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**INDENTURE OF TRUST**

by and between

**REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO**

and

**WELLS FARGO BANK, NATIONAL ASSOCIATION,**  
as Trustee

Dated as of July 1, 2009

Relating to the

\$ \_\_\_\_\_  
Redevelopment Agency of the City of San Diego  
North Park Redevelopment Project  
Subordinate Tax Allocation Bonds, Series 2009A

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## INDENTURE OF TRUST

This INDENTURE OF TRUST (this "Indenture") made and entered into July 1, 2009, is by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic duly organized and existing under the laws of the State of California (the "Agency"), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee").

### WITNESSETH:

**WHEREAS**, the Agency is a public body, corporate and politic, duly established and authorized to transact business and exercise powers under and pursuant to the provisions of the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the Health and Safety Code of the State of California (the "Law"), including the power to issue bonds for any of its corporate purposes; and

**WHEREAS**, a redevelopment plan for the Agency's North Park Redevelopment Project, in the City of San Diego (the "Redevelopment Project"), has been adopted in compliance with all requirements of the Law; and

**WHEREAS**, the Agency has previously issued its \$7,000,000 North Park Redevelopment Project Tax Allocation Bonds, Series 2000 (the "2000 Bonds"), its \$7,145,000 North Park Redevelopment Project 2003 Tax Allocation Bonds, Series A (Taxable) (the "2003A Bonds") and its \$5,360,000 North Park Redevelopment Project 2003 Tax Allocation Bonds, Series B (Tax-Exempt) (the "2003B Bonds" and together with the 2003 Bonds, the "2003 Bonds") under a Trust Indenture dated as of October 1, 2000, as supplemented by a First Supplement to Indenture of Trust dated as of December 1, 2003, each by and between the Agency and Wells Fargo Bank, National Association as trustee (as so supplemented and amended, the "Senior Bond Indenture"); and

**WHEREAS**, the Agency wishes at this time to issue its \$\_\_\_\_\_ aggregate principal amount of North Park Redevelopment Project Subordinate Tax Allocation Bonds, Series 2009A (the "2009A Bonds") pursuant to the provisions of the Law for the purpose of providing additional funds to finance the Redevelopment Project and to repay amounts due under a Credit Agreement, dated as of October 1, 2006, by and between the Agency and Bank of America, N.A. (as amended, the "BofA Credit Agreement"); and

**WHEREAS**, the 2009A Bonds have been authorized to be issued pursuant to Resolution No. \_\_\_\_\_ adopted by the Agency on \_\_\_\_\_, 2009, and the Agency hereby finds and determines that the 2009A Bonds which are authorized and issued hereunder constitute the bonds authorized to be issued pursuant to such Resolution No. \_\_\_\_\_; and

**WHEREAS**, the 2009A Bonds, when issued, will be secured by a pledge of and lien on Tax Revenues (as defined herein) on a subordinate basis to the pledge of and lien on Tax Revenues under the Senior Bond Indenture for the benefit of the 2000 Bonds and the 2003 Bonds; and

**WHEREAS**, in order to provide for the authentication and delivery of the 2009A Bonds and any obligations issued on a parity therewith under the provisions of Section 3.06 below (collectively, the "Bonds"), to establish and declare the terms and conditions upon which the Bonds are to be

issued and to secure the payment of the principal thereof and interest and redemption premium (if any) thereon, the Agency and the Trustee have duly authorized the execution and delivery of this Indenture; and

**WHEREAS**, the Agency has determined that all acts and proceedings required by law necessary to make the 2009A Bonds, when executed by the Agency, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal special obligations of the Agency, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done or taken;

**NOW, THEREFORE**, in order to secure the payment of the principal of and the interest and redemption premium (if any) on all the Outstanding Bonds under this Indenture according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable consideration, the receipt of which is hereby acknowledged, the Agency and the Trustee do hereby covenant and agree with one another, for the benefit of the respective Owners from time to time of the Bonds, as follows:

## **ARTICLE I**

### **AUTHORIZATION OF BONDS; DEFINITIONS**

**Section 1.01 Authorization.** The Agency has reviewed all proceedings heretofore taken with respect to the Bonds and has found, as a result of such review, and hereby finds and determines, that all things, conditions and acts required by law to exist, happen or be performed precedent to and in connection with the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Agency is now duly empowered, pursuant to each and every requirement of law, to issue the Bonds in the manner and form provided in this Indenture.

**Section 1.02 Definitions** Unless the context otherwise requires, the terms defined in this Section 1.02 shall, for all purposes of this Indenture, of any indenture supplemental hereto, and of any certificate, opinion or other document herein mentioned, have the meanings herein specified.

“Additional Allowance” means, as the date of calculation, the amount of Tax Revenues which, as shown in the Report of an Independent Financial Consultant, are estimated to be receivable by the Agency within the Fiscal Year following the Fiscal Year in which such calculation is made as a result of increases in the assessed valuation of taxable property in the Project Area due to either (a) construction which has been completed but not yet reflected on the tax rolls, or (b) transfer of ownership or any other interest in real property which has been recorded but which is not then reflected on the tax rolls. For purposes of this definition, the term “increases in the assessed valuation” means the amount by which the assessed valuation of taxable property in the Project Area is estimated to increase above assessed valuation of taxable property in the Project Area (as evidenced on the written records of the San Diego County Auditor-Controller) as of the date in which such calculation is made.

“Agency” means the Redevelopment Agency of the City of San Diego, a public body corporate and politic duly organized and existing under the Law.

“Annual Debt Service” means, for each Bond Year, the sum of (a) the interest payable on the Outstanding Bonds in such Bond Year, assuming that the Outstanding Serial Bonds are retired as scheduled and that the Outstanding Term Bonds are redeemed from sinking account payments as scheduled, (b) the principal amount of the Outstanding Serial Bonds payable by their terms in such Bond Year, and (c) the principal amount of the Outstanding Term Bonds scheduled to be paid or redeemed from sinking account payments in such Bond Year, excluding the redemption premiums (if any) thereon.

“Bond Counsel” means (a) Stradling Yocca Carlson & Rauth, a Professional Corporation, or (b) any other attorney or firm of attorneys appointed by or acceptable to the Agency, of nationally-recognized experience in the issuance of obligations the interest on which is excludable from gross income for federal income tax purposes under the Tax Code.

“Bond Year” means each twelve-month period beginning on November 2 in any year and extending to the next succeeding November 1, both dates inclusive.

“Bonds” means the 2009A Bonds and, to the extent required by any Supplemental Indenture, any Parity Bonds authorized by and at any time Outstanding pursuant to this Indenture and such Supplemental Indenture.

“Business Day” means a day of the year, other than Saturday or Sunday, on which banks in Los Angeles, California, are not required or authorized to remain closed and on which The New York Stock Exchange is not closed.

“City” means the City of San Diego, California.

“Closing Date” means July \_\_, 2009, being the date on which the 2009A Bonds are delivered by the Agency to the original purchasers thereof, and as to each series of Parity Bonds, the date on which such Parity Bonds are delivered by the Agency to the original purchasers thereof.

“Continuing Disclosure Agreement” means an undertaking entered into by the Agency relative to the Original Purchaser’s obligations under Rule 15c2-12 of the Securities and Exchange Commission, as provided pursuant to Section 5.15 of this Indenture.

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

“Costs of Issuance Fund” means the fund by that name established and held by the Trustee pursuant to Section 3.04.

“Defeasance Securities” means any of the following, or any combination thereof: (a) cash, (b) State and Local Government Series securities issued by the United States Treasury, (c) United

States Treasury bills, notes and bonds, as traded on the open market, which are not subject to optional call or redemption, and (d) zero coupon United States Treasury Bonds.

“DTC” means The Depository Trust Company and any successor to it or any nominee of it.

“DTC Participant” has the meaning given to that term in Section 2.04(b) of this Indenture.

“DTC System” has the meaning given to that term in Section 2.04(a) of this Indenture.

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

“Executive Director” means the Executive Director of the Agency, or other duly appointed officer of the Agency authorized by the Agency by resolution or by-law to perform the functions of the Executive Director in the event of the Executive Director’s absence or disqualification.

“Federal Securities” means the following securities:

(1) United States Treasury Bills, bonds, and notes for which the full faith and credit of the United States are pledged for payment of principal and interest;

(2) Direct senior obligations issued by the following agencies of the United States Government: the Federal Farm Credit Bank System, the Federal Home Loan Bank System, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the Tennessee Valley Authority;

(3) Mortgage Backed Securities (except stripped mortgage securities) issued by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the Government National Mortgage Association; and

(4) United States Treasury Obligations, State and Local Government Series.

“Fiscal Year” means any twelve-month period extending from July 1 in one calendar year to June 30 of the succeeding calendar year, both dates inclusive, or any other twelve-month period selected and designated by the Agency as its official fiscal year period.

“Fitch” means Fitch Ratings and its successors, and if such company shall for any reason no longer perform the functions of a securities rating agency, “Fitch” shall be deemed to refer to any nationally recognized securities rating agency designated by the Agency and the City.

“Indenture” means this Indenture of Trust by and between the Agency and the Trustee, as originally entered into or as it may be amended or supplemented by any Supplemental Indenture entered into pursuant to the provisions hereof.

“Independent Certified Public Accountant” means any accountant or firm of such accountants duly licensed or registered or entitled to practice and practicing as such under the laws of the State of California, appointed by the Agency, and who, or each of whom: (a) is in fact independent and not under domination of the Agency; (b) does not have any substantial interest, direct or indirect, with the Agency; and (c) is not connected with the Agency as an officer or employee of the Agency, but who may be regularly retained to make reports to the Agency.

“Independent Financial Consultant” means any financial consultant or firm of such consultants appointed by the Agency, and who, or each of whom: (a) is in fact independent and not under domination of the Agency; (b) does not have any substantial interest, direct or indirect, with the Agency, other than as original purchaser of the Bonds or any Parity Bonds; and (c) is not connected with the Agency as an officer or employee of the Agency, but who may be regularly retained to make reports to the Agency.

“Information Services” means Financial Information, Inc.’s “Daily Called Bond Service”, 30 Montgomery Street, 10th Floor, Jersey City, New Jersey 07302, Attention: Editor; Kenny Information Services’ “Called Bond Service,” 65 Broadway, 16th Floor, New York, New York 10006; Moody’s Investors Service “Municipal and Government,” 99 Church Street, 8th Floor, New York, New York 10007, Attention: Municipal News Reports; Standard & Poor’s Corporation “Called Bond Record,” 25 Broadway, 3rd Floor, New York, New York 10004; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other services providing information with respect to the redemption of bonds as the Agency may designate in a Written Request of the Agency delivered to the Trustee.

“Interest Account” means the account by that name established and held by the Trustee pursuant to Section 4.03(a).

“Interest Payment Date” means May 1 and November 1 in each year so long as any of the Bonds remain Outstanding hereunder.

“Law” means the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the Health and Safety Code of the State of California, and the acts amendatory thereof and supplemental thereto.

