bonds may be issued, subject to and in accordance with the provisions of Article II;

(v) To make such additions, deletions or modifications as may be necessary or appropriate to insure compliance with Section 148(f) of the Code relating to the required rebate of excess investment earnings to the United States of America, or otherwise as may be necessary to insure the exclusion from gross income for purposes of federal income taxation of the interest on the Bonds or the exemption of such interest from State of California personal income taxes;

(vi) To make such additions, deletions or modifications as may be necessary or appropriate to maintain any then current rating on the Bonds;

(vii) To permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by that act or similar federal statute and

which shall not (in the opinion of the City) materially adversely affect the interests of the Holders; and

(viii) For any other purpose that does not (in the opinion of the City) materially adversely affect the interests of the Holders.

SECTION 8.02. Disqualified Bonds. Bonds owned or held for the account of the City shall not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Bonds provided for in this article or in Article IX, and shall not be entitled to consent to or take any other action provided for in this article or in Article IX.

SECTION 8.03. Endorsement or Replacement of Bonds After Amendment or Supplement. After the effective date of any action taken as hereinabove provided, the City may determine that the Bonds may bear a notation by endorsement in form approved by it as to such action, and in that case upon demand of the Holder of any Bond Outstanding on such effective date and presentation of his Bond for such purpose at the Principal Corporate Trust Office of the Trustee a suitable notation as to such action shall be made on such Bond. If the City shall so determine, new Bonds so modified as, in the opinion of the City, shall be necessary to conform to such action shall be prepared and executed, and in that case upon demand of the Holder of any Bond Outstanding on such effective date such new Bonds shall, upon surrender of such Outstanding Bonds, be exchanged at the Principal Corporate Trust Office of the Trustee, without cost to each Holder, for Bonds then Outstanding.

SECTION 8.04. Amendment or Supplement by Mutual Consent. The provisions of this article shall not prevent any Holder from accepting any amendment or supplement as to any particular Bonds held by him; provided, that due notation thereof is made on such Bonds.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES OF HOLDERS

SECTION 9.01. Events of Default and Remedies of Holders. If one or more of the following events (herein "Events of Default") shall happen, that is to say --

(a) if default shall be made by the City in the due and punctual payment of any interest on or principal of or Sinking Fund Account Payment for any of the Bonds when and as the same shall become due and payable, whether at maturity, by proceedings for redemption or otherwise;

(b) if default shall be made by the City in the observance or performance of any of the other agreements or covenants contained herein required to be observed or performed by it, and such default shall have continued for a period of thirty (30) days after the City shall have been given notice in writing of such default by the Trustee; or

(c) if the City shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States

of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with or without the consent of the City seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the City or of the whole or any substantial part of its property;

then in each and every such case during the continuance of such Event of Default the Trustee may take the following remedial steps --

(a) by mandamus or other suit or proceeding at law or in equity to compel the City Council or the City or any of the officers or employees of the City to perform each and every term, provision and covenant contained in this Indenture and in the Bonds and carry out their duties under the Act and the agreements and covenants with the Holders contained herein;

(b) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Holders; or

(c) by suit in equity upon the nonpayment of the Bonds to require the City Council or the City or its officers and employees to account as the trustee of an express trust.

SECTION 9.02. [Application of Proceeds of Special Tax After Default](#). If an Event of Default shall occur and be continuing, all proceeds of the Special Tax thereafter received by the City shall be immediately transferred to the Trustee and the Trustee shall apply all proceeds of the Special Tax and any other funds thereafter received by the Trustee under any of the provisions of this Indenture as follows and in the following order:

(a) To the payment of any expenses necessary in the opinion of the Trustee to protect the interests of the Holders of the Bonds, including the costs and expenses of the Trustee and the Holders in declaring such Event of Default, and payment of reasonable fees and expenses of the Trustee (including reasonable fees and disbursements of its counsel and other agents) incurred in and about the performance of its powers and duties under this Indenture.

(b) To the payment of the principal of and interest and premium, if any, then due on 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 Bond Indenture, as follows:

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

Second: to the payment to the persons entitled thereto of the unpaid principal (including Sinking Fund Account Payments) of and redemption premium, if any, on the Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, with interest on the overdue principal at the rate borne by the respective Bonds, and, if the amount available shall not be sufficient to pay in full all the Bonds due on any date, together with such interest, then to the payment thereof ratably, according to the amounts of principal of and premium, if any, due on such date to the persons entitled thereto, without any discrimination or preference.

(c) Any remaining amounts shall be transferred by the Trustee to the City for deposit in the Special Tax Fund.

SECTION 9.03. Trustee to Represent Holders. The Trustee is hereby irrevocably appointed (and the successive respective Holders of the Bonds, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee) as trustee and true and lawful attorney-in-fact of the Holders of the Bonds for the purpose of exercising and prosecuting on their behalf such rights and remedies as may be available to such Holders under the provisions of the Bonds, this Indenture, the Act and applicable provisions of any other law. Upon the occurrence and continuance of an Event of Default or other occasion giving rise to a right in the Trustee to represent the Holders, the Trustee in its discretion may, and upon the written request of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding, and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of such Holders by such appropriate action, suit, mandamus or other proceedings as it shall deem most effectual to protect and enforce any such right, at law or in equity, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable right or remedy vested in the Trustee or in such Holders under this Indenture, the Act or any other law; and upon instituting such proceeding, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver of the proceeds of the Special Tax and other amounts and assets pledged under this Indenture, pending such proceedings. All rights of action under this Indenture or the Bonds or otherwise may be prosecuted and enforced by the Trustee without the possession of any of the Bonds or the production thereof in any proceeding relating thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in the name of the Trustee for the benefit and protection of all the Holders of such Bonds, subject to the provisions of this Bond Indenture.

SECTION 9.04. Holders' Direction of Proceedings. Anything in this Indenture to the contrary notwithstanding, the Holders of a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, and upon indemnifying the Trustee to its satisfaction therefor, to direct the method of conducting all remedial proceedings taken by the Trustee hereunder, provided that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture, and that the Trustee shall have the right to decline to follow any such direction which in the opinion of the Trustee would be unjustly prejudicial to Holders not parties to such direction.

SECTION 9.05. [Limitation on Holders' Right to Sue](#). No Holder of any Bond shall have the right to institute any suit, action or proceeding at law or in equity, for the protection or enforcement of any right or remedy under this Indenture, the Act or any other applicable law with respect to such Bond, unless (1) such Holder shall have given to the Trustee written notice of the occurrence of an Event of Default; (2) the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding shall have made written request upon the Bond Trustee to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (3) such Holder or said Holders shall have tendered to the Trustee indemnity satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request; and (4) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Holder of Bonds of any remedy hereunder or under law; it being understood and intended that no one or more Holders of Bonds shall have any right in any manner whatever by such Holder's or Holders' action to affect, disturb or prejudice the security of this Indenture or the rights of any other Holders of Bonds, or to enforce any right under this Indenture, the Act or other applicable law with respect to the Bonds, except in the manner herein provided, and that all proceedings at law or in equity to enforce any such right shall be instituted, had and maintained in the manner herein provided and for the benefit and protection of all Holders of the Outstanding Bonds, subject to the provisions of this Indenture.

SECTION 9.06. [Absolute Obligation of the City](#). Nothing in Section 9.05 or in any other provision of this Indenture, or in the Bonds, contained shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the principal of and redemption premium, if any, and interest on the Bonds to the respective Holders of the Bonds at their respective dates of maturity, or upon call for redemption, as herein provided, but only out of the proceeds of the Special Tax and other assets herein pledged therefor, and not otherwise, or affect or impair the right of such Holders, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the Bonds.

SECTION 9.07. [Termination of Proceedings](#). In case any proceedings taken by the Trustee or any one or more Holders on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Holders, then in every such case the City, the Trustee and the Holders, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and respectively, and all rights, remedies, powers and duties of the City, the Trustee and the Holders shall continue as though no such proceedings had been taken.

SECTION 9.08. [Remedies Not Exclusive](#). No remedy herein conferred upon or reserved to the Trustee or to the Holders 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 9.09. [No Waiver of Default](#). No delay or omission of the Trustee or of any Holder of the Bonds to exercise any right or power arising upon the occurrence of any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee or to the Holders of the Bonds may be exercised from time to time and as often as may be deemed expedient.

ARTICLE X

[DEFEASANCE](#)

SECTION 10.01. [Discharge of the Bonds](#).

(a) If the City shall pay or cause to be paid or there shall otherwise be paid to the Holders of all Outstanding Bonds the interest thereon and the principal thereof and the redemption premiums, if any, thereon at the times and in the manner stipulated therein and herein, then all agreements, covenants and other obligations of the City to the Holders of such Bonds hereunder shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall execute and deliver to the City all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee shall pay over or deliver to the City for deposit in the Community Facilities Fund all money or securities held by it pursuant hereto which are not required for the payment of the interest on and principal of and redemption premiums, if any, on such Bonds.

(b) Any Outstanding Bonds shall on the maturity date or redemption date thereof be deemed to have been paid within the meaning of and with the effect expressed in subsection (a) of this section if there shall be on deposit with the Trustee money which is sufficient to pay the interest due on such Bonds on such date and the principal and redemption premiums, if any, due on such Bonds on such date.

(c) Any Outstanding Bonds shall prior to the maturity date or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in subsection (a) of this section if (1) in case any of such Bonds are to be redeemed on any date prior to their maturity date, notice of redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice, (2) there shall have been deposited with an escrow agent or the Trustee either (x) money in an amount which shall be sufficient to pay when due the interest to become due on such Bonds on and prior to the maturity dates or redemption dates thereof, as the case may be, and the principal of and redemption premiums, if any, on such Bonds on and prior to the maturity dates or the redemption dates thereof, as the case may be or (y) Federal Securities which are not subject to redemption except by the holder thereof prior to maturity (including any Federal Securities issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), the interest on and principal of which when paid will provide money which, together with the money, if any, deposited with such escrow agent or the Trustee at the same time, shall be sufficient to pay when due the interest to become due on such Bonds on and prior to the maturity dates or redemption dates thereof, as the case may be, and the principal of and

redemption premiums, if any, on such Bonds on and prior to the maturity dates or the redemption dates thereof, as the case may be, as evidenced by an Accountant's Report on file with the City and the Trustee in the case of a deposit pursuant to clause (y) of this subsection, and (3) in the event such Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the City shall have instructed the Trustee to mail pursuant to Section 11.09 a notice to the Holders of such Bonds that the deposit required by clause (2) above has been made with such escrow agent or the Trustee and that such Bonds are deemed to have been paid in accordance with this section and stating the maturity dates or redemption dates, as the case may be, upon which money will be available for the payment of the principal of and redemption premiums, if any, on such Bonds.

SECTION 10.02. Unclaimed Money. Anything contained herein to the contrary notwithstanding, any money held by the Trustee in trust for the payment and discharge of any of the Bonds or any interest thereon which remains unclaimed for two (2) years after the date when such Bonds or interest thereon have become due and payable, either at their stated maturity dates or by call for redemption prior to maturity, if such money was held by the Trustee on such date, or for two (2) years after the date of deposit of such money if deposited with the Trustee after the date when such Bonds or interest thereon became due and payable, shall be repaid by the Trustee to the City as its absolute property free from trust for deposit in the Community Facilities Fund and for use in accordance with the Act, and the Trustee shall thereupon be released and discharged with respect thereto and the Holders shall look only to the City for the payment of such Bonds and interest thereon; provided, that before the Trustee shall be required to make any such repayment the City shall mail pursuant to Section 11.09 a notice to the Holders of all Outstanding Bonds that such money remains unclaimed and that after a date named in such notice, which date shall not be less than thirty (30) days after the date of the mailing of such notice, the balance of such money then unclaimed will be returned to the City for deposit in the Community Facilities Fund.

ARTICLE XI

MISCELLANEOUS

SECTION 11.01. Liability of City Limited to Proceeds of the Special Tax and Certain Other Funds. Notwithstanding anything contained herein, the City shall not be required to advance any money derived from any source of income other than the proceeds of the Special Tax and the other funds provided herein for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds.

The Bonds are special tax obligations of the City and the interest on and principal of and redemption premiums, if any, on the Bonds are payable solely from the proceeds of the Special Tax and such other funds, and the City is not obligated to pay them except from the proceeds of the Special Tax and such other funds. The General Fund of the City is not liable and the full faith and credit of the City is not pledged for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds, and no tax or assessment other than the Special Tax shall ever be levied or collected to pay the interest on or principal of or redemption premiums, if any, on the Bonds. The Bonds are not secured by a legal or equitable pledge of or

charge, lien or encumbrance upon any property of the City or any of its income or receipts except the proceeds of the Special Tax and such other funds, and neither the payment of the interest on or principal of or redemption premiums, if any, on the Bonds is a general debt, liability or obligation of the City. The Bonds do not constitute an indebtedness of the City within the meaning of any constitutional or statutory debt limitation or restriction, and neither the City Council nor the City nor any officer or employee thereof shall be liable for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds otherwise than from the proceeds of the Special Tax and such other funds as provided herein.

SECTION 11.02. [Benefits of the Master Indenture Limited to Certain Parties.](#) Nothing contained herein, express or implied, is intended to give to any entity or person other than the City Council, the City, the Treasurer, the Trustee and the Holders any right, remedy or claim under or by reason hereof, and any agreement or covenant required herein to be performed by or on behalf of the City Council or the City or any officer or employee thereof shall be for the sole and exclusive benefit of the Trustee and the Holders.