“Maximum Annual Debt Service” means, as of the date of any calculation, the largest Annual Debt Service during the current or any future Bond Year.

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

“Net Proceeds” means the par amount of the Bonds plus accrued interest and original issue premium, if any, less the amount of any original issue discount and less any amount of proceeds of the Bonds deposited in the Reserve Account.

“Nominee” means (a) initially, Cede & Co. as nominee of DTC, and (b) any other nominee of the Depository designated pursuant to Section 2.04(a).

“Original Purchaser” means, collectively, E. J. De La Rosa & Co, Inc. and Sutter Securities Incorporated, as the original purchasers of the 2009A Bonds from the Public Financing Authority of the City of San Diego and in connection with the issuance of any Parity Bonds the original purchaser thereof.

“Outstanding,” when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 9.06) all Bonds except: (a) Bonds theretofore canceled by the Trustee or

surrendered to the Trustee for cancellation; (b) Bonds paid or deemed to have been paid within the meaning of Section 9.03; and (c) Bonds in lieu of or in substitution for which other Bonds shall have been authorized, executed, issued and delivered by the Agency pursuant to this Indenture or any Supplemental Indenture.

“Owner” or “Bond Owner” means any person who shall be the person in whose name the ownership of any Outstanding Bond shall be registered on the Registration Books.

“Participant” means a broker-dealer, bank or other financial institution for which DTC holds Bonds as Securities Depository.

“Parity Bonds” means any bonds, notes, loans, advances or other indebtedness issued or incurred by the Agency and secured by a pledge of and lien on Tax Revenues on a parity with the 2009A Bonds pursuant to Section 3.06.

“Permitted Investments” means any of the following to the extent then permitted by law and Section 6.07 hereof:

- (1) Federal Securities;
- (2) Obligations of any state, territory or commonwealth of the United States of America or any political subdivision thereof or any agency or department of the foregoing; provided, that at the time of their purchase such obligations are rated “AAA” by two Rating Agencies;
- (3) Bonds, notes, debentures or other evidences of indebtedness issued or guaranteed by any corporation which are, at the time of purchase, rated by each Rating Agency in their respective highest short-term rating categories, or, if the term of such indebtedness is longer than three years, rated “AAA” by two Rating Agencies;
- (4) Taxable commercial paper or tax-exempt commercial paper with a maturity of not more than 270 days, rated at the time of purchase “A1/P1/F1” by two Rating Agencies;
- (5) Deposit accounts or certificates of deposit, whether negotiable or non-negotiable, issued by a state or national bank (including the Trustee and its affiliates) or a state or federal savings and loan association or a state-licensed branch of a foreign bank; provided, however, that such certificates of deposit or deposit accounts shall be either (a) continuously and fully insured by the Federal Deposit Insurance Corporation; or (b) have maturities of not more than 365 days (including certificates of deposit) and are issued by any state or national bank or a state or federal savings and loan association, the short-term obligations of which are rated in the highest short term letter and numerical rating category by two Rating Agencies;
- (6) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which bank has short-term obligations outstanding which are rated by two Rating Agencies in their respective highest short-term rating categories, and which bankers acceptances mature not later than 180 days from the date of purchase;
- (7) Any repurchase agreement with any bank or trust company organized under the laws of any state of the United States or any national banking association (including the Trustee), or a state-licensed branch of a foreign bank, having a minimum permanent capital of one hundred million dollars (\$100,000,000) and with short-term debt rated by two Rating Agencies in their

respective three highest short-term rating categories or any government bond dealer reporting to, trading with, and recognized as a primary dealer by, the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities and obligations described in clause (1) of this definition, which shall have a market value (valued at least weekly) not less than 102% of the principal amount of such investment and shall be lodged with the Trustee, the Treasurer or other fiduciary, as custodian for the Trustee, by the bank, trust company, national banking association or bond dealer executing such repurchase agreement. The entity executing each such repurchase agreement required to be so secured shall furnish the Trustee with an undertaking satisfactory to it that the aggregate market value of all such obligations securing each such repurchase agreement (as valued at least weekly) will be an amount equal to 102% the principal amount of such repurchase agreement and the Trustee shall be entitled to rely on each such undertaking;

(8) Investments in a money market fund, including those of an affiliate of the Trustee rated “AAAm” or “AAAm-G” or better by S&P and Moody’s, investments of which are limited to investments described in clauses (1), (2) and (7) of this definition.

(9) Certificates, notes, warrants, bonds or other evidence of indebtedness of the State or of any political subdivision or public agency thereof which are rated in the highest short-term rating category or within one of the three highest long-term rating categories of two Rating Agencies (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date);

(10) For amounts less than \$10,000, interest-bearing demand or time deposits (including certificates of deposit) in a nationally or state-chartered bank, or a state or federal savings and loan association in the State, fully insured by the Federal Deposit Insurance Corporation, including the Trustee or any affiliate thereof;

(11) Investments in taxable money market funds or portfolios restricted to obligations with an average maturity of one year or less and which funds or portfolios are rated in either of the two highest rating categories by two Rating Agencies or have or are portfolios guaranteed as to payment of principal and interest by the full faith and credit of the United States of America and which may include funds for which the Trustee, its parent holding company, if any, or any affiliates or subsidiaries of the Trustee provide investment advisory or other management services;

(12) Investments in the City’s pooled investment fund;

(13) Investments in the Local Agency Investment Fund created pursuant to Section 16429.1 of the Government Code of the State;

(14) Shares of beneficial interest in diversified management companies investing exclusively in securities and obligations described in clauses (1) through (11) of this definition and which companies are rated in their respective highest rating categories by two Rating Agencies or have an investment advisor registered with the Securities and Exchange Commission with not less than five years’ experience investing in such securities and obligations and with assets under management in excess of five hundred million dollars (\$500,000,000); and

(15) Any guaranteed investment contract, including forward delivery agreements (“FDAs”) and forward purchase agreements (“FPAs”), with a financial institution or insurance

company which has at the date of execution thereof an outstanding issue of unsecured, uninsured and unguaranteed debt obligations or a claims-paying ability rated within the two highest rating categories of two or more Rating Agencies. Only Permitted Investments described in clause (1) above and having maturities equal to or less than 30 years from their date of delivery will be considered eligible for any collateralization/delivery purposes for guaranteed investment contracts, FDAs or FPAs;

(16) Shares in a California common law trust established pursuant to Title 1, Division 7, Chapter 5 of the Government Code of the State which consists exclusively of investments permitted by Section 53601 of Title 5, Division 2, Chapter 4 of the Government Code of the State, as it may be amended.

“Plan Limitations” means the limitations contained or incorporated in the Redevelopment Plan on (a) the aggregate principal amount of indebtedness payable from Tax Revenues which may be outstanding at any time, (b) [the aggregate amount of taxes which may be divided and allocated to the Agency pursuant to the Redevelopment Plan], (c) the period of time for establishing or incurring indebtedness payable from Tax Revenues and (d) the period of time for receiving Tax Revenues for any purpose, all as established pursuant to Section 33333.2 of the Law.

“Principal Payment Date” means November 1 in each year on which any principal on the Bonds is due and payable at maturity or from Sinking Account payments.

“Project Area” means the project area described in the Redevelopment Plan.

“Qualified Reserve Account Credit Instrument” means any irrevocable standby or direct-pay letter of credit or surety bond issued by a commercial bank or insurance company and deposited with the Trustee pursuant to Section 3.03, provided that all of the following requirements are met: (a) the long-term credit rating of such bank or insurance company at the time of issuance of such letter of credit or surety bond is in one of the two highest rating categories by S&P and Moody’s; (b) such letter of credit or surety bond has a term of at least twelve (12) months; (c) such letter of credit or surety bond has a stated amount at least equal to the portion of the Reserve Requirement with respect to which funds are proposed to be released pursuant to Section 3.03; (d) the Trustee is authorized pursuant to the terms of such letter of credit or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Interest Account, the Principal Account, the Sinking Account for the purpose of making payments required pursuant to Section 4.03(a), (b) or (c); and (e) written notice of the posting of such Qualified Reserve Account Credit Instrument is given to the Rating Agencies.

“Rating Agencies” means any of the following: Fitch, Moody's and S&P.

“Rebate Account” means the account by that name established and held by the Trustee pursuant to Section 4.05.

“Rebate Calculation Period” means the twelve-month period beginning on the Closing Date or on any anniversary of the Closing Date and extending to but not including the next succeeding anniversary of the Closing Date.

“Record Date” means the fifteenth (15th) calendar day of the month preceding each Interest Payment Date, whether or not such fifteenth (15th) calendar day is a Business Day.

“Redemption Account” means the account by that name established and held by the Trustee pursuant to Section 4.03(e).

“Redevelopment Fund” means the fund by that name established and held by the Agency pursuant to Section 3.05.

“Redevelopment Plan” means the Redevelopment Plan for the North Park Redevelopment Project, approved by Ordinance No. O-18386 enacted by the City Council of the City of San Diego on March 4, 1997, together with any amendments thereof heretofore or hereafter duly authorized pursuant to the Law.

“Redevelopment Project” means the project area described in the Redevelopment Plan.

“Registration Books” means the records maintained by the Trustee pursuant to Section 2.09 for the registration and transfer of ownership of the Bonds.

“Report” means a document in writing signed by an Independent Financial Consultant and including: (a) a statement that the person or firm making or giving such Report has read the pertinent provisions of this Indenture to which such Report relates; (b) a brief statement as to the nature and scope of the examination or investigation upon which the Report is based; and (c) a statement that, in the opinion of such person or firm, sufficient examination or investigation was made as is necessary to enable said consultant to express an informed opinion with respect to the subject matter referred to in the Report.

“Reserve Account” means the account by that name established and held by the Trustee pursuant to Section 3.03.

“Reserve Requirement” means, as of the date of any calculation by the Agency, the lesser of (a) Maximum Annual Debt Service, (b) 125% of average Annual Debt Service on the Bonds, or (c) 10% of the original principal amount of the Bonds (less original issue discount if in excess of two percent (2%) of the stated redemption amount at maturity); provided however that the Reserve Requirement shall be computed without regard for the portions of Bonds which remain as deposits in escrow funds not secured by the Tax Revenues. [Discuss further with Section 3.06.]

“San Diego County Auditor-Controller” means the person who holds the office designated San Diego County Auditor-Controller from time to time, or one of the duly appointed deputies of such person, or any person or persons performing substantially the same duties in the event said office is ever abolished or changed.

“Securities Depository” means, initially, The Depository Trust Company, New York, New York, and its successors and assigns and any replacement securities depository appointed under this Indenture.

“Senior Bond Indenture” means the Trust Indenture dated as of October 1, 2000, as supplemented pursuant to the First Supplement to Indenture of Trust, dated as of December 1, 2003, each by and between the Agency and Wells Fargo Bank, National Association as successor-trustee, and as such Trust Indenture may be further amended or supplemented from time to time in accordance with its terms.

“Senior Bonds” means any bonds, notes, loans, advances or other indebtedness issued or incurred by the Agency and secured by a pledge of and lien on Pledged Tax Revenues (as defined in the Senior Bond Indenture) on a parity with the 2000 Bonds and the 2003 Bonds pursuant to the Senior Bond Indenture and in accordance with Section 3.07 hereof.

“Serial Bonds” means all Bonds other than the Term Bonds.

“Sinking Account” means the account by that name established and held by the Trustee pursuant to Section 4.03(c).

“Special Fund” means the fund established and held by the Trustee pursuant to Section 4.02.

“S&P” means Standard & Poor’s Ratings Group, a division of The McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the State of New York, and its successors, and if such corporation shall for any reason no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Agency and the City.

“Subordinate Debt” means any loans, advances, contracts or indebtedness issued or incurred by the Agency in accordance with the requirements of Section 3.08, which are either: (a) payable from, but not secured by a pledge of or lien upon, the Tax Revenues; or (b) secured by a pledge of or lien upon the Tax Revenues which is subordinate to the pledge of and lien upon the Tax Revenues hereunder for the security of the Bonds.

“Supplemental Indenture” means any resolution, agreement or other instrument then in full force and effect which has been duly adopted or entered into by the Agency; but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

“Tax Certificate” means the Tax Certificate of the Agency executed and delivered on each Closing Date to establish certain facts and expectations with respect to the Bonds being issued on the respective Closing Date.

“Tax Code” means, with respect to a series of Bonds, the Internal Revenue Code of 1986, as in effect on the date of issuance of such Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of such Bonds, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Tax Code (including the Tax Regulations).

“Tax Regulations” means temporary and permanent regulations promulgated under Section 103 and all related provisions of the Tax Code.

“Tax Revenues” means all taxes annually allocated to the Agency with respect to the Project Area following the Closing Date, pursuant to Article 6 of Chapter 6 (commencing with Section 33670) of the Law and Section 16 of Article XVI of the Constitution of the State of California and as provided in the Redevelopment Plan, including all payments, subventions and reimbursements (if any) to the Agency specifically attributable to ad valorem taxes lost by reason of tax exemptions and tax rate limitations; but excluding (i) all amounts of such taxes required to be deposited into the Low and Moderate Income Housing Fund of the Agency in any Fiscal Year pursuant to Section 33334.2 or 33334.6 of the Redevelopment Law, (ii) all amounts of such taxes

required to be paid to taxing entities under Sections 33607.5 and 33607.7 of the Law to the extent such required payments create a prior lien on such taxes, (iii) amounts, if any, payable by the State of California to the Agency under and pursuant to the provisions of Chapter 1.5 of Part 1 of Division 4 of Title 2 (commencing with Section 16110) of the Government Code of the State of California, (iv) amounts retained by the County as costs of collection pursuant to Chapter 466, Statutes of 1990, and (v) such taxes in any “Bond Year” (as defined in the Senior Bond Indenture) to the extent subject to the prior senior pledge under the Senior Bond Indenture with respect to the Senior Bonds.

“Term Bonds” means the 2009A Bonds maturing on November 1, 20\_\_, and with respect to any Parity Bonds means such Parity Bonds which are payable on or before their specified Principal Payment Dates from sinking account payments established for that purpose and calculated to retire such Parity Bonds on or before their respective Principal Payment Dates.

“Treasurer” means the Office of the City Treasurer of the City of San Diego.

“Trustee” means Wells Fargo Bank, National Association as trustee hereunder, or any successor thereto appointed as trustee hereunder in accordance with the provisions of Article VI.

“Trust Office” means such corporate trust office of the Trustee as may be designated from time to time by written notice from the Trustee to the Agency, initially being 707 Wilshire Boulevard, 17th Floor, Los Angeles, California 90017 except that with respect to presentation of Bonds for payment or for registration of transfer and exchange such term shall mean the office or agency of the Trustee at which, at any particular time, its corporate trust agency business shall be conducted.

“2000 Bonds” means the Redevelopment Agency of the City of San Diego North Park Redevelopment Project Tax Allocation Bonds, Series 2000 authorized pursuant to the Senior Bond Indenture.

“2003 Bonds” means the Redevelopment Agency of the City of San Diego North Park Redevelopment Project 2003 Tax Allocation Bonds, Series A (Taxable) and Series B (Tax-Exempt) authorized pursuant to the Senior Bond Indenture.

“2009A Bonds” means the \$\_\_\_\_\_ North Park Redevelopment Project Subordinate Tax Allocation Bonds, Series 2009A.

“Written Request of the Agency” or “Written Certificate of the Agency” means a request or certificate, in writing signed by the Executive Director, Redevelopment Director, Treasurer or Secretary of the Agency or by any other officer of the Agency duly authorized by the Agency for that purpose.

**Section 1.03 Rules of Construction** All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture, and the words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

**Section 1.04 Contract With Bond Owners; Equal Security.** In consideration of the acceptance of the Bonds by those who shall hold the same from time to time, this Indenture shall be deemed to be and shall constitute a contract between the Agency and the Owners from time to time

of the Bonds, and the covenants and agreements herein set forth to be performed on behalf of the Agency shall be for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution and delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

## ARTICLE II

### THE 2009A BONDS

**Section 2.01 Authorization.** 2009A Bonds in the aggregate principal amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) are hereby authorized to be issued by the Agency under and subject to the terms of this Indenture and the Law. This Indenture constitutes a continuing agreement with the Owners of all of the Bonds issued or to be issued hereunder and then Outstanding to secure the full and final payment of principal and premiums, if any, and the interest on all Bonds which may from time to time be executed and delivered hereunder, subject to the covenants, agreements, provisions and conditions herein contained. The 2009A Bonds shall be designated the “Redevelopment Agency of the City of San Diego North Park Redevelopment Project Subordinate Tax Allocation Bonds, Series 2009A.”

**Section 2.02 Terms of Bonds** The 2009A Bonds shall be issued in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof, so long as no 2009A Bond shall mature on more than one Principal Payment Date. The 2009A Bonds shall mature and become payable on the Principal Payment Dates in each of the years and in the principal amounts, and shall bear interest (calculated on the basis of a 360-day year comprised of twelve 30-day months) at the rates, as follows:

<i>Year (November 1)</i>	<i>Principal Amount</i>	<i>Interest Rate Per Annum</i>
	\$	%

Interest on the Bonds shall be payable on each Interest Payment Date to the person whose name appears on the Registration Books as the Owner thereof as of the close of business on the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check or draft of the Trustee mailed on the Interest Payment Date to the Owner at the address of such Owner as its appears on the Registration Books. Interest on the Bonds shall be paid by check of the Trustee mailed by first class mail, postage prepaid, on each Interest Payment Date to the Owners of the Bonds at their respective addresses shown on the Registration Books as of the close of business on the preceding Record Date; provided, however, that at the written request of the Owner of Bonds in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of any Record Date, interest on such Bonds shall be paid on each succeeding Interest Payment Date by wire transfer in immediately available funds to such account within the United States of America as shall be specified in such written request. Principal of and premium (if any) on any Bond shall be paid upon presentation and surrender thereof at the Trust Office of the Trustee. Both the principal of and interest and premium (if any) on the Bonds shall be payable in lawful money of the United States of America.

Each Bond shall be dated as of the date of its authentication and shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear

interest from such Interest Payment Date; or (b) it is authenticated on or prior to the first Record Date for such series of Bonds, in which event it shall bear interest from the Closing Date for such series of Bonds; provided, however, that if, as of the date of authentication of any Bond, interest thereon is in default, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

**Section 2.03 Redemption.**

(a) Optional Redemption. The 2009A Bonds maturing on or before November 1, 20\_\_, are not subject to optional redemption prior to maturity. The 2009A Bonds maturing on or after November 1, 20\_\_, shall be subject to redemption, at the option of the Agency on any date on or after November 1, 20\_\_, as a whole or in part, among such maturities as shall be determined by the Agency and by lot within a maturity, from any available source of funds at the following redemption prices (expressed as percentages of the principal amount of the 2009A Bonds to be redeemed) together with accrued interest thereon to the date fixed for redemption.

<i>Redemption Dates</i>	<i>Redemption Price</i>
November 1, 20__ through October 31, 20__	%
November 1, 20__ through October 31, 20__	
November 1, 20__ and thereafter	

The Agency shall be required to give the Trustee written notice of its intention to redeem 2009A Bonds under this Section (a) at least forty-five (45) days prior to the date fixed for such redemption, or such lesser number of days as permitted by the Trustee.

(b) Sinking Account Redemption. The Term Bonds shall also be subject to redemption in whole, or in part by lot, on each Principal Payment Date commencing November 1, 20\_\_, from Sinking Account payments made by the Agency pursuant to Section 4.03(c), at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, or in lieu thereof shall be purchased pursuant to the succeeding paragraph of this subsection (b), in the aggregate respective principal amounts and on the dates as set forth in the following table; provided, however, that if some but not all of the Term Bonds have been redeemed pursuant to subsection (a) above the total amount of all future Sinking Account payments shall be reduced by the aggregate principal amount of Term Bonds so redeemed, to be allocated among such Sinking Account payment on a pro rata basis in integral multiples of \$5,000 as determined by the Agency (notice of which determination shall be given by the Agency to the Trustee).

<i>Sinking Account Redemption Date (November 1)</i>	<i>Principal Amount to be Redeemed or Purchased</i>
	\$

(Maturity)

In lieu of redemption of Term Bonds pursuant to the preceding paragraph of this subsection (b) or the redemption of 2009A Bonds pursuant to subsection (a) above, amounts on deposit in the Special Fund or in the Sinking Account may also be used and withdrawn by the Trustee at any time, upon the Written Request of the Agency, for the purchase of Bonds at public or private sale as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account) as the Agency may in its discretion determine. The par amount of any Term Bonds so purchased by the Agency in any twelve-month period ending on September 1 in any year shall be credited towards and shall reduce the par amount of Term Bonds required to be redeemed pursuant to this subsection (b) on November 1 in such year.

(c) Notice of Redemption. The Trustee on behalf and at the expense of the Agency shall mail (by first class mail) notice of any redemption to the respective owners of any Bonds designated for redemption and the Securities Depositories and to one or more Information Services designated in a Written Request of the Agency delivered to the Trustee, at least thirty (30) but not more than sixty (60) days prior to the redemption date, at their addresses appearing on the Registration Books; provided that such mailing shall not be a condition precedent to such redemption and neither failure to mail or to receive any such notice nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice shall state the redemption date and the redemption price and, if less than all of the then Outstanding Bonds are to be called for redemption, shall designate the CUSIP numbers of the Bonds to be redeemed by giving the individual number of each Bond or by stating that all Bonds between two stated numbers, both inclusive, or by stating that all of the Bonds of one or more Principal Payment Dates have been called for redemption, and shall require that such Bonds be then surrendered at the Trust Office of the Trustee for redemption at the said redemption price, giving notice also that further interest on such Bonds will not accrue after the redemption date.