SECTION 11.03. [Successor is Deemed Included in All References to Predecessor.](#) Whenever either the City Council or the City or any officer or employee thereof is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions with respect to the administration, control and management of the Community Facilities District and the Facilities that are presently vested in the City Council or the City or such officer or employee, and all agreements and covenants required herein to be performed by or on behalf of the City Council or the City or any officer or employee thereof shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

SECTION 11.04. [Execution of Documents by Holders.](#) Any declaration, request, consent or other instrument which is permitted or required herein to be executed by Holders may be in one or more instruments of similar tenor, and may be executed by Holders in person or by their attorneys duly authorized in writing. The fact and date of the execution by any Holder or his attorney of any declaration, request, consent or other instrument or of any writing appointing such attorney may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state or territory in which he purports to act that the person signing such declaration, request, consent or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness to such execution duly sworn to before such notary public or other officer. The ownership of Bonds and the amount, maturity, number and date of holding the same shall be provided by the registration books required to be kept by the Trustee pursuant to Section 3.03.

Any declaration, request, consent or other instrument or writing of the Holder of any Bond shall bind all future Holders of such Bond with respect to anything done or suffered to be done by the City in good faith and in accordance therewith.

SECTION 11.05. [Deposit and Investment of Money in Accounts and Funds.](#) All money held by the Treasurer in any fund established herein shall be deposited by the Treasurer in time or demand deposits in any state or nationally chartered bank or trust company, including the Trustee or its affiliates, or in any state or federal savings and loan association, and

shall be secured at all times by such obligations as are required by law to the fullest extent required by law; provided, that all money in the Acquisition and Construction Fund, the Special Tax Fund and the Expense Fund may be invested by the Treasurer in Legal Investments. All money held by the Trustee in the Bond Redemption Fund shall be invested by the Trustee pursuant to a Written Request of the City received by the Trustee at least two (2) days before making any such investment in those Legal Investments specified in such Written Request of the City that mature not later than the date on which it is estimated that such money will be required to be paid out hereunder, and all money held by the Trustee in the Bond Reserve Fund shall be invested by the Trustee pursuant to a Written Request of the City received by the Trustee at least two (2) days before making any such investment in those Federal Securities specified in such Written Request of the City that mature not more than five (5) years from the date of purchase by the Trustee, or the final maturity date of any Outstanding Bonds, whichever is earlier, and the Trustee may conclusively rely that any investment specified in such Written Request of the City is a Legal Investment or a Federal Security hereunder, as the case may be; provided, that in the absence of receipt of any such Written Request of the City, the Trustee shall, to the extent practicable, invest such money in units of a taxable government money-market portfolio composed of or secured by Federal Securities. The Trustee (or any of its affiliates) may act as principal or agent or as sponsor, advisor or manager in connection with the making of any investment by the Trustee hereunder and may impose its customary charges therefor, and the Trustee shall not be responsible for any loss suffered in connection with any investment made in accordance herewith.

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; provided, that the Trustee will furnish the City periodic cash transaction statements which include details for all investment transactions made by the Trustee hereunder.

All interest received on any such money so deposited or invested which exceeds the requirements of the fund from which such money was deposited or invested shall (subject to the requirements of Section 6.03) be deposited in the Bond Redemption Fund, and all losses on any such money so deposited or invested shall be borne by the fund from which the deposit or investment was made.

SECTION 11.06. Waiver of Personal Liability. No member of the City Council or officer or employee of the City shall be individually or personally liable for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds, but nothing herein contained shall relieve any member of the City Council or officer or employee of the City from the performance of any official duty provided hereby or by the Act or by any other applicable provisions of law.

SECTION 11.07. Acquisition of Bonds by City. All Bonds acquired by the City, whether by purchase or gift or otherwise, shall be surrendered to the Trustee for cancellation and destruction by it.

SECTION 11.08. [Content of Certificates and Reports](#). Every certificate or report with respect to compliance with an agreement, condition, covenant or term provided herein shall include (a) a statement that the person or persons making or giving such certificate or report have read such agreement, condition, covenant or term and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the opinion contained in such certificate or report is based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such agreement, condition, covenant or term has been complied with; and (d) a statement as to whether, in the opinion of the signers, such agreement, condition, covenant or term has been complied with.

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

SECTION 11.09. [Notice by Mail](#). Any notice required to be given by mail to any Holders or to any securities information services or to the original underwriter or first purchaser of the Bonds shall be given by mailing a copy of such notice, first class postage prepaid, to such Holders at their addresses appearing in the books required to be kept by the Trustee pursuant to the provisions of Section 3.03 or to such securities information services or to such underwriter or first purchaser not less than thirty (30) days nor more than ninety (90) days following the action or prior to the event concerning which notice thereof is required to be given; provided, that neither failure to receive any such notice nor any immaterial defect contained therein shall affect the sufficiency or validity of the proceedings taken in connection with the action or the event concerning which such notice was given.

SECTION 11.10. [Maintenance of Accounts and Funds](#). Any account or fund required herein to be established and maintained by the Treasurer or the Trustee may be maintained by the Treasurer or the Trustee, as the case may be in its accounting records in its customary manner either as an account or a fund, and may, for the purposes of such accounting records, any audits thereof and any financial reports or statements with respect thereto, be treated either as an account or as a fund; but all such accounting records with respect to all such accounts and funds shall at all times be maintained by the Treasurer and the Trustee in accordance with industry standards and with due regard for the protection of the security of the Bonds and the rights of the Holders.

SECTION 11.11. [Article and Section Headings, Gender and References](#). The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the construction, effect or

meaning hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding articles, sections or subdivisions hereof; and the words “hereby,” “herein,” “hereof,” “hereto,” “herewith” and “hereunder” and other words of similar import refer to the Master Indenture as a whole and not to any particular article, section or subdivision hereof.

SECTION 11.12. [Partial Invalidity](#). If any one or more of the agreements, conditions, covenants or terms or portions thereof required hereby to be observed or performed by the City or the Trustee should be contrary to law, then such agreement or agreements, such condition or conditions, such covenant or covenants or such term or terms or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements, conditions, covenants or terms or portions thereof and shall in no way affect the validity hereof or of the Bonds; and the Holders shall retain all the rights and benefits accorded to them under the Act or any other applicable provisions of law. The City hereby declares that it would have executed the Master Indenture and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized the issuance of the Bonds pursuant hereto irrespective of the fact that any one or more of the articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

SECTION 11.13. [Execution in Counterparts](#). The Master Indenture may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

SECTION 11.14. [Governing Law](#). The Master Indenture shall be governed by and construed and interpreted in accordance with the laws of the State of California.

SECTION 11.15. [Notices](#). All written notices to be given hereunder shall be given by first class mail to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other parties in writing from time to time, namely:

If to the City:

City of Sacramento
Historic City Hall
915 I Street, 3rd Floor
Sacramento, California 95814
Attention: Treasurer

If to the Trustee:

U.S. Bank National Association
1 California Street, Suite 1000
San Francisco, CA 94111
Attention: David A. Jason, Vice President, San Francisco Office

SECTION 11.16. [Effective Date of the Master Indenture](#). The Master Indenture shall take effect from and after its execution and delivery.

IN WITNESS WHEREOF, the City of Sacramento has caused the Master Indenture to be signed in its name by the City Treasurer, and U.S. Bank National Association, as Trustee, in token of its acceptance of the trusts created hereunder, has caused the Master Indenture to be signed in its corporate name by its officer thereunto duly authorized, all as of the date and year first above written.

CITY OF SACRAMENTO

By _____
John Colville, Interim City Treasurer

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By _____
Authorized Officer

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City of Sacramento
McKinley Village Community Facilities District No. 2015-04 (Improvements)
Special Tax Bonds, Series 2016

PLACEMENT AGENT AGREEMENT

May __, 2016

City of Sacramento
Sacramento, California

Ladies and Gentlemen:

The undersigned, Stifel, Nicolaus & Company, Incorporated (the “**Placement Agent**”), acting on its own behalf and not as a fiduciary or agent of any other party, offers to enter into this Placement Agent Agreement with the City of Sacramento, California (the “**City**”), with respect to the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds, Series 2016 (the “**Bonds**”). Upon acceptance by the City, this agreement will be binding upon the City and the Placement Agent. Capitalized terms that are not defined in this agreement have the meanings given them in the Master Indenture, dated as of June 1, 2016 (the “**Master Indenture**”), between the City and U.S. Bank National Association (the “**Trustee**”), as supplemented by a First Supplemental Indenture, dated as of June 1, 2016, between the City and the Trustee (the “**First Supplemental Indenture**”). The Master Indenture, as supplemented by the First Supplemental Indenture, is the “**Indenture**.”

1. **The Bonds.** The Bonds are limited obligations of the City, payable solely from special taxes (the “**Special Taxes**”) paid from time-to-time by the owners of the property within City of Sacramento McKinley Village Community Facilities District No. 2015-04 (the “**CFD**”) and from certain other funds and accounts of the CFD pledged in accordance with the Indenture. The Bonds are not obligations payable from the general revenues or other funds of the City, the State of California, or any other political subdivision or public body, corporate or politic, of the State of California. The City will issue the Bonds under the Mello-Roos Communities Facilities Act of 1982, as amended (the “**Act**”); the resolution of the Sacramento City Council (the “**City Council**”), adopted on May 3, 2016, that authorizes the issuance of the Bonds (the “**Resolution**”); and the Indenture.
 - (a) The Bonds will be issued in the original principal amount, will mature on the dates and in the principal amounts, will bear interest at the rates, and will be subject to redemption before maturity as set forth on Exhibit A to this agreement. The Bonds will be issued in fully registered form, in the authorized minimum denominations of \$100,000 and any integral multiple of \$5,000 in excess of that minimum. The Bonds will bear interest payable from the date thereof, and interest will be payable on each March 1 and September 1, commencing September 1, 2016. The Bonds are being issued to provide funds to finance the acquisition and construction of public

infrastructure and the payment of development-impact fees used to acquire and construct public infrastructure.

(b) The Indenture will contain provisions limiting sales and transfers of the Bonds to certain investors. The Placement Agent shall, on a “best efforts” basis, make offers and placements of the Bonds solely to “**Qualified Institutional Buyers**” (as defined in Rule 144A under the Securities Act of 1933, as amended) and “**Accredited Investors**” (within the meaning of Rule 501(a)(1) of Regulation D under the Securities Act of 1933, as amended) and shall deliver to the City one or more completed and duly executed Investor Letters substantially in the form attached hereto as Exhibit B. (The Qualified Institutional Buyers and Accredited Investors to which offers are made by the Placement Agent are the “**Purchasers.**”) “**Best efforts**” means that the Placement Agent shall use the diligence of a reasonable person under comparable circumstances. There is no assurance that any or all of the Bonds will be sold, and the Placement Agent is under no obligation to purchase any of the Bonds on its own behalf or on behalf of others.

2. **Litigation Currently Pending.** The Placement Agent acknowledges that litigation was filed by East Sacramento Partnerships for a Livable City, a California nonprofit corporation (the “**Plaintiff**”), on May 30, 2014, in the Sacramento County Superior Court (the “**Litigation**”). The Litigation names as defendants the City, the City Council, and certain other parties. The Plaintiff alleges that the real party in interest in the Litigation is RCI-McKinley Village (the “**Developer**”). Among other claims, the petition and complaint filed in the Litigation (the “**Complaint**”) challenges the April 29, 2014 decision of the City Council to approve the residential project to be developed within the CFD (the “**Project**”). The Complaint also alleges that the City’s approval of the Project violated the California Environmental Quality Act. The Placement Agent acknowledges (a) that an adverse final ruling could have a material adverse effect on the construction of the facilities to be financed with the proceeds of the Bonds, the completion of the Project, and the collection of Special Taxes sufficient to pay debt service on the Bonds and (b) that the City Attorney, Bond Counsel, and any other legal counsel representing the City do not express any opinion as to the merits of the Litigation.

3. **Appointment of Placement Agent; Placement of the Bonds.**

(a) The City hereby appoints the Placement Agent to act, and the Placement Agent hereby agrees to act, as a placement agent for the City in connection with the private sale of the Bonds, and the Placement Agent hereby accepts that appointment. The Placement Agent acknowledges and agrees that it may only offer the Bonds for sale to Qualified Institutional Buyers and Accredited Investors and that the Bonds may only be sold to Purchasers who execute an Investor Letter in the form attached hereto as Exhibit B. As compensation for the services performed by the Placement Agent under this agreement, on the date the Bonds are issued (the “**Closing Date**”) the City shall pay or cause to be paid, by wire transfer or immediately available funds,

a fee to the Placement Agent equal to \$ _____, which includes costs for counsel to the Placement Agent and other expenses.

- (b) The City acknowledges and agrees (1) that the placement of the Bonds in accordance with this agreement is an arm's-length commercial transaction between the City and the Placement Agent; (2) that in connection with that transaction and with the discussion, undertakings, and procedures leading up to the consummation of that transaction, the Placement Agent is not acting as a fiduciary to the City; (3) that the Placement Agent has not assumed an advisory or fiduciary responsibility in favor of the City with respect to (A) the offering of the Bonds or the process leading thereto (whether or not the Placement Agent has advised or is currently advising the City on other matters) or (B) any other obligation to the City except the obligations expressly set forth in this agreement; and (4) that the City has consulted with its own legal and other professional advisors to the extent that it deemed appropriate in connection with the offering of the Bonds.
- (c) The City hereby retains the Placement Agent to offer and place the Bonds on an all-or-none basis. The City acknowledges and agrees that (1) the Placement Agent is not making a commitment to extend credit, make a loan, or otherwise fund the project being financed by the Bonds; (2) the services provided under this agreement involve professional judgment by the Placement Agent, and the results cannot be, and are not, guaranteed; (3) the Placement Agent will be acting as the agent of the City in the offering and sale of the Bonds; and (4) the Placement Agent will use its "best efforts" to offer and sell the Bonds. This agreement does not commit the Placement Agent, expressly or impliedly, to purchase or sell any of the Bonds.