(d) Rescission The Agency shall have the right to rescind any optional redemption by written notice to the Trustee on or prior to the dated fixed for redemption. Any notice of optional redemption shall be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default under the Indenture. The Agency and the Trustee shall have no liability to the Owners or any other party related to or arising from such rescission of redemption. The Trustee shall mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent.

(e) Partial Redemption of Bonds. In the event only a portion of any Bond is called for redemption, then upon surrender of such Bond the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Agency, a new Bond or Bonds of the same series, interest rate and Principal Payment Date, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Bond to be redeemed.

(f) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of and interest (and premium, if any) on the Bonds so called for redemption shall have been duly provided, such Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date specified in such notice. All Bonds redeemed or purchased pursuant to this Section shall be canceled and shall be surrendered to the Agency.

## **Section 2.04 Book-Entry System.**

(a) It is intended that the Bonds be registered so as to participate in a securities depository system with a Securities Depository. The initial Securities Depository is DTC, and the initial securities depository system is the DTC system (the “DTC System”), as set forth in this Indenture. The Agency and the Trustee are authorized to execute and deliver such letters to or agreements with DTC as shall be necessary to effectuate the DTC System, including a letter of representations in the form required by DTC (the “Letter of Representations”). In the event of any conflict between the terms of any such letter or agreement, including the Letter of Representations, and the terms of this Indenture, the terms of this Indenture shall control. DTC may exercise the rights of a Bondholder only in accordance with the terms of this Indenture applicable to the exercise of such rights. The Bonds shall be initially issued in the form of a separate single fully registered Bond for each of the maturities of the Bonds. The Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

(b) With respect to Bonds registered in the Registration Books in the name of Cede & Co., as nominee of DTC, the Agency and the Trustee shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which DTC holds Bonds from time to time as securities depository (each such broker-dealer, bank or other financial institution being referred to in this Indenture as a “DTC Participant”) or to any person on behalf of whom such a DTC Participant directly or indirectly holds an interest in the Bonds (each such person being referred to in this Indenture as an “Indirect Participant”). Without limiting the immediately preceding sentence, the Agency and the Trustee shall have no responsibility or obligation with respect to (a) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (b) the delivery to any DTC Participant or any Indirect Participant or any other person, other than Cede & Co., as nominee of DTC, as Bondholder on the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, (c) the payment to any DTC Participant or Indirect Participant or any other Person, other than Cede & Co., as nominee of DTC, as Bondholder on the Registration Books, of any amount with respect to principal of, premium, if any, or interest on, the Bonds or (d) any consent given by Cede & Co., as nominee of DTC as registered owner. So long as the Bonds are registered to DTC, the Agency and the Trustee shall treat DTC or any successor securities depository as, and deem DTC or any successor securities depository to be, the absolute owner of the Bonds for all purposes whatsoever, including without limitation (i) the payment of principal and interest on the Bonds, (ii) giving notice of redemption and other matters with respect to the Bonds, (iii) registering transfers with respect to the Bonds and (iv) the selection of Bonds for redemption. While in the DTC System, no person other than Cede & Co., or any successor to it, as nominee for DTC, shall receive a Bond certificate with respect to any Bond.

(c) Notwithstanding any other provision of this Indenture to the contrary, so long as any of the Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds and all notices with respect to such Bonds shall be made and given, respectively, in the manner provided in the Letter of Representations.

(d) Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Indenture with respect to interest checks being mailed to the registered owner at the close of business on the Record Date applicable to any Interest Payment Date, the name “Cede & Co.” in this Indenture shall refer to such new nominee of DTC.

(e) DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving written notice to the Agency and the Trustee and discharging its responsibilities with respect to the Bonds under applicable law. The Agency may determine that continuation of the DTC System is not in the best interests of the Bondholders. The Trustee, with the consent of the Agency, but without the consent of any other person, may terminate the services of DTC with respect to the Bonds. Upon the discontinuance or termination of the services of DTC with respect to the Bonds pursuant to the foregoing provisions, unless a substitute securities depository is appointed to undertake the functions of DTC under this Indenture, the Trustee, at the expense of the Agency, is obligated to deliver Bond certificates to the Beneficial Owners of the Bonds, as described in this Indenture, and the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co. as nominee of DTC, but may be registered in whatever name or names the registered owners transferring or exchanging Bonds shall designate to the Trustee in writing, in accordance with the provisions of this Indenture. The Trustee may determine that the Bonds shall be registered in the name of and deposited with a successor depository operating a securities depository system, qualified to act as such under Section 17(a) of the Securities Exchange Act of 1934, as amended, as may be acceptable to the Agency, or such depository's agent or designee.

**Section 2.05 Form of Bonds** The 2009A Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, shall be substantially in the respective forms set forth in Exhibit A attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture. Parity Bonds shall be in the form set forth in the Supplemental Indenture for such Parity Bonds.

**Section 2.06 Execution of Bonds** The Bonds shall be executed on behalf of the Agency by the signature of its Executive Director and the signature of its Secretary who are in office on the date of execution and delivery of this Indenture or at any time thereafter, and the seal of the Agency shall be impressed, imprinted or reproduced by facsimile signature thereon. Both of such signatures shall be affixed by facsimile thereof. If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the purchaser, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the purchaser. Any Bond may be signed and attested on behalf of the Agency by such persons as at the actual date of the execution of such Bond shall be the proper officers of the Agency although on the date of such Bond any such person shall not have been such officer of the Agency.

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

**Section 2.07 Transfer of Bonds** Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by a duly authorized attorney of such person, upon surrender of such Bond to the Trustee at its Trust Office for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Trustee, duly executed. Whenever any Bond or Bonds shall be surrendered for registration of transfer, the Agency shall execute and the Trustee shall deliver a new Bond or Bonds, for like Principal Payment Date, interest rate and aggregate principal amount. The Trustee shall collect any tax or other governmental charge on the transfer of any Bonds pursuant to this

Section 2.07. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer shall be paid by the Agency.

The Trustee may refuse to transfer any Bonds under the provisions of this Section 2.07 during the period fifteen (15) days prior to the date established by the Trustee for the selection of Bonds for redemption, or as to Bonds the notice of redemption of which has been mailed pursuant to the provisions of Section 2.03(c).

**Section 2.08 Exchange of Bonds.** Bonds may be exchanged at the Trust Office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations of the same series, Principal Payment Date and interest rate. The Trustee shall collect any tax or other governmental charge on the exchange of any Bonds pursuant to this Section 2.08. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange shall be paid by the Agency.

The Trustee may refuse to exchange any Bonds under the provisions of this Section 2.08 during the fifteen-day period prior to the date established by the Trustee for the selection of Bonds or as to which notice of redemption has been mailed pursuant to the provisions of Section 2.03(c).

**Section 2.09 Registration Books.** The Trustee will keep or cause to be kept, at its Trust Office, sufficient records for the registration and registration of transfer of the Bonds, which shall at all times during normal business hours and upon at least forty-eight (48) hours' notice be open to inspection by the Agency; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said records, Bonds as hereinbefore provided.

**Section 2.10 Temporary Bonds.** The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Agency, and may contain such reference to any of the provisions of this Indenture as may be appropriate. Every temporary Bond shall be executed by the Agency upon the same conditions and in substantially the same manner as the definitive Bonds. If the Agency issues temporary Bonds it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds may be surrendered, for cancellation, in exchange therefor at the 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. Until so exchanged, the temporary Bonds shall be entitled to the same benefits pursuant to this Indenture as definitive Bonds authenticated and delivered hereunder.

**Section 2.11 Bonds Mutilated, Lost, Destroyed or Stolen.** If any Bond shall become mutilated the Agency, at the expense of the Owner of said Bond, shall execute, and the Trustee shall thereupon deliver, a new Bond of like tenor and number in exchange and replacement for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be canceled by it and delivered to, or upon the order of, the Agency. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to the Trustee and indemnity for the Agency and the Trustee satisfactory to the Trustee shall be given, the Agency, at the expense of the owner, shall execute, and the Trustee shall thereupon deliver, a new Bond of like tenor and number in lieu of and in replacement for the Bond so lost, destroyed or stolen, The Agency may require payment of a sum not exceeding the actual cost of preparing each replacement Bond issued

under this Section and of the expenses which may be incurred by the Agency and the Trustee in connection therewith. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Agency whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds issued pursuant to this Indenture.

### ARTICLE III

#### ISSUANCE OF 2009A BONDS; PARITY BONDS

**Section 3.01 Issuance of 2009A Bonds** Upon the execution and delivery of this Indenture, the Agency shall execute and deliver 2009A Bonds in the aggregate principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

**Section 3.02 Application of Proceeds of Sale of 2009A Bonds** Upon the receipt of payment for any of the 2009A Bonds when the same shall have been sold by the Agency, the proceeds thereof shall be paid to the Trustee and applied as follows:

(a) The Trustee shall deposit to the Costs of Issuance Fund the amount of \$\_\_\_\_\_.

(b) The Trustee shall deposit to the Reserve Account the amount of \$\_\_\_\_\_, representing an amount equal to the initial Reserve Requirement.

(c) The Trustee shall transfer the amount of \$\_\_\_\_\_ to the Agency for deposit by the Agency into the Redevelopment Fund.

(d) The Trustee shall transfer the amount of \$\_\_\_\_\_ to Bank of America, N.A. to pay all outstanding amounts due from the Agency under the BofA Credit Agreement.

(e) The Trustee shall deposit to the Interest Account the amount of \$\_\_\_\_\_.

**Section 3.03 Reserve Account** There is hereby established a separate account to be known as the "Reserve Account," which shall be held by the Trustee in trust. An amount equal to the Reserve Requirement shall be maintained in the Reserve Account at all times, and any deficiency therein shall be replenished from the first available moneys in the Special Fund pursuant to Section 4.03(d). The amount required to be maintained in the Reserve Account may be increased by any Supplemental Indenture authorizing the issuance of any Parity Bonds pursuant to Section 3.06. Any amounts on deposit in the Reserve Account at any time in excess of the Reserve Requirement shall be withdrawn from the Reserve Account by the Trustee and transferred to the Special Fund.

The Agency shall have the right at any time to release funds from the Reserve Account, in whole or in part, by tendering to the Trustee: (1) a Qualified Reserve Account Credit Instrument, and (2) an opinion of Bond Counsel stating that neither the release of such funds nor the acceptance of such Qualified Reserve Account Credit Instrument will cause interest on the Bonds to become includable in the gross income of the Owners for purposes of federal income taxation. Upon tender of such items to the Trustee, and upon delivery by the Agency to the Trustee of written calculation of

the amount permitted to be released from the Reserve Account (upon which calculation the Trustee may conclusively rely), the Trustee shall transfer such funds from the Reserve Account, at the request of the Agency, either (i) to the Redevelopment Fund to be held by the Agency for disbursement as set forth in Section 3.05, or (ii) to the Agency for deposit into such fund or funds as the Agency shall have established for the financing of the Redevelopment Project. Notice of the deposit of a Qualified Reserve Account Credit Instrument shall be given by the Agency to the Rating Agencies. The Trustee shall comply with all documentation relating to a Qualified Reserve Account Credit Instrument as shall be required to maintain such Qualified Reserve Account Credit Instrument in full force and effect and as shall be required to receive payments thereunder in the event and to the extent required to make any payment when and as required under this subsection (c). Upon the expiration of any Qualified Reserve Account Credit Instrument, the Agency shall be obligated either (i) to replace such Qualified Reserve Account Credit Instrument with a new Qualified Reserve Account Credit Instrument, (ii) to deposit or cause to be deposited with the Trustee an amount of funds equal to the Reserve Requirement, to be derived from the first available Tax Revenues, or (iii) to draw upon the Qualified Reserve Account Credit Instrument an amount of funds equal to the stated amount thereof prior to its expiration.

The Reserve Account pursuant to Section 4.04, may be maintained in the form of one or more separate sub-accounts which are established for the purpose of holding the proceeds of separate issues of the Bonds in conformity with applicable provisions of the Tax Code.

**Section 3.04 Costs of Issuance Fund** There is hereby established a separate fund to be known as the “Costs of Issuance Fund,” which shall be held by the Trustee in trust. The moneys in the Costs of Issuance Fund shall be used and withdrawn by the Trustee from time to time to pay the Costs of Issuance upon submission of a Written Request of the Agency stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. On the date ninety (90) days following the Closing Date, or upon the earlier Request of the Agency, all amounts (if any) remaining in the Costs of Issuance Fund shall be withdrawn therefrom by the Trustee and transferred to the Agency for deposit by the Agency in the Redevelopment Fund.

**Section 3.05 Redevelopment Fund** There is hereby established a separate account to be held by the Agency, to be known as the “Redevelopment Fund.” Amounts on deposit in the Redevelopment Fund shall be derived solely from the proceeds of the 2009A Bonds deposited therein pursuant to Section 3.02(c), from earnings on the investment and reinvestment of such proceeds, and from the proceeds of Parity Bonds as may be directed in a Supplemental Indenture. The moneys in the Redevelopment Fund shall be used solely in the manner provided by the Law and the Redevelopment Plan to provide financing for the Redevelopment Project, subject to the limitations set forth herein. Upon the completion by the Agency of the purposes for which moneys the Redevelopment Fund are intended to be applied, the Agency shall transfer any remaining amounts to the Special Fund to be applied to the payment of interest on the Bonds.

**Section 3.06 Issuance of Parity Bonds.** In addition to the 2009A Bonds, the Agency may, by Supplemental Indenture, from time to time issue or incur other loans, advances or indebtedness payable from Tax Revenues and amounts in the Reserve Account on a parity with the 2009A Bonds in such principal amount as shall be determined by the Agency. The Agency may issue and deliver any such Parity Bonds subject to the following specific conditions which are hereby made conditions precedent to the issuance and delivery of such Parity Bonds issued under this Section:

(a) The Agency shall be in compliance with all covenants set forth in this Indenture.

(b) The Tax Revenues to be received by the Agency in each Fiscal Year during the term of the Parity Bonds, based on the then current year Tax Revenues, assuming no growth in assessed value, and accounting for fluctuations in Debt Service on the Senior Bonds in each Fiscal Year, plus at the option of the Agency the Additional Allowance, as set forth in a Written Certificate of the Agency filed with the Trustee, shall be equal to one hundred twenty-five percent (125%) of Annual Debt Service on all Bonds and Parity Bonds (exclusive of debt service due on the proceeds of any Parity Bonds deposited in an escrow fund pursuant to the terms of a Supplemental Indenture which are not secured by Tax Revenues) in each Fiscal Year through maturity of the Bonds which will be Outstanding following the issuance of such Parity Bonds. For purposes of this paragraph, the computation of Tax Revenues shall include all taxes used by the Agency to pay debt service on the Senior Bonds which the Agency certifies in writing is legally payable from moneys deposited into the Low and Moderate Income Housing Fund of the Agency.

(c) The Supplemental Indenture providing for the issuance of such Parity Bonds under this Section 3.06 shall provide that:

(i) Interest on said Parity Bonds shall be payable on May 1 and November 1 in each year in which interest is payable on such Parity Bonds; except the first twelve-month period, during which interest may be payable on any May 1 or November 1, and provided that there shall be no requirement that such Parity Bonds pay interest on a current basis;

(ii) The principal of such Parity Bonds shall be payable on November 1 in any year in which principal is payable; and

(iii) Money shall be deposited in the Reserve Account from the proceeds of the sale of said Parity Bonds, or from other sources available to the Agency, to increase the amount on deposit in the Reserve Account to an amount equal to the Reserve Requirement; provided, however, that the Agency shall not be required to deposit moneys to the Reserve Account in an amount in excess of the applicable Tax Code limit with respect to the issuance of such series of Parity Bonds.

**Section 3.07 Issuance of Senior Bonds** The Agency hereby covenants not to issue any additional Senior Bonds except for the purposes of refunding, in whole or in part, the 2000 Bonds or the 2003 Bonds, or any refunding of all or any portion thereof, and only so long as such refunding results in debt service savings for the refunded Senior Bonds in each fiscal year, and the maturity of the Refunding Bonds is not later than the maturity of the Senior Bonds to be refunded, as evidenced by a Certificate of the Agency.

**Section 3.08 Issuance of Subordinate Debt.** In addition to the Bonds and any Parity Bonds, from time to time the Agency may issue or incur Subordinate Debt in such principal amount as shall be determined by the Agency, provided that the issuance of such Subordinate Debt shall not cause the Agency to exceed any applicable Plan Limitation.

**Section 3.09 Validity of Bonds** The validity of the authorization and issuance of the Bonds shall not be dependent upon the completion of the Redevelopment Project or upon the performance by any person of its obligation with respect to the Redevelopment Project.

## ARTICLE IV

### PLEDGE OF TAX REVENUES; SPECIAL FUND AND ACCOUNTS

**Section 4.01 Pledge of Tax Revenues** The Bonds shall be secured by a first pledge (which pledge shall be effected in the manner and to the extent hereinafter provided) of all of the Tax Revenues (subject only to the prior lien on Pledged Tax Revenues (as defined in the Senior Bond Indenture) of the Senior Bonds and any related obligations pursuant to the Senior Bond Indenture) and a pledge of all of the moneys in the Special Fund, the Interest Account, the Principal Account, the Sinking Account, the Redemption Account and the Reserve Account, including all amounts derived from the investment of such moneys. The Tax Revenues are hereby allocated in their entirety to the payment of the principal of and interest on the Bonds as provided herein. Amounts in the Costs of Issuance Fund and the Redevelopment Fund are not pledged as security for the Bonds.

**Section 4.02 Special Fund; Deposit of Tax Revenues** There is hereby established a special fund to be known as the "Special Fund," which shall be held by the Trustee in trust. The Agency shall pay or cause to be paid to the Trustee all of the Tax Revenues received in any Bond Year, and the Trustee shall deposit all of the Tax Revenues in the Special Fund promptly upon receipt thereof, subject to Section 4.03(f); provided, however, that the Agency shall not be obligated to deposit or cause to be deposited in the Special Fund in any Bond Year an amount of Tax Revenues which, together with amounts in the Special Fund, exceeds the amounts required to be deposited in the funds and accounts specified in Section 4.03 in such Bond Year. All Tax Revenues at any time paid into the Special Fund shall be held by the Trustee solely for the uses and purposes hereinafter in this Article IV set forth. So long as any of the Bonds are Outstanding, the Agency shall not have any beneficial right or interest in the Tax Revenues, except only as in this Indenture provided, and such moneys shall be used and applied as hereinafter set forth in this Article IV.

**Section 4.03 Establishment and Maintenance of Accounts for Revenues; Use and Withdrawal of Revenues.** Moneys in the Special Fund shall be withdrawn therefrom by the Trustee in the following amounts at the following times, for deposit by the Trustee in the following respective special accounts (which, to the extent not hereinbefore established, are hereby established with the Trustee to be held in trust) in the following order of priority:

(a) **Interest Account.** On or before the Business Day preceding each Interest Payment Date, the Trustee shall withdraw from the Special Fund and deposit in the Interest Account an amount which, when added to the amount then contained in the Interest Account, will be equal to the aggregate amount of the interest becoming due and payable on the Outstanding Bonds on such Interest Payment Date. All moneys in the Interest Account shall be used and withdrawn by the Trustee for the sole purpose of paying the interest on the Bonds as it shall become due and payable (including accrued interest on any Bonds purchased or redeemed prior to maturity pursuant to this Indenture); provided, however, that the Trustee shall apply proceeds of the 2009A Bonds deposited into the Interest Account for the payment of interest due on the 2009A Bonds as follows:

<i>Amount</i>	<i>Interest Payment Date</i>
\$	

(b) Principal Account. On or before the Business Day preceding each Principal Payment Date, the Trustee shall withdraw from the Special Fund and deposit in the Principal Account an amount which, when added to the amount then contained in the Principal Account, will be equal to the aggregate amount of principal becoming due and payable on the Outstanding Serial Bonds on such Principal Payment Date. All moneys in the Principal Account shall be used and withdrawn by the Trustee for the sole purpose of paying the principal on the Serial Bonds as it shall become due and payable.

(c) Sinking Account. On or before the Business Day preceding each November 1 on which any Outstanding Bonds are subject to mandatory Sinking Account redemption, the Trustee shall withdraw from the Special Fund and deposit in the Sinking Account an amount which, when added to the amount then contained in the Sinking Account, will be equal to the aggregate principal amount of the Term Bonds required to be redeemed on the next succeeding November 1 pursuant to Section 2.03(b). All moneys on deposit in the Sinking Account shall be used and withdrawn by the Trustee for the sole purpose of redeeming or purchasing (in lieu of redemption) Term Bonds pursuant to Section 2.03(b).

(d) Reserve Account. On or before each Interest Payment Date, the Trustee shall withdraw from the Special Fund and deposit in the Reserve Account an amount of money (if any) which shall be required to maintain in the Reserve Account the full amount of the Reserve Requirement. All moneys in the Reserve Account shall be used and withdrawn by the Trustee for the sole purpose of making transfers to the Interest Account, the Principal Account and the Sinking Account, in such order, in the event of any deficiency at any time in any of such accounts or for the retirement of all the Bonds then Outstanding or to the Redemption Account in the event an optional or mandatory sinking fund redemption would cause a reduction in the Reserve Requirement.

(e) Redemption Account. On or before any date on which Bonds are to be redeemed pursuant to Section 2.03(a), the Trustee shall withdraw from the Special Fund and deposit in the Redemption Account an amount required to pay the principal of and premium, if any, on the Bonds to be redeemed on such date pursuant to Section 2.03(a). All moneys in the Redemption Account shall be used and withdrawn by the Trustee for the sole purpose of paying the principal of and premium, if any, on the Bonds to be redeemed pursuant to Section 2.03(a) on the date set for such redemption.