4. **Documents Provided by the City.** The Placement Agent acknowledges that the City is not preparing or approving an official statement or other offering document in connection with the issuance and sale of the Bonds.

(a) The City provided the following documents (the "**City Materials**") to the Placement Agent in connection with the sale of the Bonds:

- (1) Indenture
- (2) Appraisal Report, dated October 28, 2015, and Update Appraisal Report, dated April 22, 2016
- (3) Rate and Method of Apportionment of Special Tax
- (4) Form of Bond Counsel opinion
- (5) Complaint
- (6) Trial Court Decision

- (7) Summary of Direct and Overlapping Debt (prepared by CalMuni)
- (b) The Placement Agent shall provide copies of the City Materials to the Purchasers. The Placement Agent acknowledges that the City has not provided the Placement Agent with any information concerning the Bonds, the CFD, the Developer, or the Project, or any matter related thereto, other than the City Materials.
5. **Covenants, Representations, and Warranties of the City.** The City covenants, represents, and warrants as follows:
- (a) *Due Organization and Authority.* The CFD was duly formed and is validly existing as a community facilities district under the Act.
- (b) *Full Right, Power, and Authority.* The City has complied with all provisions of applicable law, including the Act, in all matters relating to the adoption of the Resolution, the formation of the CFD, the incurrence of bonded indebtedness for the CFD, and the levy of the Special Taxes within the CFD. The City Council has the full legal right, power, and authority to adopt the Resolution, and the City has the full legal right, power, and authority—
- (1) to enter into this agreement, the Master Indenture, and the First Supplemental Indenture (collectively, the “**City Documents**”);
 - (2) to issue, sell, and deliver the Bonds;
 - (3) to secure the Bonds in the manner contemplated in the Indenture; and
 - (4) to carry out and consummate on its part all other transactions contemplated by the City Documents.
- (c) *Authorization of Documents; Consents and Approvals.* Except as may be required under blue-sky laws or other securities laws of any state, all consents or approvals the City must obtain in connection with the issuance of the Bonds have been obtained, and the consents or approvals so obtained are still in full force and effect. The City Council thus has duly authorized—
- (1) the execution and delivery of the City Documents and the execution, delivery, and due performance of the City’s obligations under the Bonds and the City Documents; and
 - (2) the taking of any and all action as may be required on the part of the City to carry out, give effect to, and consummate on its part the transactions contemplated by the Bonds and the City Documents.
- (d) *Due Adoption of Resolution and Enforceability of Documents.* The Resolution has been duly adopted by the City Council and is in full force and effect; and the City

Documents, when executed and delivered by the City and the other parties, will constitute legal, valid, and binding obligations of the City, enforceable against the City in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, or other laws affecting creditors' rights generally or by the application of equitable principles.

- (e) *Enforceability of Bonds.* When delivered to the Purchasers, the Bonds will have been duly authorized by the City; will have been duly executed, issued, and delivered by the City; and will constitute legal, valid, and binding obligations of the City enforceable against the City in accordance with their terms, except as enforceability may be affected by the Litigation or may be limited by bankruptcy, insolvency, or other laws affecting creditors' rights generally or by the application of equitable principles, and will be entitled to the benefit and security of the Resolution and the Indenture.
- (f) *No Conflicts.* To the City's actual knowledge as of the effective date of this agreement, the adoption of the Resolution, the issuance of the Bonds, the execution and delivery of the City Documents, the consummation of the transactions on the part of the City contemplated herein or therein, and the City's compliance with the provisions hereof or thereof, will not conflict with, or constitute on the City's part a violation of, or a breach of or default under, any of the following in a way that would have a material adverse effect on the City's ability to perform its obligations under the Bonds and the City Documents:
 - (1) A material indenture, mortgage, commitment, note, or other agreement or instrument to which the City is a party or by which it is bound.
 - (2) A provision of the Act or the California Constitution or the California Environmental Quality Act, except as may be determined in the Litigation.
 - (3) An existing law, rule, regulation, ordinance, judgment, order, or decree to which the City (or the members of the City Council or any of the City's officers in their capacities as such) is subject, except that the City makes no representation as to the effect of the Litigation on the adoption of the Resolution, the issuance of the Bonds, or the validity or enforceability of the Bonds or the City Documents or of the transactions described in the Bonds or the City Documents.
- (g) *No Defaults.* The City has never been in default at any time as to principal of, or interest on, any obligation it has issued where the default might have an adverse effect on the City's ability to consummate the transactions described in the Bonds or the City Documents. The City has not entered into any agreement or arrangement of any kind that might give rise to any lien or encumbrance on any of the Special Taxes.
- (h) *No Litigation.* To the Sacramento City Attorney's actual knowledge as of the effective date of this agreement, except for the Litigation, the City has not been served with

process in, and has not been overtly threatened with, any action, suit, proceeding, inquiry, or investigation, at law or in equity, before or by any court, public board, or public body—

- (1) that questions in any way the powers of the City Council in connection with the adoption of the Resolution, the issuance of the Bonds, or the approval of the City Documents;
 - (2) that questions in any way the validity of any proceeding taken by the City Council in connection with the adoption of the Resolution, the issuance of the Bonds, or the approval of the City Documents;
 - (3) in which an unfavorable decision, ruling, or finding is likely to have a material adverse effect on the transactions described in Resolution, the Bonds, or the City Documents;
 - (4) that is likely to adversely affect the validity or enforceability of the Resolution, the Bonds, or the City Documents; or
 - (5) that questions in any way the status of the Bonds under federal or State of California tax laws or tax regulations.
- (i) *Certificates of the City.* Any certificate that is signed by a City official authorized to sign it and is delivered to the Placement Agent in connection with the transactions contemplated by this agreement will be deemed a representation and warranty by the City to the Placement Agent as to the truth of the statements in the certificate.
- (j) *Levy of Special Taxes.* The Special Taxes will be levied in accordance with the Rate and Method of Apportionment of Special Tax relating to the CFD and are secured by a lien on the properties on which they are levied.
- (k) *Pledge of Special Taxes.* The Indenture creates a valid pledge of, and first lien upon, the Special Taxes deposited thereunder and the moneys in certain funds and accounts established thereunder, subject in all cases to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein.
- (l) *Prior Bonded Assessment and Special Tax Liens.* To the City's actual knowledge on the effective date of this agreement, there are no entities with outstanding assessment liens or special-tax liens against any of the properties within the CFD other than as set forth in Exhibit C.
- (m) *Rule G-17 Letter.* The City acknowledges receipt of a letter sent by the Placement Agent under Rule G-17 of the Municipal Securities Rulemaking Board, dated February 5, 2015.

6. **Termination.** Either party may terminate the Placement Agent’s authorization to carry out its duties under this agreement at any time with or without cause, effective upon receipt of written notice to that effect by the other party.
7. **Notices.** Any notice or other communication to be given to any of the parties may be given by delivering the same in writing as follows:

If to the City:

City of Sacramento
 Office of the City Treasurer
 Historic City Hall
 915 I Street, Third Floor
 Sacramento, California 95814
 Attention:
 Brian Wong, Debt Manager

If to Placement Agent:

Stifel, Nicolaus & Company, Incorporated
 One Montgomery Street, 35th Floor
 San Francisco, California 94104
 Attention:
 James Cervantes, Managing Director

8. **Expenses.** Whether or not the transactions contemplated by this agreement are consummated, the Placement Agent is not obligated to pay the City’s expenses and costs of performing the City’s obligations in connection with the sale of the Bonds (the “**City Costs**”). The City Costs include the initial fees of the Trustee and the fees and disbursements of Trustee’s counsel (if any); the fees and disbursements of Bond Counsel, disclosure counsel, and other professional advisors employed by City; and costs of preparation, printing, signing, transportation, delivery, and safekeeping of the Bonds. The City shall pay the City Costs only from the proceeds of the Bonds unless the City and the party providing the services agree otherwise. The Placement Agent shall pay all of its out-of-pocket expenses, including the fees and expenses of its counsel, applicable regulatory fees, and any and all other expenses incurred by the Placement Agent in connection with the Bonds.
9. **Survival of Covenants, Representations, and Warranties.** This agreement is made solely for the benefit of the City and the Placement Agent, and no other person will acquire or have any right under it or by virtue of it. All of the City’s covenants, representations, and warranties in this agreement will remain operative and in full force and effect regardless of delivery of any payment for the Bonds.
10. **Counterparts.** The parties may sign this agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement. Delivery of signed counterparts may be accomplished email transmission of a pdf document.
11. **Effectiveness.** This agreement becomes effective on the date it is signed by a duly authorized officer of the City, as indicated by the date in the City’s signature block below.

12. **Governing Law.** This agreement is to be interpreted and applied in accordance with California law, except that that the rule of interpretation in California Civil Code section 1654 will not apply. Exhibits A, B, and C are part of this agreement.
13. **No Prior Agreements.** This agreement sets forth the parties' entire understanding regarding the matters set forth above and is intended to be their final, complete, and exclusive expression of those matters. It supersedes and replaces all prior negotiations, agreements, and understandings between the parties hereto in relation to the sale of the Bonds.

(Signature Page Follows)

Very truly yours,

STIFEL, NICOLAUS & COMPANY, INCORPORATED

By: _____
Authorized Representative

The foregoing is hereby agreed to and
accepted as of the date set forth below:

CITY OF SACRAMENTO

By: _____
John Colville, Interim City Treasurer
Date: _____, 2016

EXHIBIT A

MATURITY SCHEDULE

<i>Maturity Date (Sept. 1)</i>	<i>Principal Amount</i>	<i>Coupon</i>	<i>Yield</i>
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_____.
* Priced to optional redemption at par on _____.

REDEMPTION PROVISIONS

[TO COME]

EXHIBIT B
FORM OF INVESTOR LETTER

City of Sacramento
Sacramento, California

Stifel, Nicolaus & Company, Incorporated
San Francisco, California

Re: City of Sacramento McKinley Village Community Facilities District No. 2015-04
(Improvements) Special Tax Bonds, Series 2015

Ladies and Gentlemen:

The undersigned (the “**Investor**”) hereby acknowledges receipt, as Beneficial owner thereof, of \$_____ principal amount of City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds, Series 2015 (the “**Bonds**”), issued under a Master Indenture, dated as of June 1, 2016 (the “**Master Indenture**”), between the City of Sacramento (the “**City**”), and U.S. Bank National Association (the “**Trustee**”), as supplemented by a First Supplemental Indenture, dated as of June 1, 2016, between the City and the Trustee (the “**First Supplemental Indenture**”). The Master Indenture, as supplemented by the First Supplemental Indenture, is the “**Indenture**.” The City has engaged Stifel, Nicolaus & Company, Incorporated to serve as the placement agent with respect to the Bonds (the “**Placement Agent**”). Capitalized terms not defined in this letter have the meanings given them in the Indenture.

This letter (the “**Investor Letter**”) is delivered to you in connection with the sale of the Bonds to the Investor, and the Investor hereby makes the following representations upon which you may rely:

1. The Investor has authority to purchase the Bonds and to execute this Investor Letter and any other instruments and documents the Investor may be required to execute in connection with the purchase of the Bonds.
2. The Investor is a Qualified Institutional Buyer (as defined in Rule 144A under the Securities Act of 1933, as amended) or an Accredited Investor (within the meaning of Rule 501(a)(1) of Regulation D under the Securities Act of 1933, as amended) and has sufficient knowledge and experience in financial and business matters, including the purchase and ownership of municipal bonds and other tax-exempt obligations similar to the Bonds, and sufficient familiarity with the residential project (the “**Project**”) proposed to be developed on real property within the boundaries of the McKinley Village Community Facilities District No. 2015-04 (the “**CFD**”) and the current owners of property within the CFD (collectively, the “**Developer**”) to be able to evaluate the risks and merits of the investment represented by the Bonds.

3. The Investor acknowledges and agrees that it will solely transfer its beneficial interest in the Bonds in compliance with Section 2.05 of the First Supplemental Indenture. Specifically, the Investor acknowledges that beneficial ownership interests in the Bonds may only be purchased by, or transferred to, Qualified Institutional Buyers or Accredited Investors that have delivered an investor letter to the City, the Placement Agent, the Trustee, and the transferor in the same form as this Investor Letter.
4. The Bonds are being acquired by the Investor for investment and not with a view to, or for resale in connection with, any distribution of the Bonds, and the Investor intends to hold the Bonds for its own account and does not intend at this time to dispose of all or any part of the Bonds. The Investor understands that it may need to bear the risks of this investment for an indefinite time, since any sale before maturity may not be possible.
5. The Investor understands that the Bonds are not registered under the Securities Act of 1933 and that such registration is not legally required as of the date hereof. The Investor further understands that the Bonds (a) are not being registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state, (b) will not be listed in any stock or other securities exchange, (c) will not carry a rating from any rating service, (d) will not be assigned CUSIP numbers, and (e) will be delivered in a form that may not be readily marketable.
6. The Investor understands that the offering and sale of the Bonds is exempt from the requirements of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, that the City is not delivering a “deemed final” official statement with respect to the Bonds, and that the City is not making any representation to the Investor or any other party with respect to the matters governed by Rule 15c2-12.
7. The Investor acknowledges that the purchase and holding of the Bonds involve risks that may not be appropriate for certain investors. In particular, the Investor acknowledges that litigation was filed by East Sacramento Partnerships for a Livable City, a California nonprofit corporation (the “**Plaintiff**”) on May 30, 2014, in the Sacramento County Superior Court (the “**Litigation**”). The Litigation names as defendants the City, the City Council, and certain other parties. The Plaintiff alleges that the real party in interest in the Litigation is the Developer. Among other claims, the petition and complaint filed by the Plaintiff in the Litigation (the “**Complaint**”) challenges the April 29, 2014 decision of the City Council to approve the Project. The Complaint also alleges that the City’s approval of the Project violated the California Environmental Quality Act. The Investor acknowledges (a) that the Litigation could adversely affect the construction and completion of the facilities financed with the proceeds of the Bonds and the development of the Project; and (b) that Bond Counsel, the City Attorney, and any other counsel representing the City express no opinions as to the merits of the Litigation. **The Investor acknowledges that an adverse decision against the defendants in the Litigation could materially adversely affect the payment of debt service on the Bonds and that the City and the Placement Agent are not providing any assurances that the Plaintiff will not prevail in its appeal of**

the superior court’s ruling in the Litigation. The Investor acknowledges that it has reviewed the Complaint and other pleadings in the Litigation and represents that it has reviewed received advice of its own legal counsel before making its investment decision with respect to the Bonds.

8. The Investor acknowledges (a) that the Bonds are limited obligations of the City, payable solely from Special Taxes paid from time-to-time by the owners of the property within the CFD and from certain other funds and accounts of the CFD pledged in accordance with the Indenture; (b) that the Bonds are not obligations payable from the general revenues or other funds of the CFD, the City, the State of California, or any other political subdivision or public body, corporate or politic, of the State of California; and (c) that the CFD has no continuing obligations with respect to the Bonds.
9. The Investor acknowledges that it has obtained information, including real estate and other financial information, to which a reasonable investor would attach significance in making investment decisions, and the Investor has had the opportunity to ask questions and receive answers from knowledgeable individuals (not including the City) concerning (a) the CFD, (b) the real property within the CFD, (c) the Project, (d) the Developer, (e) the Bonds, (f) the security for the Bonds, (g) the Report of Appraisal dated October 28, 2015, prepared by Bender Rosenthal, Inc., together with the Update Appraisal dated April 22, 2016 (collectively, the “**Appraisal**”), (h) the Complaint and other pleadings in the Litigation, and (i) such other matters as the Investor has deemed relevant or material, so that, as a reasonable investor, the Investor has been able to make its decision to purchase the Bonds. Other than the materials provided to the Investor listed in Schedule 1 hereto (collectively, the “**Offering Information**”), the Investor acknowledges that it has not relied upon any of the following (collectively, the “**Public Agency Representatives**”) for any information in connection with its purchase of the Bonds: the City or its officers or employees; the City Attorney; Bond Counsel; Stradling Yocca Carlson & Rauth, a Professional Corporation, disclosure counsel to the City; the Placement Agent or its counsel; or First Southwest Company, a Division of Hilltop Securities, Inc., financial advisor to the City.
10. The Investor hereby waives the requirement of any “due diligence investigation or inquiry” by any of the Public Agency Representatives, including the governing bodies, members, officers, employees, or agents thereof, in connection with the authorization, execution, and delivery of the Bonds and the Investor’s purchase of the Bonds. In making an investment decision, the Investor is relying upon its own examination of the Bonds, the security for the Bonds, the CFD, the real property in the CFD, the Appraisal, the Project, and the Developer.
11. None of the Public Agency Representatives, including the governing bodies, officers, employees, or agents thereof, has any responsibility to the Investor for the accuracy or completeness of information obtained by the Investor from any source regarding the Bonds, including but not limited to the Offering Information. The Investor acknowledges

that (a) the Investor has assumed responsibility for obtaining information regarding the Bonds and making such review of that information as the Investor has deemed necessary or desirable in connection with its decision to purchase the Bonds, and (b) the Offering Information and any additional information specifically requested by the Investor and obtained by the Investor before the Closing Date constitute all the information and review that Investor has deemed necessary or desirable in connection with its decision to purchase the Bonds.

12. The Investor has made its own inquiry and analysis with respect to the Bonds, the security for the Bonds, and other factors affecting the security and payment of the Bonds. The Investor is aware that the business of the Developer involves certain economic variables and risks that could adversely affect the security for the Bonds. The Investor hereby releases and holds harmless the Public Agency Representatives from any and all claims or damages arising out of the offering of the Bonds and the Investor's purchase of the Bonds.
13. In entering into this transaction the Investor has not relied upon any representations or opinions made by any of the Public Agency Representatives relating to the legal consequences or other aspects of the transactions (other than the covenants, representations, and warranties of the City provided under Section 5 of the Private Placement Agreement), nor has it expected any of the Public Agency Representatives to undertake or require any credit investigation or due-diligence reviews relating to the Offering Information. The Investor understands and acknowledges that the obligations of the Developer and any subsequent owners of real property in the CFD from time-to-time to pay special taxes are not recourse obligations against the general assets thereof but are secured only by the real property to the extent provided in the Mello-Roos Community Facilities Act of 1982.
14. The Investor has not received from any of the Public Agency Representatives any formal or informal offering or disclosure document relating to the Bonds and has concluded that the receipt of one before the purchase of the Bonds is not required. The Investor acknowledges that no written information has been provided by any of the Public Agency Representatives (except to the extent of the Offering Information) and that any written information furnished by any other party may not fully disclose all information pertinent to the Bonds.

Dated: _____, 20__

Very truly yours,

By: _____

Title: Authorized Officer

SCHEDULE 1

OFFERING INFORMATION

- (1) Indenture
- (2) Appraisal Report, dated October 28, 2015, and Update Appraisal Report, dated April 22, 2016
- (3) Rate and Method of Apportionment of Special Tax
- (4) Amortization Schedule*
- (5) Form of Bond Counsel opinion
- (6) CEQA Litigation Summary
 - (A) Complaint
 - (B) Trial Court Decision
- (7) Summary of Direct and Overlapping Debt (prepared by CalMuni)

* Preliminary; subject to change

EXHIBIT C
SUMMARY OF DIRECT AND OVERLAPPING DEBT

AGREEMENT FOR BOND-COUNSEL SERVICES

CITY OF SACRAMENTO MCKINLEY VILLAGE COMMUNITY FACILITIES DISTRICT NO. 2015-04 (IMPROVEMENTS) SPECIAL TAX BONDS, SERIES 2015

This Agreement for Bond-Counsel Services, dated as of October 1, 2015, for reference only, is between the CITY OF SACRAMENTO, a California municipal corporation (the “City”); and ORRICK, HERRINGTON & SUTCLIFFE LLP, a California limited-liability partnership (“Orrick”).

Background

The City desires to engage the services of Orrick in connection with the issuance, sale, and delivery through the City of Sacramento McKinley Village Community Facilities District No. 2015-04 (Improvements) (the “CFD”) of a single series of fixed-rate, unrated, uninsured, privately placed bonds (the “Bonds”) for the purpose of financing certain authorized public facilities in and for, and certain authorized governmental fees to be used to finance public facilities in and for, the McKinley Village Project. The City and Orrick desire to enter into this agreement to evidence the engagement of Orrick in connection with the Bonds and to specify the terms of the engagement. Orrick possesses the necessary professional capabilities and resources to provide the legal services required by the City as described in this agreement.

With these background facts in mind, the parties hereby agree as follows:

1. *Legal Services.* The City hereby retains Orrick as special counsel to perform, and Orrick shall perform, the following legal services for the City in connection with the Bonds:
 - (a) Consultation with representatives of the City (including the City Treasurer and the City Attorney), the placement agent and its counsel, and others with respect to the timing, terms, and legal structure of the Bonds.
 - (b) Preparation of documents that are required for the issuance, sale, and delivery of the Bonds and are to be adopted or entered into by the City, including an authorizing resolution and an indenture or similar document (the “Major Legal Documents”). The Major Legal Documents do not include any acquisition agreements, joint community facilities agreements, official statements or other marketing or disclosure documents, term sheets, purchase contracts, and continuing disclosure certificates or agreements, which the placement agent’s counsel or the City’s disclosure counsel will prepare.
 - (c) Attendance at such meetings or hearings of the City Council and at such working-group meetings or conference calls as the City may request, and assistance to the City’s staff in preparation of such explanations or presentations to the City Council as the City may request.
 - (d) Rendering of Orrick’s final approving opinion to the City on the validity of the Bonds and the tax-exempt status of interest on the Bonds, qualified as necessary to reflect the facts and circumstances of this transaction.

- (e) After delivery of the Bonds, preparation and delivery to the City of a transcript of the legal proceedings for the Bonds in both loose-leaf and CD-ROM formats.
 - (f) After delivery of the Bonds, telephone consultations with the City's officials and staff to answer questions about the facts and circumstances concerning the Bonds.
2. *Excluded Services.* Orrick's services under this agreement do not include the following, although Orrick may provide these services under a separate agreement with the City:
- (a) Legal services in connection with any litigation or other legal or administrative proceeding, audit, or investigation involving any of the Bonds or any related matter.
 - (b) Legal services in connection with the preparation, content, or dissemination of any official statement or other marketing or disclosure document or term sheet.
 - (c) Legal services related to compliance with the California Environmental Quality Act.
 - (d) Legal services in connection with arbitrage-rebate compliance respecting the Bonds.
 - (e) Legal services relating to state blue-sky laws or to title to, or perfection of security interests in, real or personal property.
 - (f) Financial analysis or advice.
3. *City Attorney Review.* Orrick and the City acknowledge that the City retains the full-time services of the City Attorney and City Attorney's Office to render day-to-day and ongoing legal services to the City. Orrick shall circulate documents to, and coordinate its services with, the City Attorney to the extent requested by the City or the City Attorney. Orrick may assume that the City Attorney or one of the attorneys in the City Attorney's Office has reviewed all documents and matters submitted to the City Council for adoption or approval, or to the City's officers for execution, before those documents and matters are adopted, approved, or executed.
4. *Consideration for Legal Services.*
- (a) As consideration for Orrick's services under this agreement, the City shall pay to Orrick—
 - (1) legal fees in an amount equal to the greater of \$75,000 or 1.0% of the principal amount of the Bonds; plus
 - (2) a flat amount of \$1,500 to reimburse Orrick's expenses, including the costs to prepare and distribute a transcript in loose-leaf and CD-ROM formats.
 - (b) Except as provided in section 5 respecting the City's termination of this agreement, Orrick's legal fees and expense reimbursement will be due and payable as follows:

- (1) If the Bonds are delivered before January 1, 2016, then the legal fees and expense reimbursement will be due and payable when Orrick presents an invoice to the City, which Orrick may do at any time on or after the date of delivery.
 - (2) If the Bonds are not delivered before January 1, 2016, then (A) Orrick may invoice the City at any time on or after that date for the then-accrued legal fees, in an amount not to exceed \$75,000, and the accrued legal fees will be due and payable when Orrick presents the invoice; and (B) Orrick shall invoice the City on or after the date of delivery for the balance of the legal fees owed under section 4(a)(1) but not previously invoiced plus the expense reimbursement owed under section 4(a)(2).
 - (3) If, at any time, Orrick's accrued legal fees equal or exceed \$75,000, and if the Bonds have not been delivered, then, unless the parties agree otherwise in a written amendment to this agreement, Orrick may immediately withdraw from this transaction, and the City shall pay to Orrick a flat amount of \$75,000 for legal fees. The City agrees that it will not be prejudiced by Orrick's election under this section 4(b)(3) to withdraw from this transaction.
- (c) Unless calculated as a percentage of the principal amount of the Bonds, Orrick's legal fees under this section 4 will be calculated at Orrick's standard hourly rates in effect when the services are performed.
 - (d) The City's obligation to pay legal fees and reimburse expenses is not contingent upon the issuance, sale, and delivery of the Bonds.
5. *Termination.* Either party may, at any time, terminate this agreement and all legal services to be rendered under it, with or without cause, by giving written notice to the other party. In that event, all finished and unfinished documents that Orrick has prepared for the City's adoption, approval, or execution will, at the option of the City, become the City's property, and Orrick shall deliver them to the City or to any party the City may designate, all subject to the condition that Orrick will have no liability whatsoever for any subsequent use of the documents.
- (a) If the City terminates this agreement, then the City shall pay Orrick forthwith for all satisfactory work at Orrick's standard hourly rates in effect when the work is performed, with the total payment not to exceed \$75,000 for legal fees, subject to the following: if the City terminates for cause, then any compensation is to be adjusted in the light of the facts and circumstances involved in the termination.
 - (b) If not sooner terminated, this agreement and all legal services to be rendered under it will terminate upon the earliest to occur of (1) the delivery of the Bonds, except that the City will remain liable for any unpaid fees and expenses due under section 4 above; and (2) the City's constructive termination by the abandonment of the issuance and sale of the Bonds, except that the City will remain obligated to pay Orrick's legal fees in accordance with section 5(a). Upon termination, Orrick will have no future duty of any kind to the City with respect to the Bonds, except as provided in sections 1(e) and 1(f) above.

6. *Role of Bond Counsel.*

- (a) In general, the role of bond counsel in financings is to prepare or review documents and to coordinate the procedures for authorization of the issuance, sale, and delivery of bonds and to provide an expert legal opinion with respect to the validity of the bonds and other subjects addressed by the opinion. Consistent with the historical origin and unique role of bond counsel, and the reliance thereon by the public-finance market generally, Orrick's role as bond counsel under this agreement is not the partisan role of an advocate. Instead, Orrick's role is to provide legal documents needed for the issuance, sale, and delivery of the Bonds and to provide an opinion that represents an objective judgment on the matters addressed therein.
- (b) In performing its services as bond counsel in connection with the Bonds, Orrick shall act as special counsel to the City with respect to issuance, sale, and delivery of the Bonds. In that capacity, Orrick shall assist the City's staff in representing the City, but only with respect to the sufficiency of the legal documents for the issuance, sale, and delivery of the Bonds and in a manner not inconsistent with the role of bond counsel described in section 6(a) above.
- (c) Orrick's function and responsibility under this agreement, and as bond counsel with respect to the issuance, sale, and delivery of the Bonds, terminates upon the delivery of the Bonds (unless terminated sooner as provided in section 5 above), except as provided in sections 1(e) and 1(f) above. Orrick's services as bond counsel through delivery of the Bonds are limited to those explicitly contracted for in this agreement. Any engagement of Orrick with respect to rebate compliance, disclosure, or any other matter is separate from its engagement as bond counsel through delivery of the Bonds. However, unless otherwise provided, any such post-delivery engagement with respect to the Bonds will continue on the same basis set forth in this section 6.