(f) Surplus. The Agency shall not be obligated to deposit or cause to be deposited in the Special Fund in any Bond Year an amount of Tax Revenues which, together with other available amounts in the Special Fund, exceeds the amounts required to be deposited into the Interest Account, the Principal Account, the Sinking Account, the Redemption Account and the Reserve Account in such Bond Year pursuant to this Section 4.03. Once such amount of Tax Revenues has been deposited in the Special Fund in any Bond Year, the remaining Tax Revenues received in such Bond Year shall be declared surplus and shall be retained by or transferred to the Agency to be used for any lawful purpose under the Law.

**Section 4.04 Establishment of Sub-Accounts For Separate Series of Bonds** If directed in writing by the Agency, the Trustee shall establish and maintain a separate sub-account within each of the Interest Account, the Principal Account, the Sinking Account, the Reserve Account and the Rebate Account, for each separate series of Bonds. In such event, proceeds of sale of any series of Parity Bonds, and amounts required to be held for the payment or security of any series of Parity Bonds, shall be held solely in the respective sub-accounts established for such series of Parity Bonds

and shall not be commingled with amounts held in the respective sub-accounts established for any other series of Bonds. For all purposes of this Indenture the sub-accounts established within any account shall be accounted for as a part of such account.

#### **Section 4.05 Rebate Account.**

(a) Establishment. The Trustee shall establish a separate account designated the “Rebate Account.” Absent an opinion of Bond Counsel that the exclusion from gross income for federal income tax purposes of interest on the Bonds will not be adversely affected, the Agency shall cause to be deposited in the Rebate Account such amounts as are required to be deposited therein pursuant to this Section and the Tax Certificate. All money at any time deposited in the Rebate Account shall be held by the Trustee in trust for payment to the United States Treasury. All amounts on deposit in the Rebate Account shall be governed by this Section and the Tax Certificate for the Bonds, unless and to the extent that the Agency delivers to the Trustee an opinion of Bond Counsel that the exclusion from gross income for federal income tax purposes of interest on the Bonds will not be adversely affected if such requirements are not satisfied.

(i) Annual Computation. Within 55 days of the end of each fifth Bond Year for each series of Bonds, the Agency shall calculate or cause to be calculated the amount of rebatable arbitrage for each series of Bonds, in accordance with Section 148(f)(2) of the Tax Code and Section 1.148-3 of the Treasury Regulations (taking into account any applicable exceptions with respect to the computation of the rebatable arbitrage, described, if applicable, in the Tax Certificate (e.g., the temporary investments exceptions of Section 148(f)(4)(B) and the construction expenditure exceptions of Section 148(f)(4)(C) of the Tax Code or Section 1.148-7(d) of the Treasury Regulations), and taking into account whether the election pursuant to Section 148(f)(4)(C)(vii) of the Tax Code (the “1½% Penalty”) has been made), for this purpose treating the last day of the applicable Bond Year as a computation date, within the meaning of Section 1.148-1(b) of the Treasury Regulations (the “Rebatable Arbitrage”). The Agency shall obtain expert advice as to the amount of the Rebatable Arbitrage to comply with this Section.

(ii) Annual Transfer. Within 55 days of the end of the fifth Bond Year for a series of Bonds, upon the written Request of the Agency, an amount shall be deposited to the Rebate Account by the Trustee from any funds of the Agency legally available for such purpose (as specified by the Agency in the aforesaid written Request), if and to the extent required so that the balance in the Rebate Account shall equal the amount of Rebatable Arbitrage so calculated in accordance with (i) of this Subsection (a). In the event that immediately following the transfer required by the previous sentence, the amount then on deposit to the credit of the Rebate Account exceeds the amount required to be on deposit therein, upon written Request of the Agency, the Trustee shall withdraw the excess from the Rebate Account and then credit the excess to the Special Fund.

(iii) Payment to the Treasury. The Trustee shall pay, as directed by Request of the Agency, to the United States Treasury, out of amounts in the Rebate Account,

(A) not later than 60 days after the end of (X) the fifth Bond Year for a series of Bonds, and (Y) each applicable fifth Bond Year thereafter, an amount that, together with all previous rebate payments, is equal to at least 90% of the Rebatable Arbitrage calculated as of the end of such Bond Year; and

(B) not later than 60 days after the payment of all the Bonds of a series, an amount equal to 100% of the Rebateable Arbitrage calculated as of the date of such payment and any income attributable to the Rebateable Arbitrage determined to be due and payable, computed in accordance with Section 1.148-3 of the Treasury Regulations.

In the event that, prior to the time of any payment required to be made from the Rebate Account, the amount in the Rebate Account is not sufficient to make such payment when such payment is due, the Agency shall calculate or cause to be calculated the amount of such deficiency and deposit an amount received from any legally available source equal to such deficiency prior to the time such payment is due. Each payment required to be made pursuant to this Subsection (a) shall be made to the Internal Revenue Service Center, Ogden, Utah 84201 on or before the date on which such payment is due, and shall be accompanied by Internal Revenue Service Form 8038-T, or shall be made in such other manner as provided under the Tax Code.

(b) Disposition of Unexpended Funds. Any funds remaining in the Rebate Account after redemption and payment in full of the Bonds and the payments described in Subsection (a)(3) above being made may be withdrawn by the Agency and utilized in any manner by the Agency.

(c) Survival of Defeasance. Notwithstanding anything in this Section to the contrary, the obligation to comply with the requirements of this Section shall survive the defeasance or payment in full of the Bonds.

(d) Recordkeeping. The Agency shall retain records of all determinations made hereunder until six years after the complete retirement of the Bonds.

## ARTICLE V

### OTHER COVENANTS OF THE AGENCY

**Section 5.01 Punctual Payment.** The Agency shall punctually pay or cause to be paid the principal and interest to become due in respect of all the Bonds together with the premium thereon, if any, in strict conformity with the terms of the Bonds and of this Indenture, and it will faithfully observe and perform all of the conditions, covenants and requirements of this Indenture and all Supplemental Indentures and of the Bonds. Nothing herein contained shall prevent the Agency from making advances of its own moneys howsoever derived to any of the uses or purposes referred to herein.

**Section 5.02 Limitation on Superior Debt; Compliance with Plan Limitations.** So long as the Bonds are Outstanding, the Agency shall not issue any bonds, notes or other obligations, enter into any agreement or otherwise incur any indebtedness, which is in any case secured by a lien on all or any part of the Tax Revenues which is superior to or on a parity with the lien established hereunder for the security of the Bonds, excepting only Parity Bonds issued pursuant to Section 3.06 and Senior Bonds issued in accordance with Section 3.07. The Agency shall take no action, including but not limited to the issuance of its bonds, notes or other obligations, which causes or which, with the passage of time would cause, any of the Plan Limitations to be exceeded or violated. The Agency shall manage its fiscal affairs in a manner which ensures that it will have sufficient Tax Revenues available under the Plan Limitations in the amounts and at the times required to enable the Agency to pay the principal of and interest and premium (if any) on the Bonds when due.

**Section 5.03 Extension of Bonds** The Agency shall not, directly or indirectly, extend or consent to the extension of the time for the payment of any Bond or claim for interest on any of the Bonds and will not, directly or indirectly, be a party to approve any such arrangement by purchasing or funding the Bonds or claims for interest or in any other manner. In case the Principal Payment Date of any such Bond or claim for interest shall be extended or funded, whether or not with the consent of the Agency, such Bond or claim for interest so extended or funded shall not be entitled, in case of default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest which shall not have been so extended or funded.

**Section 5.04 Management and Operations of Properties.** The Agency shall manage and operate all properties owned by the Agency and comprising any part of the Project Area in a sound and businesslike manner.

**Section 5.05 Payment of Claims.** The Agency shall pay and discharge, or cause to be paid and discharged, any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the properties owned by the Agency or upon the Tax Revenues or any part thereof, or upon any funds in the hands of the Trustee, or which might impair the security of the Bonds. Nothing herein contained shall require the Agency to make any such payment so long as the Agency in good faith shall contest the validity of said claims, so long as such contest shall not cause interest on the Bonds to become includable in gross income for federal tax purposes.

**Section 5.06 Books and Accounts; Financial Statements** The Agency shall keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Agency and the City of San Diego, in which complete and correct entries shall be made of all transactions relating to the Redevelopment Project, the Redevelopment Fund and to the Tax Revenues. Such books of record and accounts shall at all times during business hours be subject to the inspection of the Owners of not less than ten percent (10%) in aggregate principal amount of the Bonds then Outstanding, or their representatives authorized in writing.

**Section 5.07 Protection of Security and Rights of Bond Owners** The Agency shall preserve and protect the security of the Bonds and the rights of the Bond Owners. From and after the execution and delivery of any of the Bonds by the Agency, the Bonds shall be incontestable by the Agency.

The Agency hereby confirms, covenants, represents and warrants that (1) the Agency has reserved sufficient funds to pay the ERAF payment for Fiscal Year 2008-09 (the "2009 ERAF Payment") described in California Health and Safety Code Section 33685 (the "ERAF Statute"), (2) pursuant to Agency Resolution No. 04394 with date of final passage of May 4, 2009 (the "Agency ERAF Resolution"), the Agency has budgeted, appropriated and encumbered funds for such purpose, (3) the Agency will pay the 2009 ERAF Payment to the County Auditor in accordance with the ERAF Statute in full and at such time as the Agency is required to do so under applicable law, including as a result of the reversal, modification, or setting aside of the existing judgment dated May 7, 2009 (the "Judgment") of the Superior Court of the State of California for Sacramento County in the case entitled California Redevelopment Association v. Genest et al., Case No. 34-2008-00028334-CU-WM-GDSD, such that payment of the 2009 ERAF Payment becomes due and payable, and (4) the Agency will take no action until such time as the Judgment is final and nonappealable to cause itself to not have lawfully available funds with which to make the 2009 ERAF Payment promptly as it becomes due and payable, if ever.

**Section 5.08 Payments of Taxes and Other Charges.** The Agency shall pay and discharge, or cause to be paid and discharged, all taxes, service charges, assessments and other governmental charges which may hereafter be lawfully imposed upon the Agency or the properties then owned by the Agency in the Project Area, when the same shall become due. Nothing herein contained shall require the Agency to make any such payment so long as the Agency in good faith shall contest the validity of said taxes, assessments or charges.

**Section 5.09 Taxation of Leased Property.** All amounts derived by the Agency pursuant to Section 33673 of the Law with respect to the lease of property for redevelopment shall be treated as Tax Revenues for all purposes of this Indenture, and shall be deposited with the Trustee for deposit in the Special Fund.

**Section 5.10 Disposition of Property.** The Agency shall not authorize the disposition of any land or real property in the Project Area to anyone which will result in such property becoming exempt from taxation because of public ownership or use or otherwise (except property dedicated for public right-of-way and except property planned for public ownership or use by the Redevelopment Plan in effect on the date of this Indenture) so that such disposition shall, when taken together with other such dispositions, aggregate more than ten percent (10%) of the land area in the Project Area unless such disposition is permitted as hereinafter provided in this Section 5.10. If the Agency proposes to make such a disposition, it shall thereupon appoint an Independent Financial Consultant to report on the effect of said proposed disposition. If the Report of the Independent Financial Consultant concludes that the estimated Tax Revenues to be received following said proposed disposition in the current and each future fiscal year while Bonds are Outstanding is greater than or equal to 125% of Annual Debt Service in each future fiscal year, the Agency may thereafter make such disposition.