7. *Conflicts.* The City acknowledges that Orrick regularly performs legal services for many private and public entities in connection with a wide variety of matters. For example, Orrick has represented, is representing, and expects to represent in the future other public entities (such as the County of Sacramento, the Sacramento Municipal Utility District, and the State of California), bond underwriters (such as Stifel, Nicolaus & Company, Incorporated), trustees, rating agencies, insurers, banks, credit-enhancement providers, lenders, contractors, suppliers, financial and other consultants and advisors, accountants, investment providers or brokers, providers or brokers of derivative products, and others who may have a role or interest in the Bonds or who may be involved with, or adverse to, the City in this or some other matter. Orrick shall not represent any such entity (i.e., other private and public entities) in connection with the Bonds without the City's express written consent. Given the special, limited role of bond counsel described in section 6 above, the City (a) acknowledges that no conflict of interest exists or would exist in connection with any matter other than the Bonds; (b) waives any such conflict of interest that might appear actually or potentially to exist, now or in the future, by virtue of this agreement or any other attorney-client relationship that Orrick may have had, may have, or may enter into; and (c) consents to any and all such relationships subject to the condition that the City's separate written consent and a separate

conflict-waiver letter will be required to be obtained by Orrick if Orrick concurrently represents the City and any other entity in connection with the issuance, sale, and delivery of the Bonds.

8. *No Third-Party Beneficiaries.* Nothing in this agreement or in any of the documents expressly or impliedly contemplated by this agreement is intended to give, or is to be construed to give, any person or entity other than the City and Orrick any legal or equitable right or claim under, or in respect of, this agreement, and this agreement inures to the sole and exclusive benefit of the City and Orrick.
9. *Assignments.* Orrick may not assign its obligations under this agreement without the express written consent of the City, except to a successor partnership or corporation to which all or substantially all of the assets and operations of Orrick are transferred. The City may not assign its rights and obligations under this agreement without the express written consent of Orrick. All references to Orrick and the City in this agreement refer to their respective successors and assignees and will bind and inure to the benefit of their successors and assignees whether so expressed or not.
10. *Notices.* To be effective, notices pertaining to this agreement must be sent by the U.S. Postal Service, first class, postage prepaid, addressed as follows:

If to the City:

Office of the City Treasurer
Historic City Hall
915 "I" Street, Third Floor
Sacramento, CA 95814
Attention: City Treasurer

If to Orrick:

Orrick, Herrington & Sutcliffe LLP
400 Capitol Mall, Suite 3000
Sacramento, CA 95814
Attention: Jenna Magan

and

Office of the City Attorney
New City Hall
915 "I" Street, Fourth Floor
Sacramento, CA 95812-2608
Attention: City Attorney

11. *Counterparts.* The parties may sign this agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement. Delivery of signed counterparts may be accomplished email transmission of a pdf document.

(Signature Page Follows)

City of Sacramento

Orrick, Herrington & Sutcliffe LLP

By: _____
James Sanchez, City Attorney

By:  _____
Jenna Magan, Partner

Attest
Sacramento City Clerk

By: _____

Approved as to Form
Sacramento City Attorney

By: _____
Senior Deputy City Attorney

DISCLOSURE-COUNSEL AGREEMENT

This Disclosure-Counsel Agreement, dated October 1, 2015, for reference only, is between the CITY OF SACRAMENTO, a California municipal corporation (the “**City**”), and STRADLING YOCCA CARLSON & RAUTH, a California professional corporation (“**SYCR**”).

Background

The City desires to engage the services of SYCR as disclosure counsel in connection with the City’s authorization, issuance, sale, and delivery of the McKinley Village Community Facilities District No. 2015-04 (Improvements) Special Tax Bonds, Series 2015 (the “**Bonds**”) for the purpose of financing the acquisition and construction of certain public facilities and financing certain governmental fees for public facilities. Each purchaser of the Bonds will be either an accredited investor (17 C.F.R § 230.501(a)) or a qualified institutional buyer (17 C.F.R § 230.144A(a)(1)), and the sale will either be a direct sale or a private placement. The City and SYCR desire to enter into this agreement to evidence the engagement of SYCR as disclosure counsel and to specify the terms of the engagement. SYCR has the necessary professional capabilities and resources to provide the legal services required by the City as described in this agreement.

With these background facts in mind, the parties agree as follows:

1. **Scope of Services.** The City hereby retains SYCR to provide, and SYCR shall provide, the following legal services in connection with the Bonds:
 - (a) Advising the City as to the federal securities laws relating to the sale of the Bonds to purchasers identified by or behalf of the developer of the property within the McKinley Village Community Facilities District No. 2015-04 (Improvements).
 - (b) Attending conferences and consulting with City staff, bond counsel, and representatives of the City Attorney’s Office.
 - (c) Participating in meetings, conferences, and discussions with any financial advisors, underwriters, tax consultants, and other experts the City retains with respect to the Bonds (the “**City Consultants**”).
 - (d) Reviewing resolutions, notices, rules, and regulations and other legal documents required for the Bonds, and all other documents relating to the security of the Bonds, in consultation with the City, bond counsel, and the City Consultants.
2. **Compensation.** The City shall pay SYCR the amounts set forth in this section 2 as full compensation for all services SYCR renders under this agreement and as full reimbursement of all out-of-pocket expenses SYCR incurs under this agreement. The City’s obligation to pay more than \$20,000 is contingent on the successful closing of the Bonds (the “**Closing**”), with payment of the amount above \$20,000 to come exclusively from the proceeds of the Bonds at the Closing.

- (a) For the services SYCR renders under this agreement, the City shall pay SYCR at an hourly rate of \$450 for shareholders and an hourly rate ranging from \$275 to \$325 for associates (depending on seniority).
 - (b) The City shall reimburse SYCR for any out-of-pocket expenses SYCR reasonably incurs while rendering services under this agreement, including but not limited to document-reproduction costs, telecommunications charges, printing costs, filing fees, fees for messenger services, fees for overnight-delivery services, and travel expenses.
 - (c) If, for any reason, the Closing does not occur, then the City will not be obligated to pay SYCR more than \$20,000 total for services rendered under this agreement and for out-of-pocket expenses SYCR incurs under this agreement.
 - (d) If the City terminates this agreement under section 4(a), then the City shall pay SYCR forthwith in accordance with this section 2 for all satisfactory work, subject to the following: if the City terminates for cause, then any compensation is to be adjusted in the light of the facts and circumstances involved in the termination. If this agreement terminates under section 4(b), then the City shall pay SYCR the amounts owed within 30 days after SYCR's presentation of an invoice.
3. **Personnel and Contract Administration.** SYCR shall provide services under this agreement primarily through Kevin Civale, Brian Forbath, and Lawrence Chan. If Mr. Civale, Mr. Forbath, or Mr. Chan is unable to provide the services because of death, disability, or other similar event, then, with the City's approval, SYCR may substitute another of its attorneys to provide the services, and the substitution will not affect in any way SYCR's or the City's other obligations under this agreement. The City Attorney or the City Attorney's designee will administer this agreement for the City.
4. **Termination**
- (a) Either party may terminate this agreement with or without cause by giving written notice to the other party, except that the City may not terminate this agreement solely to avoid paying SYCR more than \$20,000 after the Closing. The notice must state the termination date, which must be at least three business days after the date the notice is delivered.
 - (b) Unless terminated sooner under section 4(a), this agreement terminates on the date of the Closing.
5. **Miscellaneous**
- (a) In performing under this agreement, SYCR and its shareholders and employees will be acting in an independent capacity and not as officers or agents of the City or the Issuer.
 - (b) SYCR may not assign this agreement or any part of it without the City's written consent, which the City may withhold for any reason.

- (c) This agreement is for the benefit of the City and SYCR. It is not intended to benefit any third parties other than the Issuer.
- (d) This agreement sets forth the parties' entire understanding regarding the matters set forth above and is intended to be their final, complete, and exclusive expression of those matters. It may be modified only by another written agreement signed by both parties.
- (e) The parties may execute this agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement. Delivery of signed counterparts may be accomplished email transmission of a pdf document.

(Signature Page Follows)

City of Sacramento

Stradling Yocca Carlson & Rauth

By: _____
James Sanchez, City Attorney

By:  _____
Kevin M. Civale, Shareholder

Attest
Sacramento City Clerk

By: _____

Approved as to Form
Sacramento City Attorney

By: _____
Joseph P. Cerullo
Senior Deputy City Attorney

UPDATE APPRAISAL REPORT OF:

**THE MCKINLEY VILLAGE COMMUNITY
FACILITIES DISTRICT NO. 2015-4
(IMPROVEMENTS)
CITY OF SACRAMENTO, CALIFORNIA 95816**

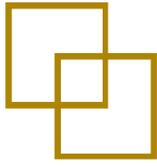
FOR:

**MR. BRIAN WONG
DEBT MANAGER,
CITY OF SACRAMENTO, OFFICE OF THE
CITY TREASURER
915 I STREET, HCH – 3RD FLOOR
SACRAMENTO, CALIFORNIA 95814**

DATE OF VALUE:

APRIL 15, 2016

BRI 16083



**BENDER
ROSENTHAL, INC.**

COMMERCIAL VALUATION AND RIGHT OF WAY SERVICES

4400 Auburn Boulevard, Suite 102
Sacramento, CA 95841
main: 916.978.4900 • fax: 916.978.4904
www.benderrosenthal.com

April 22, 2016

Mr. Brian Wong
Debt Manager
City of Sacramento, Office of the City Treasurer
915 I Street, HCH – 3rd Floor
Sacramento, California 95814

Re: Update Appraisal of Properties within the McKinley Village Community Facilities District No. 2015-04 (Improvements), located in the City of Sacramento, County of Sacramento, CA 95816
APNs: 001-0170-028, 001-0170-013, 003-0061-006 and 003-0061-011

Dear Mr. Wong:

We have prepared an update to our prior appraisal of the lands within the McKinley Village Community Facilities District No. 2015-04 (Improvements). Our original report had an effective date of value as of October 12, 2015. **This updated appraisal incorporates the prior appraisal report by reference and is to be used in conjunction with the prior appraisal report.**

McKinley Village is located on approximately ±51.2 acres in an area bound by the Interstate 80 Freeway (Business Loop) on the north and west, and the Union Pacific Railroad to the south and east within a neighborhood identified as East Sacramento. The proposed development is for 336 dwelling units and associated recreation/open space uses. All of the lands within the proposed District are owned by Encore McKinley Village, LLC.

As of the date of value of the prior referenced report, construction of the site improvements was underway. During the course of performing this updated appraisal, the property was again viewed/researched and additional improvements were noted. Additional site infrastructure had been constructed and some of the finished lots were further improved with single-family residences in various states of construction and construction of the community center was underway. The updated date of value is as of April 15, 2016, the date of the last inspection. Construction cost information was provided by a representative of the owner and is current as of March 15, 2016. Construction associated with the project has been continuous since the date of the cost information and the date of value.

The following is a summary of the changes associated with the subject that are different from the prior date of value:

- The total site infrastructure budget increased to \$47,428,000. An increase of about \$2,388,000 from the budget originally proposed in October of 2015. However, costs incurred towards finishing the lots is currently \$33,368,000. As of the prior date of value, the estimated amount of the costs incurred was \$24,940,000. Although the estimated total budget increased by \$2,388,000, the estimated costs incurred as of the new date of value increased by over \$8,000,000. Again, the costs provided were current as of March 15, 2016. Construction on the site has been continuous through the date of value.
- As of the current date of value, additional site improvements installed include roadway, sidewalks, street lighting, etc. necessary to complete 185 single-family residential lots.
- As of April 15, 2016, vertical construction of the model homes were underway. No vertical construction had started as of the last date of value. Per the inspection, 20 residential units were under construction along with portions of the community center. Per estimates provided by a property representative, the total direct costs incurred associated with the development of the partially completed homes is approximately \$500,000 to \$600,000 as of March of 2015.
- Additional work has been completed towards the completion of the McKinley Village Way undercrossing, railroad work, a park and sound wall along Interstate-80.
- It is estimated that the model homes will be completed by August of 2016 and sales will start in September of 2016.
- Information provided by a representative of the builder indicated that an interest list has been formed with approximately 1,600 individuals currently included on the list.
- The current estimates of the HOA fees for the project have increased slightly to \$230 per unit plus \$17 per alley and T-court unit. Previously, the HOA fees were estimated at approximately \$200 per unit.

In order to prepare this update appraisal, the appraisers performed the following:

- Analyzed market conditions and data contained in the original report.
- Re-inspected the subject property.
- Researched current market conditions and data as of the effective date of value contained in this updated appraisal.

This appraisal only provides the appraiser's conclusions. Supporting documentation is retained in the appraisers work file.

This appraisal valuation only includes the developable components of the project. The lands designated for parks, open space and right of way will be tax-exempt and are not being valued in this appraisal analysis.

The subject property is subject to standard assumptions and limiting conditions, as well as the extraordinary and hypothetical conditions that are contained in the prior referenced appraisal report.