**Section 5.11 Tax Revenues** The Agency shall comply with all requirements of the Law to insure the allocation and payment to it of the Tax Revenues, including without limitation the timely filing of any necessary statements of indebtedness with appropriate officials of San Diego County and (in the case of supplemental revenues and other amounts payable by the State of California) appropriate officials of the State of California. The Agency shall not enter into any agreement with the County of San Diego or any other governmental unit which would have the effect of reducing the amount of Tax Revenues available to the Agency for payment of the Bonds, unless in the written opinion of an Independent Financial Consultant filed with the Trustee such reduction will not reduce Tax Revenues estimated to be received in the current and each future fiscal year while Bonds are Outstanding to be less than 125% of Annual Debt Service in such fiscal year.

**Section 5.12 Eminent Domain.** The net proceeds received by the Agency from any taking of property in the Project Area in any eminent domain proceeding shall be treated as Tax Revenues for purposes of this Indenture; provided that the net proceeds received by the Agency from the taking of any property in the Project Area the redevelopment of which was financed by the Agency through the issuance of lease revenue bonds or other lease revenue or installment sale obligations shall be deposited, used and applied in the manner provided by the resolution authorizing the issuance of such lease revenue bonds or other lease revenue or installment sale obligations.

**Section 5.13 Tax Covenants Relating to 2009A Bonds** Notwithstanding any other provision of this Indenture, absent an opinion of Bond Counsel that the exclusion from gross income of interest with respect to the 2009A Bonds will not be adversely affected for federal income tax purposes, the Agency covenants to comply with all applicable requirements of the Tax Code

necessary to preserve such exclusion from gross income and specifically covenants, without limiting the generality of the foregoing, as follows:

(a) Private Activity. The Agency will take no action or refrain from taking any action or make any use of the proceeds of the 2009A Bonds or of any other monies or property which would cause the 2009A Bonds to be “private activity bonds” within the meaning of Section 141 of the Tax Code;

(b) Private Loan Limitation. The Agency shall assure that no more than five percent (5%) of the net proceeds of the 2009A Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting non-purpose obligations as defined in the Tax Code or constituting assessments) to persons other than state or local government units;

(c) Arbitrage. The Agency will make no use of the proceeds of the 2009A Bonds or of any other amounts or property, regardless of the source, or take any action or refrain from taking any action which will cause the 2009A Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Tax Code;

(d) Federal Guaranty. The Agency will make no use of the proceeds of the 2009A Bonds or take or omit to take any action that would cause the 2009A Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Tax Code;

(e) Information Reporting. The Agency will take or cause to be taken all necessary action to comply with the informational reporting requirement of Section 149(e) of the Tax Code;

(f) Hedge Bonds. The Agency will make no use of the proceeds of the 2009A Bonds or any other amounts or property, regardless of the source, or take any action or refrain from taking any action that would cause the 2009A Bonds to be considered “hedge bonds” within the meaning of Section 149(g) of the Tax Code unless the Agency takes all necessary action to assure compliance with the requirements of Section 149(g) of the Tax Code to maintain the exclusion from gross income of interest on the 2009A Bonds for federal income tax purposes; and

(g) Miscellaneous. The Agency will take no action or refrain from taking any action inconsistent with its expectations stated in that certain Tax Certificate executed by the Agency in connection with each issuance of 2009A Bonds and will comply with the covenants and requirements stated therein and incorporated by reference herein.

**Section 5.14 Further Assurances.** The Agency will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Trustee and the Owners the rights and benefits provided in this Indenture.

**Section 5.15 Continuing Disclosure Agreement** The Agency hereby covenants and agrees that it will comply with and carry out all of its obligations under the Continuing Disclosure Agreement (if any) to be executed and delivered by the Agency in connection with the issuance of the Bonds. Notwithstanding any other provision of this Indenture, failure of the Agency to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default; however, any Owner or Beneficial Owner may take such actions as may be necessary and appropriate, including

seeking mandate or specific performance by court order, to cause the Agency to comply with its obligations under this Section 5.15. For purposes of this Section, “Beneficial Owner” means any person which has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

## **ARTICLE VI**

### **THE TRUSTEE**

#### **Section 6.01 Duties, Immunities and Liabilities of Trustee.**

(a) The Trustee shall, prior to the occurrence of an Event of Default, and after the curing of all Events of Default which may have occurred, perform such duties and only such duties as are specifically set forth in this Indenture. The Trustee shall only be obligated to perform such duties as are expressly set forth herein, and no duties or obligations not expressly set forth herein shall be implied. The Trustee shall, during the existence of any Event of Default (which has not been cured), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) The Agency may remove the Trustee at any time, unless an Event of Default shall have occurred and then be continuing, and shall remove the Trustee (i) if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing) or (ii) if at any time the Trustee shall cease to be eligible in accordance with subsection (e) of this Section, or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property shall be appointed, or any public officer shall take control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation. In each case such removal shall be accomplished by the giving of written notice of such removal by the Agency to the Trustee, whereupon the Agency shall appoint a successor Trustee by an instrument in writing.

(c) The Trustee may at any time resign by giving written notice of such resignation to the Agency and by giving the Bond Owners notice of such resignation by mail at their respective addresses shown on the Registration Books. Upon receiving such notice of resignation, the Agency shall promptly appoint a successor Trustee by an instrument in writing. The Trustee shall not be relieved of its duties until such successor Trustee has accepted such appointment.

(d) Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. If no successor Trustee shall have been appointed and have accepted appointment within forty-five (45) days of giving notice of removal or notice of resignation as aforesaid, the resigning Trustee or any Bond Owner (on behalf of himself and all other Bond Owners) may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture, shall signify its acceptance of such appointment by executing and delivering to the Agency and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the

moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the Request of the Agency or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the Agency shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the Agency shall mail a notice of the succession of such Trustee to the trusts hereunder to each rating agency which then has a current rating on the Bonds and to the Bond Owners at their respective addresses shown on the Registration Books. If the Agency fails to mail such notice within fifteen (15) days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Agency.

(e) Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a trust company, corporation or bank having the powers of a trust company having a trust office in the State of California, having a combined capital and surplus of at least Fifty Million Dollars (\$50,000,000), and subject to supervision or examination by federal or state authority. If such bank, corporation or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such bank, corporation or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this subsection (e), the Trustee shall resign immediately in the manner and with the effect specified in this Section.

(f) The Trustee shall have no responsibility or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of these Bonds.

(g) Before taking any action under Article VIII or this Article at the request of the Owners, the Trustee may require that a satisfactory indemnity bond be furnished by the Owners for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any action so taken.

(h) No provision of the Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance or exercise of any of its duties hereunder.

**Section 6.02 Merger or Consolidation** Any bank, corporation or trust company into which the Trustee may be merged or converted or with which either of them may be consolidated or any bank, corporation or trust company resulting from any merger, conversion or consolidation to which it shall be a party or any bank, corporation or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such bank, corporation or trust

company shall be eligible under subsection (e) of Section 6.01 shall be the successor to such Trustee without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

### **Section 6.03 Liability of Trustee.**

(a) The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct or breach. The Trustee may become the Owner of Bonds with the same rights it would have if they were not Trustee and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bond Owners, whether or not such committee shall represent the Owners of a majority in principal amount of the Bonds then Outstanding.

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

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

(d) The Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture.

(e) The Trustee shall not be deemed to have knowledge of any Event of Default hereunder unless and until it shall have actual knowledge thereof, or shall have received written notice thereof, at its Trust Office. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Bonds, or as to the existence of an Event of Default thereunder. The Trustee shall not be responsible for the validity or effectiveness of any collateral given to or held by it.

**Section 6.04 Right to Rely on Documents** The Trustee shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, Bonds or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, who may be counsel of or to the Agency, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

The Trustee shall not be bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and his title thereto is established to the satisfaction of the Trustee.

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Written Certificate of the Agency, which shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Indenture in reliance upon such Written Certificate, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable.

**Section 6.05 Preservation and Inspection of Documents.** All documents received by the Trustee under the provisions of this Indenture shall be retained in its possession and shall be subject at all reasonable times upon reasonable notice to the inspection of the Agency and any Bond Owner, and their agents and representatives duly authorized in writing, at reasonable hours and under reasonable conditions.

**Section 6.06 Compensation and Indemnification.** The Agency shall pay to the Trustee from time to time all compensation for all services rendered under this Indenture in accordance with the letter proposal from the Trustee approved by the Agency, and also all reasonable expenses, charges, legal and consulting fees and other disbursements and those of its attorneys, agents and employees, incurred in and about the performance of its powers and duties under this Indenture.

The Agency further covenants and agrees to indemnify and save the Trustee harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise and performance of its powers and duties hereunder, including the costs and expenses of defending against any claim of liability and the costs of enforcing any remedies hereunder or under any related document, but excluding any and all losses, expenses and liabilities which are due to the Trustee's negligence, willful misconduct or willful default. The obligations of the Agency under this paragraph shall survive resignation or removal of the Trustee under this Indenture and payment of the Bonds and discharge of this Indenture.

**Section 6.07 Deposit and Investment of Moneys in Funds.** Moneys in the Special Fund, Interest Account, the Principal Account, the Sinking Account, the Reserve Account, the Rebate Fund, the Redemption Account and the Costs of Issuance Fund shall be invested by the Treasurer or the Trustee in Permitted Investments as specified in the Written Request of the Agency filed with the Trustee at least two (2) Business Days in advance of the making of such investments. In the absence of any such Written Request of the Agency, the Trustee shall invest any such moneys in obligations described in clause (8) of the definition of Permitted Investments set forth in Section 1.02. Obligations purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account. Any or all interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall be deposited by the Trustee in the respective fund or account and any loss incurred in connection with such investments shall be debited against the fund or account from which the investment was made. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder. The Trustee may act as principal or agent in the acquisition of any investment. The Trustee shall incur no liability for losses arising from any investments made pursuant to this Section.

The Agency acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Agency the right to receive brokerage confirmations of security transactions as they occur, the Agency specifically waives receipt of such confirmations to

the extent permitted by law. The Trustee will furnish the Agency periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

The Agency hereby covenants and agrees to invest all amounts in the Redevelopment Fund in Permitted Investments.

**Section 6.08 Accounting Records and Financial Statements** The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with industry standards, in which complete and accurate entries shall be made of all transactions relating to the proceeds of the Bonds and all funds and accounts held by the Trustee and established pursuant to this Indenture. Such books of record and account shall be available for inspection by the Agency at reasonable hours with reasonable notice and under reasonable circumstances. The Trustee shall furnish to the Agency, at least monthly, an accounting of all transactions relating to the proceeds of the Bonds and all funds and accounts held by the Trustee and established pursuant to this Indenture.