Given that additional single family development and site improvement has occurred on the subject property, coupled with an analysis of market conditions as of the date of value of this updated appraisal report, it is our opinion that the market value of the subject property, as of April 15, 2016, is not less than that reported in the original appraisal with a date of value as of October 12, 2015.

The not-less-than conclusion of market value is presented in the following table:

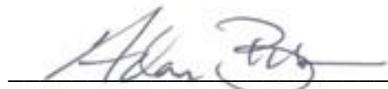
Description	Market Value
Hypothetical Market Value	\$55,510,000*

**Includes consideration of infrastructure paid for by the bond proceeds.*

Per USPAP, this appraisal is communicated in an “Appraisal Report” format. **It is to be used only in conjunction with the original referenced appraisal with a date of value as of October 12, 2015.** The appraisers are not responsible for unauthorized use of this report. Every effort has been made to conform to the Standards of Professional Practice of the Appraisal Institute, which fully incorporate the Uniform Standards of Professional Practice (USPAP) of the Appraisal Foundation¹. We also have attempted to adhere to CDAC² guidelines. Please refer to the Extraordinary and General Assumptions and Limiting Conditions contained in the referenced original appraisal report.

We are pleased to have the opportunity to provide you with professional appraisal services.

BENDER ROSENTHAL, INC.



Adam Bursch, MAI
California Certified General
Real Estate Appraiser
Certificate No. AG037931

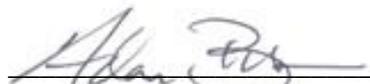
¹ The Appraisal Institute is a national organization of appraisers that self-regulates its members, and the undersigned is a designated Member of the Appraisal Institute (MAI). A Member must adhere to the Institute's ethics code and standards. The U.S. congress has tasked the Appraisal Foundation to set standards and procedures with which state-certified appraisers must comply when appraising property interests involved in federally-regulated transactions.

² California Debt and Investment Advisory Commission, Appraisal Standards for Land-Secured Financings, CDAC 94-6.

APPRAISERS' CERTIFICATION

I certify that, to the best of our knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, unbiased, and professional analyses, opinions and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest with respect to the parties involved.
4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
5. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. I have appraised the subject property within the three-year period immediately preceding the acceptance of this assignment. The property was last appraised in October of 2015. I have performed no other services as an appraiser, or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
8. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP).
9. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
10. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
11. As of the date of this report, I have completed the continuing education program of the Appraisal Institute.
12. I made a personal inspection of the property that is the subject of this report.



Adam Bursch, MAI
California Certified General
Real Estate Appraiser
Certificate No. AG037931

REPORT OF THE APPRAISAL REVIEW

FOR

CITY OF SACRAMENTO, OFFICE OF THE CITY TREASURER

PREPARED BY:

JILL CLARK, MAI

EFFECTIVE DATE OF REVIEW:

January 31, 2016

EFFECTIVE DATE OF THE REPORT REVIEWED:

October 12, 2015

**APPRAISAL REPORT REVIEWED
MCKINLEY VILLAGE COMMUNITY
FACILITIES DISTRICT No. 2015-04 (IMPROVEMENTS)
CITY OF SACRAMENTO, CALIFORNIA 95816**

PREPARED BY

ADAM BURSCH, MAI

Clark - Wolcott

January 31, 2016

City of Sacramento, Office of the City Treasurer
915 "I" Street, HCH – 3rd Floor
Sacramento, CA 95814

Attention: Brian Wong
Senior Debt Analyst

Subject: Appraisal Review of: **15/10**
Narrative Appraisal Report
McKinley Village Community Facilities District
No 2015-04 (Improvements)
Sacramento, California

Dear Mr. Wong:

In response to your request and authorization, an appraisal review of the above captioned report prepared by Adam Bursch, MAI with Bender Rosenthal, Inc., dated December 4, 2015, has been prepared. The appraisal review is delivered in the following written report, which complies with the requirements set forth under Standard Rule 3 of the Uniform Standards of Professional Appraisal Practice (USPAP), effective January 1, 2015 through December 31, 2016.

The appraisal review states the opinions and relevant facts and data contained within the report reviewed, along with the analysis and valuation methodology utilized within the report reviewed. The appraisal review expresses observations regarding the completeness, adequacy, relevance, appropriateness, and reasonableness of the work product under review. The effective date of this appraisal review is January 3, 2016.

The report of the appraisal review that follows sets forth, in further detail, the scope of the appraisal review process, Assumptions and Limiting Conditions of the appraisal review, the Scope of Work of the appraisal report reviewed, and the findings and conclusions that lead to and support our findings.

Respectfully submitted,

CLARK-WOLCOTT COMPANY, INC.

REPORT OF THE APPRAISAL REVIEW

- CLIENT:** City of Sacramento, Office of the City Treasurer
915 – “I” Street, HCH – 3rd Floor
Sacramento, CA
- REVIEWER:** Jill Clark, MAI
Clark-Wolcott Company, Inc.
11344 Coloma Road, Suite 245
Rancho Cordova, California 95670
The qualifications of the review appraiser are included in the Addenda of this report as Exhibit A.
- APPRAISAL REVIEWED:** Appraisal Report
McKinley Village Community Facilities District
No. 2015-04 (Improvements)
Sacramento, California
- INTENDED USERS :** City of Sacramento, Office of the City Treasurer
- PURPOSE OF THE REVIEW:** The purpose of the appraisal review shall be to assist the Client in the appraisal review process to ensure the appraisal report has been completed in compliance with:
- The Uniform Standards of Professional Appraisal Practice (USPAP),
 - The California Debt and Investment Advisory Commission (CDIAC) guidelines, and to,
 - Ensure successful completion of the stated *Scope of Work* as agreed to by the City and the Primary Appraiser
- The appraisal review did not include the development of the reviewer’s own opinion of value or review opinion related to the work under review.
- INTENDED USE:** The intended use of the review is for quality control purposes.
- DATES OF APPRAISAL REVIEW:** The effective date of the appraisal review report is January 31, 2016.

DESCRIPTION AND SCOPE OF THE APPRAISAL REVIEW

The appraisal review is intended to comply with the requirements set forth under Standard 3 of the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisal has also been reviewed under the guidelines for Appraisal Standards for Land Secured Financing published by the California Debt and Investment Advisory

Commission (2004). The appraisal review considers the appraisal development and reporting requirements for Standards Rules 1 and 2 (real property) as published in the 2014 - 2015 version of USPAP, which corresponds with the effective date of the report being reviewed.

The following summarizes the scope of the appraisal review:

- The subject of the appraisal review is attached as Exhibit B in the Addenda of this appraisal review. A bound photocopy of the signed original was reviewed.
- A physical inspection of the subject property was undertaken within the scope of this appraisal review. However, the review appraiser did not physically inspect the comparable sales utilized in the appraisal. The appraiser is familiar with the subject area, its environs, and the market area as of the effective date of the work product under review.
- The review appraiser did not independently verify the terms and/or conditions of the sales utilized in the appraisal report.
- The math calculations within the body of the report were verified by the review appraiser.
- The reviewer discussed the appraisal under review with the Mr. Adam Bursch, MAI the appraiser and Sydney Bender, MAI who did not sign the report nor was there acknowledgement in the report of Ms. Bender's professional assistance.
- The reviewer check factual data such as ownerships, physical descriptions, zoning, recording dates, and published secondary market support data including: average monthly sales volumes, average home sales price per square foot for the subject zip code and comparable zip codes, and other data reported in the appraisal report under review.
- The appraisal review states facts and data contained within the report reviewed, along with the analysis and valuation methodology utilized within the report reviewed.
- The appraisal review is limited to the review of the fee simple interest reported.
- The appraisal review does not elaborate over all minor items of correctness (topographical and grammatical), but rather emphasizes specific concerns, which are considered to be of importance and relevance to the purpose and intended use of the appraisal report reviewed.

The observations and conclusions contained in the appraisal review cannot be separated from the appraisal report under review to form a separate stand-alone document. Both the report of the appraisal review and the appraisal under review must be read together, to form the appraisal review document in its entirety.

REPORT REVIEWED

SALIENT FACTS

Subject of Appraisal Report: Land within the McKinley Village Community Facilities District (CFD) No. 2015-04 (improvements) is comprised of 51.2± gross acres that is in the process of being subdivided into 336 residential lots as well as other non-taxable land uses including various parks, open space areas, a detention basin, and area dedicated for a recreation facility.

The property is generally bounded by Interstate 80 Freeway (Business Loop) on the north and west, and the Union Pacific Railroad to the south and east within a neighborhood identified as East Sacramento within the City of Sacramento.

Prepared For: Mr. Brian Wong
Senior Debt Analyst
City of Sacramento, Office of the City Treasurer
915 "I" Street – HCH – 3rd Floor
Sacramento, CA

Prepared By: Adam Bursch, MAI
Bender Rosenthal, Inc.
4400 Auburn Boulevard, Suite 102
Sacramento, CA 9584

Date of Report: December 4, 2015

Effective Date of Valuation: October 12, 2015

Report Format: Narrative Report Format
Standard Rule 2-2(a)

Names of Signing Appraiser(s): Adam Bursch, MAI

OPINIONS OF VALUE REPORTED

The opinion of value is predicated on the *Fee Simple Bulk Value subject to Special Taxes*. The properties are valued assuming they are vacant and the land in the context of the report assumes that all lots were in a finished condition.

A *Bulk Sale Value* is defined in the report as the most probable price, in a sale of *all* parcels within a tract or development project, to a single purchaser or sales to multiple buyers, over a reasonable absorption period discounted to present value, as of a specified date, in cash, or in terms equivalent to cash, for which the property rights should sell after reasonable exposure, in a competitive market under all conditions requisite to a fair sale, with buyer and seller each acting prudently, knowledgeably, and for self-interest and assuming that neither is under undue stress.

The value is further subject to eight *Extraordinary Assumptions* and/or *Hypothetical Conditions*:

- 1). With regard to future absorption, and absent any evidence to the contrary, we must assume that economic conditions will remain reasonably stable, and that interest rates will remain moderate.
- 2). We assume, for purposes of absorption analysis, that when market demand for lots is obviously strong, the supply of lots at the subject property is never artificially or unduly restrained by regulatory or managerial factors.
- 3). As part of the analysis, the lots were appraised assuming they were all in a finished condition, which is contrary to how they existed today. Estimated remaining costs to finish the lots were considered in the final value. The final value presented in this report is predicated on the hypothetical condition that the infrastructure being financed through the proceeds from the bonds is in place. As of the date of value, the infrastructure was not yet completed.
- 4). A preliminary title report produced by Stewart Title of Sacramento, dated May 12, 2014, was provided for review. Review of the preliminary title report revealed a number of public utility easements, references to agreements, special assessments etc. that are typical for properties of this type and should not have an adverse impact on value. This report assumes that there are no conditions of title that could have an adverse impact on value. Should at a later date this be shown to be incorrect, the value conclusions may change.
- 5). Property information was provided from a representative of the master developer. This information included property maps referencing the total number of proposed lots, subdivision and amenity design, estimated costs to finish the lots and estimates of building permits and fees. In addition, information was provided summarizing the estimated net bond proceeds amount that will be invested in the project. This appraisal assumes that the information provided is reasonably

accurate and the project will be developed as proposed. Should at a later date this information be shown to be inaccurate, the value conclusions contained herein may change.

6). This report assumes the estimated net bond proceed amount of \$5 million dollars will be used to finance authorized site infrastructure.

7). Information provided from representatives of the property appraised indicates that the subject is exempt from including any inclusionary housing. This appraisal assumes that there is no inclusionary housing ordinance associated with the site appraised.

8). The McKinley Village project has been involved in a lawsuit in the recent past. An entity called “East Sacramento Partnership for a Livable City” filed suit against the project. This entity claimed that the California Environmental Quality Act (CEQA) had been violated. In April of 2015, the courts ruled against the petitioner’s lawsuit. However, it is understood an appeal was filed and is currently awaiting a hearing. The value in this appraisal assumes that any litigation issues are resolved and there are no legal issues impeding the development of the project as proposed.

9). As of October 12, 2015 this value was opined by the appraiser to be: \$55,510,000, which includes the consideration of the infrastructure paid for by the bond proceeds.

PROPERTY AND OWNERSHIP INTEREST APPRAISED

The property that is the subject of the appraisal review consists of 51.2± gross acres of vacant land located bounded by Interstate 80 Freeway (Business Lop) on the north and west, and the Union Pacific Railroad to the south and east within a neighborhood identified as Est Sacramento. The proposed development is for 336 dwelling units and associated recreation/open space uses. Currently, access to the project is provided by a dirt road that extends in an easterly direction from 28th Street (future extension of A Street). However, a *Hypothetical Condition* has been made that the land is vacant and available for immediate development with necessary utilities infrastructure in place.

As of the date of the appraisal, the following is a list of the assessor parcels appraised along with their corresponding ownerships.

ASSESSOR PARCEL NUMBER	OWNERSHIP
001-0170-028	Encore McKinley Village, LLC
001-0170-013	Encore McKinley Village, LLC
003-0061-006	Encore McKinley Village, LLC
003-0061-011	Encore McKinley Village, LLC

A complete legal description is included in the Preliminary Title Report which is included in the addenda of the appraisal report reviewed and included as Attachment A.

APPRAISAL VALUATION SYNOPSIS

The appraisal involves the valuation of 51.2± gross acres of land that is in the process of being subdivided into 336 residential dwelling units that includes both attached and detached units. The total developable land area is 26.6 acres. The detached residential lots will range in size from approximately 2,560 to 4,000 square feet yielding dwelling densities ranging between 9.7 and 14.6 units per acre. The attached product will have a dwelling density of 15 units per acre. The project will also incorporate various parks, open space areas, a detention basin, and an area dedicated for a recreation facility.

Upon completion of necessary backbone and utilities infrastructure, the finished lots will be developed with production housing ranging in size from approximately 1,514 square feet to 2,972 square feet. The appraisal concludes the finished production homes to be priced between \$505,000 and \$984,000.

The property is located within the area referred to as East Sacramento. The purpose of the report was to determine the market value of the taxable land included within the McKinley Village Community Facilities District No 2015-04 (Improvements). The intended use of the appraisal was to provide a value for underwriting as part of issuance of bonds associated with the McKinley Village Community Facilities District No. 2015-04 (Improvements). The value estimate was predicated on the appraiser's standard Assumptions and Limiting Conditions as well as the Extraordinary Assumptions and Hypothetical Conditions as stated in the appraisal report and restated in this appraisal review.

The property is located in the northerly portion of the neighborhood known as East Sacramento. The defined area is greater than 90% build out and contains a mix of complimentary land uses including residential, commercial (both retail and office), and industrial. Most of the developments in the neighborhood are a combination of both single family and multifamily residential projects. The vast majority of the improvements are relatively dated construction and were primarily built in the 1920's, 30's, 40's, and 50's.

The neighborhood is highly sought after due partly to its central freeway location, proximate to the Capital corridor, the Midtown area and the State Capital corridor. East Sacramento home prices have seen the largest price appreciations relative to size of any area in Sacramento. Additionally, Midtown, an area which has seen an increase of the number of fine dining offerings, monthly social events and public art and performance offerings, weighs heavily on the popularity of East Sacramento due in part its relative ease of access to this area via bike, public transportation, or walking. Schools, community activities, a sense of security and the number of outdoor, social and recreational diversions encourage and foster a strong sense of community.

The valuation methodology utilized to opine the *Bulk Value* involved a Discounted Cash Flow (DCF). The DCF was developed by estimating the value of each zone (lot product type) on a price per lot basis utilizing a direct Sales Comparison Approach. The latter value conclusions were then compared with a DCF analysis for each of the individual zones by utilizing a finished home value as the basis for the analysis. The bulk value for the entire 336 lots was ultimately estimated by a DCF utilizing the inputs from the results of the direct Sales Comparison Approach and the individual DCF values for each zone.

PURPOSE OF THE APPRAISAL UNDER REVIEW

The purpose of the report was to provide an opinion of the market value of the taxable land included within the McKinley Village Community Facilities District No. 2015-04 (Improvements).

INTENDED USE AND USERS OF THE APPRAISAL UNDER REVIEW

The intended use of the appraisal is to aid in private placement of the McKinley Village CFD bonds and in the determination of sufficient value-to-lien coverage before the financing can proceed. The intended use of this appraisal report is for the exclusive use of the City of Sacramento in connection with land secured financing.

EFFECTIVE DATE OF THE APPRAISAL AND DATE OF THE APPRAISAL REVIEWED

The effective date of the market value “as is” of *Bulk Value* of the appraisal reviewed was October 12, 2015. The appraisal was dated December 4, 2015.

DATE OF THE WORK UNDER REVIEW

The date of the report of the work under review was January 31, 2016.

REVIEWER’S CONCLUSIONS

Overall, the appraisal report reviewed is not judged to meet the reporting requirements set forth by the Uniform Standard of Professional Appraisal Practice (USPAP) as it lacks the support necessary to develop credible assignment result per USPAP Standard 1 and 2:

- Standard Rule 1 - In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.
 - Standards 1-4 (a) - In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.
 - Standards Rule 1-4 (c) – When an income approach is necessary for credible assignment results, an appraiser must:
 - (i) analyze such comparable rental data as are available and/or the potential earnings capacity of the property to estimate the gross income potential of the property;
 - (iii) analyze such comparable data as are available to estimate rates of capitalization and/or rates of discount; and
 - (iv) base projects of future rent and/or income potential and expenses on reasonably clear and appropriate evidence.
- Standard Rule 2 – In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading. This standard addresses the content and level of information required in a report that communicates the results of a real property appraisal.
 - Standard 2-2 (a) - The content of an appraisal report must be consistent with the intended use of the appraisal and at a minimum:
 - (viii) – summarize the information analyzed, the appraisal methods and techniques employed and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained. The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions, including reconciliation of the data and approaches, in accordance with Standards Rule 1-6.

In the reviewer’s opinion the appraiser’s analysis is not supported within the context of the requirements applicable to the work. Additionally, the reviewer concludes that the appraiser does not provide adequate conclusions that are credible within the context of the requirements applicable to the work.

It is the reviewer's opinion that the appraisal complies with the guidelines for the Appraisal Standards for Land-Secured Financing prepared by the California Debt and Investment Advisory Commission, revised as of July 2004. It should be noted that the latter are suggested guidelines to be followed for appraisals involving land secured financing. However, the appraisal lacks credibility as described in the following analysis and in compliance with USPAP.

The data that was reported, summarized, analyzed, was considered relevant to the appraisal assignment. However, the adjustments and discounts applied were not considered appropriately supported resulting in significant loss in the credibility of the appraisal assignment results. The proceeding areas of deficiency and/or lack of analysis resulted are the areas of primary concern:

The appraiser reiterates throughout the body of the report that the property is located in the East Sacramento submarket, a residential market that has experienced significant demand in the past several years, and has experienced some of the highest per square foot sales prices in the greater Sacramento area. One of the reasons for the area's high demand is its proximity to the Midtown area which has seen an increase in the number of fine dining offerings, monthly social events, and public art and performances. While, the subject property can "technically" be considered as being part of the East Sacramento residential market, it is physically separated from this area by the Union Pacific Railroad tracts along its southerly border. In fact, one of greatest impediments to the development of this ±51 acre site was the fact that the property had no physical access. At a significant expense to the developer, an underpass is currently being constructed to provide vehicular access to the site.

The appraisal lacks any discussion of the adjacent area surrounding the subject property relative to the railroad. When development of the area commenced in the early 1900's, land adjacent to the railroad tracks was specifically developed with industrial/quasi commercial uses, which provided the necessary buffer between the residential developments to the south and the railroad tracks. Discussions of the immediate surroundings are very brief and limited, and, in the review appraiser's opinion, should have been considered in the locational amenities of the site appraised.

The property appraised has an "eye" shaped configuration and is bounded by Interstate 80 (business loop 80) to the north and the Union Pacific Railroad tracks to the south. In essence the property is a punch bowl between these significant noise generators. The appraisal discusses External Influences, those being the proximity to the freeway and railroad. The reports states: "In order to mitigate the noise and visual effects generated by these external influences, the project will incorporate into the design sound walls and tree barriers along the northern perimeter. Furthermore, the homes along the southern boundary will be designed with soundproofing that will help to mitigate the impacts of the train noise."

A general analysis of sales within the neighborhood to the east (River Park) which is also impacted by the same railroad and freeway, was generally discussed. However, the analysis lacked any specific sales data. Thus, it was not possible to determine other differences between the sales that could have accounted for price variations.

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Under the External Influences analysis, the appraisal states: "Further, it is noted that several of the competitive new home projects used in this analysis are also proximate to similar types of external influences. Analysis of these projects (Tapestri Square, Curtis Park Villages, and The Mill at Broadway) indicates that homes have been selling and the price points observed in these projects are supportive of the projected price points within the subject property." This statement is specifically in opposition to the location adjustment applied in the Sales Comparison Approach in which an upward location adjustment of 75% was applied to the Curtis Park Village land sale. In the context of external influences, this statement is not understandable.

Lastly, on the subject of external influences, the report notes:

"The EIR for the McKinley Village project addresses concerns associated with the potential for noise generated from the external features. Given the noise mitigation measures taken throughout the development of the project and construction of the homes, the project will be in compliance with the noise element exterior noise exposure guideline with respect to rail operations. Further, considering the proposed barriers along the freeway, the maximum noise levels caused by the freeway would not be expected to interfere with typical outdoor recreation activities.

Given the sound mitigation measures that will be employed in the development of the project, along with analysis of the market, value consideration to negative external influences in this regard is not merited."

It is in the opinion of the review appraiser, that although the project will be in compliance with the noise element exterior noise exposure guideline, this does not preclude or specifically indicate that there will be no negative impacts on value by the projects adjacent proximity to a major freeway and railroad.

The location adjustment applied in the Sales Comparison Approach to the market data involving finished lot sales is not appropriately supported nor credible in its nature. It is understood that the property is technically located in the East Sacramento neighborhood that has seen exceptional demand and has experienced the highest per square foot home values in the greater Sacramento area. However, the desire of the area includes its dining/entertainment district, as well as the unique and individual architectural styles of the early 1900 century. The subject property will consist of new modern homes; however, they are production homes that abut Interstate 80 to the north and Union Pacific Railroad to the south. Additionally, the average lot size of the subject lots will be approximately 3,300 square feet whereas the typical lot size in the area is in the range of 5,500 square feet. The subject site is not within walking distance of the dining/entertainment districts and is buffered from McKinley Park by old industrial/commercial developments on its southerly boundary.

A total of four sales were analyzed; the location adjustments applied to the sales ranged from 70% to over 158%. The chart on page 65 of the appraisal report utilizes average home sales prices between the subject market area and the market areas in which each of the individual comparable is located to develop a location adjustment. The adjustment is based on the dollar difference. This method of analysis is not considered appropriate

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and significantly overstates the adjustment applied. Additionally, utilizing this method of analysis does not isolate a location adjustment but is an all-inclusive adjustment including age, condition, location, lot size, and project amenities.

A Metro Listing Service analysis was performed by the review appraiser and the average sale price of \$556,209 and average home size of 1,570 square feet could not be duplicated. The review appraiser also researched the Sacramento Association of REALTORS® and Placer County Association of REALTORS® websites' for 2015 statistical data (www.sacrealtor.org/consumer/housing-statistics, www.pcaor.com). This data indicated that the median home price in the subject zip code of 95816 was \$530,000 for a 1,774 square average home size in October 2015. Comparable 1, 2, 3, and 4 had indicated median home prices of \$345,000, \$497,500, \$436,500, and \$389,450 with average homes sizes of 2,182 square feet, 1,778 square feet, and 1,654 square feet (average square feet for Placer County not reported), respectively in October 2015. Based on an analysis of the aforementioned data, the indicated adjustments are 74%, 6.53%, and 18.17%, respective for sales 1 through 3. Again, this is an overall adjustment and is not isolated to just a location adjustment.

Two of the four sales are located in the general downtown Sacramento submarket. Sale 2 is located approximately 1.5 miles northwest of the site appraised, while Sale 3 is located approximately 2.5 miles southwest of the site appraised. The appraisal states that Sale 2 is considered inferior to the general subject area in regards to the age and condition of the surrounding homes. However, it is in the review appraiser's opinion that the subject site's external influences yield it equal to slightly inferior to Sale 2. Sale 3 is located in the Curtis Park area, a highly desirable neighborhood, and in the review appraiser's opinion is not considered inferior to the site appraised. In fact, some of the homes in the new Curtis Park Village are selling in the range of \$619,990 to \$764,990, similar to pricing proposed for the subject homes, and a 75% location adjustment is not even marginally considered supportable. The following chart depicts the differences between the Curtis Park and the subject neighborhood by zip code.

Calendar Year 2015	95816 Subject <u>Zip Code</u>	95818 Curtis Park <u>Zip Code</u>
January	\$447,000	\$435,750
February	\$440,000	\$436,000
March	\$450,000	\$417,331
April	\$462,000	\$424,550
May	\$572,750	\$410,000
June	\$490,000	\$457,897
July	\$535,000	\$480,000
August	\$450,000	\$449,000
September	\$508,950	\$505,379
October	<u>\$530,000</u>	<u>\$454,900</u>
Totals for Past 10 Months 2015	\$4,885,700	\$4,470,807
Average Over 2015	\$488,570	\$447,081
Average Over Past 3 Months	\$496,317	\$469,760
% Difference Over 2015	8.49%	
% Difference Over Past 3 Months	5.35%	

SOURCE:
www.sacrealtor.org/consumer/housing-statistics, www.pcaor.com)

The total overall adjustments applied to the four comparable sales ranged from 73% to over 237%. Three of the four sales had overall adjustments of 210% to 237% or from \$130,000 to \$220,000 per finished lot with the total adjustments greater than the purchase price per lot of \$85,000 to \$105,000. When a single adjustment is greater than the sale unit price, the reader is left to question if the data utilized can even be considered a comparable sale.

Likewise the value of the condominium land also lacks support for the concluded value. The subject condominium site has a dwelling unit density of 15 units per acre. The comparables used have densities ranging from 60 to 110 units per acre. While it is noted that the comparables will likely not obtain the maximum densities allowed, they are significantly greater than the subject at 15 units per acre. Typically the greater the dwelling unit density the higher the price per acre. Two of the comparables indicate values of \$29 per square foot with only one sale over \$76 per square foot. Yet the appraiser concludes to a value of \$86 per square foot, significantly higher than the value indicated by the highest sale.

Predicated on the lack of support for a location adjustment particularly given the extensive degree of the adjustment, the appraisal lacks credibility and support for the concluded finished lot value estimates. The unsupported concluded finished lot value is utilized as the basis of the DCF analysis utilized to estimate the bulk "as is" value of the property. The resulting error, is carried throughout the valuation analysis and the final value opined.

The appraiser develops values for the proposed finished house product based on an average house square footage for the five zones. The house pricing was predicated on a study prepared by The Gregory Group dated August 2015. The report was included in the Addenda of the appraisal with the appraiser concurring with the findings of the report. The Gregory Group Report appears to be more of a marketing tool for the proposed subject homes rather than an actual study of competing projects and/or proposed projects. There is limited data to quantitatively support the home prices estimated for the subject.

The estimated cost of constructing a new home is not well supported and appears to be significantly understated. The appraiser states that the homes will be of superior construction with above average finishes and will be constructed with sound proofing. The costs do not appear representative of such construction interior features. Coupled with the estimated home pricing that is not supported in the appraisal with the cost of new home construction which lacks support, the concluded finished lot value by the DCF analysis is not considered credible or supportable.

The assumptions utilized in the individual DCF analysis for the five zones is centered on a finished home ready for immediate development predicted on a 25% discount rate. The appraiser applies a 15% discount rate in the DCF analysis of the entire 336 lot McKinley Village subdivision, which includes costs to complete the backbone infrastructure necessary for new home construction to commence. Typically, a lower discount rate is applied in a residential analysis in which there are a lower number of units to absorb, all backbone infrastructure has been completed, and the property is ready for new home sales. A higher discount rate is applied when there are a larger number of units to absorb and the project is not ready for immediate development, resulting in a longer absorption period and less certainty around the assumptions applied, and thus a correspondently higher discount rate.

The appraiser's justification for the lower rate of return applied to the entire 336 lots verses the individual villages ranging from 24 units to 90 units per individual DCF was the following:

“The discount rate must reflect an adequate profit in relation to the risk and effort that the prospective bulk sale buyer might expend. In this case, it is noted that the analysis assumes that the owner of the lots in bulk sells individual “Units” of the lots to various homebuilders over time. As such, the risk associated with constructing the homes is removed from the analysis.”

In the review appraiser's opinion this is flawed logic. A small number of finished lots (between 24 and 90 units per individual DCF) ready for immediate home construction by a merchant home builder is significantly less risky than a ±51 acre tract of land with 336 lots that still requires completion of backbone infrastructure. There is more risk associated with potential increases in backbone infrastructure costs as well as future sales to merchant homebuilders that are subject to demands of both the end homebuilder their stockholders, if publically traded, and the economy.

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Finally, there is a total of \$20,100,000 of backbone infrastructure remaining to be completed to obtain a true finished lot condition. The sale of the bonds will fund approximately \$5,000,000 of these remaining costs. It was the review appraiser's understanding that \$5,000,000 in bond proceeds will reimburse the developer for costs already expended. The definition of Market Value utilized in the appraisal assumes a sale of the property. Under this premises, a buyer would have to expend \$20,100,000 of their own capital to complete the project as the seller had the use of the \$5,000,000 in bond proceeds. The appraiser was contacted and advised of the use of the funds for reimbursement purposes. In the discussions, the appraiser stated that it did not matter if the \$5,000,000 in bond proceeds were utilized for reimbursement or for future infrastructure costs, as the overall project benefited from the \$5,000,000 and; therefore, the cost to complete would only be \$15,100,000. Thus, a backbone infrastructure cost to complete of \$15,100,000 was utilized in the DCF analysis. Under the premise the bond proceeds will be utilized for reimbursement, the review appraiser believes the final value conclusion is overstated by \$5,000,000.

Taken as a whole, the appraisal report reviewed lacks necessary supported for the conclusions derived, resulting in a report that is not considered credible by the review appraiser.

ASSUMPTIONS AND LIMITING CONDITIONS

This Appraisal Review and Report thereof are expressly subject to the following assumptions and/or conditions:

1. Title to the Appraised Interest in the property is clear and marketable and that there are no recorded or unrecorded matters or exceptions to title that would adversely affect marketability or value. Clark-Wolcott Company, Inc., has not examined title and makes no representations relative to the condition thereof.
2. Clark-Wolcott Company, Inc., has made no survey of property boundaries, and boundaries as they appear on the ground or as represented by the client or client representative, are assumed to be correct.

Maps, sketches, photographs and other exhibits depicting the appraisal property are intended for illustrating purposes to supplement the narrative description of the properties and are not intended nor should they be construed to represent an exact survey or location of property boundaries.

3. All factual data furnished by the property owner, owner's representative, or persons designated by the owner to supply said data are accurate and correct unless otherwise specifically noted in the appraisal report. Unless otherwise specifically noted in the appraisal report, Clark-Wolcott Company, Inc., has no reason to believe that any of the data furnished contains any material error. Information and data referred to in this paragraph includes, without being limited to, lot and block numbers, Assessor's parcel numbers, land dimensions, acreage or area of the land, net farmable areas, usable areas, rent schedules, income data, historic operating expenses, budgets, and related data. Any material error in any of the above data has a substantial impact on the value reported. Thus, Clark-Wolcott Company, Inc., reserves the right to amend the value reported if made aware of any such error. Accordingly, the client-addressee should carefully review all assumptions, data, relevant calculations, and conclusions within ten days after the date of delivery of this report and should immediately notify Clark-Wolcott Company, Inc., of any questions or errors.
4. All information and data furnished by others in connection with the preparation of this report are accurate and correct, and Clark-Wolcott Company, Inc., has no reason to believe to the contrary unless such is specifically noted in the body of the report. Information included in this context refers to comparable rental and sales data, verification of factual data, and general market data.
5. No responsibility is assumed for building permits, zone changes, engineering or any other services or duty connected with legally utilizing the subject property. Unless otherwise noted in the body of the report, it is assumed that no changes in the present zoning ordinances or regulations governing use, density or shape are being considered.
6. The report has been prepared on the premise that there are no encumbrances or other matters not of record prohibiting utilization of the property pursuant to the appraiser's opinions of highest and best use.
7. Unless otherwise noted in the body of the report, it is assumed that there are no mineral or sub-surface rights of value involved in this appraisal and that there are no air or development rights of value that may be transferred.

8. This report may not be duplicated in whole or in part without the specific written consent of Clark-Wolcott Company, Inc., nor may this report or copies hereof be transmitted to third parties without said consent, which consent Clark-Wolcott Company, Inc., reserves the right to deny. Exempt from this restriction are duplication for the internal use of the client-addressee and/or transmission to attorneys, accountants, or advisors of the client-addressee. Also exempt from this restriction is transmission of the report to any court, governmental authority, or regulatory agency having jurisdiction over the owner of the property, provided that this report and/or its contents shall not be published, in whole or in part, in any public document without the express written consent of Clark-Wolcott Company, Inc. Finally, this report shall not be advertised to the public or otherwise used to induce a third party to purchase the property. Any third party, not covered by the exemptions herein, who may possess this report, is advised that they should rely on their own independently secured advice for any decision in connection with this property. Clark-Wolcott Company, Inc., shall have no accountability or responsibility to any such third party.
9. Unless specifically set forth in the body of the report, nothing contained herein shall be construed to represent any direct or indirect recommendation of Clark-Wolcott Company, Inc., to buy, sell, or hold the property at the opined recommended pricing. Such decisions involve substantial investment strategy questions and must be specifically addressed in consultation form.
10. The real estate market is in a state of constant flux, as is the value of the U.S. dollar. Clark-Wolcott Company, Inc., can offer no assurances that the reported value will remain stable or improve in terms of current dollars. The passage of time or changing economic conditions could result in a change in value, as could a change in the relative value of the U.S. dollar. If the client believes such has occurred, an updated valuation may be in order.
11. The review appraiser shall not be required to give testimony or appear in court by reason of this appraisal with reference to the property described herein unless prior arrangements have been made.
12. Unless otherwise stated in this report, the existence of hazardous substances, including without limitation asbestos, polychlorinated biphenyls, petroleum leakage, or agricultural chemicals, which may or may not be present on the property, or other environmental conditions, were not called to the attention of nor did Clark-Wolcott Company, Inc., become aware of such during the appraiser's inspection. Clark-Wolcott Company, Inc., has no knowledge of the existence of such materials on or in the property unless otherwise stated. Clark-Wolcott Company, Inc., however, is not qualified to test for the presence of such substances or conditions. If the presence of such substances, such as asbestos, ureaformaldehyde foam insulation, or other hazardous substances or environmental conditions, may affect the value of the property, the value estimated is predicated on the assumption that there is no such condition on or in the property or in such proximity thereto that it would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them.

If questions in these areas are critical to the decision process of the reader, the advice of competent engineering or environmental consultants should be obtained and relied upon. If engineering or environmental consultants retained should report negative factors, of a material nature, relative to the condition of the property, such negative information could have a substantial negative impact on the value reported in this appraisal. Accordingly, if negative findings are reported by engineering or environmental consultants, Clark-Wolcott Company, Inc., reserves the right to amend the opinions reported herein.

REVIEW APPRAISER'S CERTIFICATION

The undersigned does hereby certify that, except as otherwise noted in this report of the appraisal review:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of the work under review and no personal interest with respect to the parties involved.
4. I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of the work under review within the three-year period immediately preceding acceptance of this assignment.
5. I have no bias with respect to the property that is the subject of the work under review or to the parties involved with this assignment.
6. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
7. My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in this review or from its use.
8. My compensation for completing this assignment is not contingent upon the development or reporting of predetermined assignment results or assignment results that favors the cause of the client, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal review.
9. The reported analyses, opinions, and conclusions were developed, and this review report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute, which include the Uniform Standards of Professional Appraisal Practice (USPAP). The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
10. The Appraisal Institute conducts a program of continuing education for its designated members. As of the date of this report, the undersigned, Jill Clark, MAI, has completed the requirements of the continuing education program of the Appraisal Institute.
11. My analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
12. I have made a personal inspection others subject of the work under review.
13. No one provided significant appraisal or appraisal review assistance to the person signing this certification.

By: 

Jill Clark, MAI
Certified General Appraiser - #AG003804
State of California

Date: 1-31-16

ADDENDA

EXHIBIT A

QUALIFICATIONS OF THE APPRAISER

**QUALIFICATIONS OF
JILL CLARK, MAI**

**CLARK-WOLCOTT COMPANY, INC.
11344 COLOMA ROAD, SUITE 245
RANCHO CORDOVA, CALIFORNIA 95670
PHONE: (916) 852-9470
FAX: (916) 852-1229**

Ms. Clark began her appraisal career with Clark-Wolcott Company, Inc. in November, 1982 and is currently a principal and President of the firm. Ms. Clark has been involved in the appraisal of a variety of different types of real estate including office buildings, apartments, retail commercial properties, industrial buildings, various residential properties, and assessment districts.

EDUCATION

California Polytechnic State University, San Luis Obispo, California - Bachelor of Arts in Political Sciences and minors in Finance and Property Management and Computer Science. Graduated 1982.

REQUIRED PROFESSIONAL REAL ESTATE APPRAISAL EDUCATION

Basic Valuation Procedures 1-B, February, 1983
Capitalization Theory and Techniques Part 2, April, 1983
Capitalization Theory and Techniques Part 3, July, 1983
Case Studies in Real Estate Valuation, June, 1984
Standards of Professional Practice, 1984, 1991 and 1996
Valuation Analysis and Report Writing, June, 1985
Real Estate Appraisal Principles, September, 1986
American Institute of Real Estate Appraisers Comprehensive Exam, August, 1988

CURRENT CONTINUING REAL ESTATE APPRAISAL EDUCATION

Yellow Book Issues and Divided Partial Interests, October, 2010
Corridor Valuation – Day 1, October, 2010
Business Practices and Ethics, May, 2010
7-Hour National USPAP Update Course, January 2010
Appraising Distressed Commercial Real Estate: Here We Go!¹, October, 2009
Forecasting Revenue*, October, 2009
Construction Defects and Cost Trends & Feasibility Analysis, October, 2008
Valuation of Detrimental Conditions*, October, 2008
Attacking & Defending an Appraisal in Litigation, October, 2007
Condominiums, Co-Ops, and PUDs, October, 2006
Subdivision Valuation, October, 2005

¹ Advanced Appraisal Institute Education

PROFESSIONAL AFFILIATIONS

Member (MAI #8079) Appraisal Institute (awarded March 9, 1989)
Certified General Real Estate Appraiser - State of California - Identification Number
AG003804

LOCATION AND TYPES OF PROPERTY APPRAISED

During the course of Ms. Clark's career, she has completed appraisals and related work in several Northern California counties. A representative list of the types of property she has appraised includes:

- Undeveloped Land: Single- and multifamily residential, residential subdivision, industrial, commercial, and transitional/speculative lands.
- Improved Properties: Single- and multifamily residential, retail commercial, industrial, business/professional office, and research and development (R&D).

Special Purpose: Assessment districts, Mello-Roos community facilities districts, and properties designated for public acquisition.

REPRESENTATIVE LIST OF CLIENTS

- Owners/Developers

K. Hovnanian Homes
Elliott Homes
Blue Diamond Growers
Mercy Healthcare
Raley's

Sacramento Regional Foundation
Sierra Foundation
Downtown Plaza Towers
ENSECO, Inc.

- Commercial Lending Institutions/Related Entities

Wells Fargo Bank
Bank of the West
Republic Realty
First Commercial Bank

Capitol Bank
Mutual Bank
U.S. Bank

Clark - Wolcott

Incorporated

- Governmental Bodies/School Districts

City of Folsom
City of Sacramento
Department of Fish and Game
City of Lincoln

Dry Creek School District
Rocklin Unified School District
Elk Grove Unified School District
Sacramento Metropolitan Fire Dept.

- Law Firms/Others

Diepenbrock, Wulff, Plant
and Hannegan
McDonough, Holland, & Allen PC
Law Firm of John Swanson
Pino and Associates
Pillsbury Madison & Sutro
Marin County Employees'
Retirement Association
Girardi/Keese

Westhoff, Cone & Holmstedt
(municipal bond financing)
Ernst & Young (accountants)
Sproul Trost
Wagner Kirkman Blaine Klomparens
& Youmans
Stone & Youngberg
(municipal bond financing)

EXHIBIT B

APPRAISAL REPORT REVIEWED