## ARTICLE VII

### MODIFICATION OR AMENDMENT OF THIS INDENTURE

**Section 7.01 Amendment With Consent Of Owners** This Indenture and the rights and obligations of the Agency and of the Owners may be modified or amended at any time by a Supplemental Indenture which shall become binding upon adoption without necessity of the consent of any Owners, to the extent permitted by law and only for any one or more of the following purposes –

(a) to add to the covenants and agreements of the Agency contained in this Indenture, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power herein reserved to or conferred upon the Agency, or

(b) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Indenture, or in any other respect whatsoever as the Agency may deem necessary or desirable, provided under any circumstances that such modifications or amendments shall not materially adversely affect the interests of the Owners;

(c) to provide for the delivery of a Qualified Reserve Account Credit Instrument meeting the requirements of this Indenture;

(d) to provide for the issuance of Parity Bonds pursuant to Section 3.06, and to provide the terms and conditions under which such Parity Bonds may be issued, including but not limited to the establishment of special funds and accounts relating thereto and any other provisions relating solely thereto, subject to and in accordance with the provisions of Section 3.06 and to provide for Parity Bonds which bear interest that is compounded semiannually on each May 1 and November 1 to maturity as specified in an accreted value table set forth in a Supplemental Indenture; or

(e) to amend any provision hereof relating to the requirements of or compliance with the Tax Code, to any extent whatsoever but only if and to the extent such amendment will not

adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes, in the opinion of Bond Counsel.

Except as set forth in the preceding paragraph, this Indenture and the rights and obligations of the Agency and of the Owners may be modified or amended at any time by a Supplemental Indenture which shall become binding when the written consents of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding are delivered to the Trustee. No such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Agency to pay the principal, interest or redemption premium (if any) at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the Owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) without its written consent thereto, modify any of the rights or obligations of the Trustee. Promptly after the execution by the Agency and the Trustee of any Supplemental Indenture pursuant to this subsection, the Trustee shall mail a notice, setting forth in general terms the substance of such Supplemental Indenture, to each Rating Agency and the Owners of the Bonds at the respective addresses shown on the Registration Books. Any failure to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such Supplemental Indenture.

**Section 7.02 Effect of Supplemental Indenture** From and after the time any Supplemental Indenture becomes effective pursuant to this Article VII, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

**Section 7.03 Endorsement or Replacement of Bonds After Amendment** After the effective date of any amendment or modification hereof pursuant to this Article VII, the Agency may determine that any or all of the Bonds shall bear a notation, by endorsement in form approved by the Agency, as to such amendment or modification and in that case upon demand of the Agency the Owners of such Bonds shall present such Bonds for that purpose at the Office of the Trustee, and thereupon a suitable notation as to such action shall be made on such Bonds. In lieu of such notation, the Agency may determine that new Bonds shall be prepared and executed in exchange for any or all of the Bonds and in that case upon demand of the Agency the Owners of the Bonds shall present such Bonds for exchange at the Office of the Trustee, without cost to such Owners.

**Section 7.04 Amendment by Mutual Consent** The provisions of this Article VII shall not prevent any Owner from accepting any amendment as to the particular Bond held by such Owner, provided that due notation thereof is made on such Bond.

**Section 7.05 Trustee's Reliance** The Trustee may rely, and shall be protected in relying, upon a Certificate of the Agency and an opinion of counsel stating that all requirements of this Indenture relating to the amendment or modification hereof have been satisfied and that such amendments or modifications do not materially adversely affect the interests of the Owners.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES OF BOND OWNERS

**Section 8.01 Events of Default and Acceleration of Maturities.** The following events shall constitute Events of Default hereunder:

(a) Default by the Agency in the due and punctual payment of the principal of any Bonds when and as the same shall become due and payable, whether at maturity as therein expressed, by proceedings for redemption, by acceleration, or otherwise.

(b) Default by the Agency in the due and punctual payment of any installment of interest on any Bonds when and as the same shall become due and payable.

(c) Default by the Agency in the observance of any of the other covenants, agreements or conditions on its part in this Indenture or in the Bonds contained, if such default shall have continued for a period of sixty (60) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the Agency by the Trustee or by the Owners of not less than 25 percent in aggregate principal amount of Bonds Outstanding; provided, however, that if in the reasonable opinion of the Agency the default stated in the notice can be corrected, but not within such sixty (60) day period and corrective action is instituted by the Agency within such sixty (60) day period and diligently pursued in good faith until the default is corrected such failure shall not become an Event of Default.

(d) The Agency 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 Agency, as applicable, 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 relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the Agency, as applicable, or of the whole or any substantial part of its property.

**Section 8.02 Remedies Upon Event of Default.** If any Event of Default shall occur, then, and in each and every such case during the continuance of such Event of Default, the Trustee may, and at the written direction of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding shall, upon notice in writing to the Agency, upon being indemnified to its satisfaction exercise any remedies available to the Trustee or the Owners in law or at equity.

The exercise of any such remedy is subject to the condition that if the Agency shall deposit with the Trustee a sum sufficient to pay all the principal of and installments of interest on the Bonds payment of which is overdue, with interest on such overdue principal at the rate borne by the respective Bonds to the extent permitted by law, and the reasonable charges and expenses of the Trustee, and any and all other Events of Default known to the Trustee (other than in the payment of principal of and interest on the Bonds due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then, and in every such case the Trustee shall, on behalf of the Owners of all of the Bonds, waive such Event of Default; but no such waiver shall

extend to or shall affect any subsequent Event of Default, or shall impair or exhaust any right or power consequent thereon.

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

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

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

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

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

**Section 8.04 Trustee to Represent Bond Owners** The Trustee is hereby irrevocably appointed (and the successive respective Owners of the Bonds, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee) as trustee and true and lawful attorney-in-fact of the Owners of the Bonds for the purpose of exercising and prosecuting on their behalf such rights and remedies as may be available to such Owners under the provisions of the Bonds or this Indenture 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 Bond Owners, the Trustee in its discretion may, and upon the written request of the Owners of 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 Owners by such appropriate action, suit, mandamus or other proceedings as it shall deem most effectual to protect and enforce any such right, at law or in equity, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable right or remedy vested in the Trustee or in such Owners under the Bonds or this Indenture 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 Revenues and other assets pledged under this Indenture, pending such proceedings. All rights of action under this Indenture or the Bonds or otherwise may be prosecuted and enforced by the Trustee

without the possession of any of the Bonds or the production thereof in any proceeding relating thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in the name of the Trustee for the benefit and protection of all the Owners of such Bonds, subject to the provisions of this Indenture.

**Section 8.05 Bond Owners' Direction of Proceedings** Anything in this Indenture to the contrary notwithstanding, the Owners of a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, and upon indemnification of the Trustee to its reasonable satisfaction, to direct the method of conduct in 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 Bond Owners not parties to such direction.

**Section 8.06 Limitation on Bond Owners' Right to Sue.** No Owner of any Bonds 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 or any other applicable law with respect to such Bonds, unless (a) such Owners shall have given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owners of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (c) such Owner or Owners shall have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; (d) the Trustee shall have failed 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; (e) no direction inconsistent with such written request shall have been given to the Trustee during such sixty (60) day period by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding; and (f) such suit, action or proceeding is instituted subject to this Indenture.

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

**Section 8.07 Absolute Obligation of Agency.** Nothing in Section 8.06 in any other provision of this Indenture or in the Bonds contained shall affect or impair the obligation of the Agency, which is absolute and unconditional, to pay the principal of and interest on the Bonds to the respective Owners of the Bonds at their respective dates of maturity, or upon call for redemption, as herein provided, but only out of the Tax Revenues and other assets herein pledged therefor, or affect or impair the right of such Owners, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the Bonds.

**Section 8.08 Termination of Proceedings** In case any proceedings taken by the Trustee or any one or more Bond Owners on account of any Event of Default shall have been discontinued or

abandoned for any reason or shall have been determined adversely to the Trustee or the Bond Owners, then in every such case the Agency, the Trustee and the Bond Owners, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and respectively, and all rights, remedies, powers and duties of the Agency, the Trustee and the Bond Owners shall continue as though no such proceedings had been taken.

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

**Section 8.10 No Waiver of Default.** No delay or omission of the Trustee or of any Owner of the Bonds to exercise any right or power arising upon the occurrence of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein.

## ARTICLE IX

### MISCELLANEOUS

**Section 9.01 Benefits Limited to Parties.** Nothing in this Indenture, expressed or implied, is intended to give to any person other than the Agency, the Trustee and the Owners of the Bonds, any right, remedy, or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture contained by and on behalf of the Agency shall be for the sole and exclusive benefit of the Trustee and the Owners of the Bonds.

**Section 9.02 Successor is Deemed Included in All References to Predecessor.** Whenever in this Indenture or any Supplemental Indenture either the Agency or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the Agency or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

**Section 9.03 Defeasance of Bonds** If the Agency shall pay and discharge the entire indebtedness on any or all of the Outstanding Bonds in any one or more of the following ways:

(a) by paying or causing to be paid the principal of and interest on such Bonds, as and when the same become due and payable;

(b) by irrevocably depositing with the Trustee or another fiduciary, in trust, at or before maturity, money which, together with the available amounts then on deposit in the funds and accounts established pursuant to this Indenture, in the opinion or report of an Independent Certified Public Accountant or Bond Counsel is fully sufficient to pay such Bonds, including all principal, interest and redemption premium, if any;

(c) by irrevocably depositing with the Trustee or another fiduciary, in trust, non-callable Defeasance Securities in such amount as an Independent Certified Public Accountant or Bond Counsel shall determine will, together with the interest to accrue thereon and available moneys

then on deposit in any of the funds and accounts established pursuant to this Indenture (except for the Rebate Account and the Redevelopment Fund), be fully sufficient to pay and discharge the indebtedness on such Bonds (including all principal, interest and redemption premium, if any) at or before maturity; or

(d) by purchasing such Bonds prior to maturity and tendering such Bonds to the Trustee for cancellation;

and if such Bonds are to be redeemed prior to the maturity thereof notice of such redemption shall have been mailed pursuant to Section 2.03(c) or provision satisfactory to the Trustee shall have been made for the mailing of such notice, then, at the election of the Agency, and notwithstanding that any of such Bonds shall not have been surrendered for payment, the pledge of the Tax Revenues and other funds provided for in this Indenture and all other obligations of the Agency under this Indenture with respect to such Bonds shall cease and terminate, except only (a) the obligations of the Agency with respect to compliance with applicable provisions of the Tax Code, (b) the obligation of the Trustee to transfer and exchange Bonds hereunder, (c) the obligation of the Agency to pay or cause to be paid to the Owners of such Bonds, from the amounts so deposited with the Trustee, all sums due thereon, and (d) the obligations of the Agency to compensate and indemnify the Trustee pursuant to Section 6.06. Notice of such election shall be filed with the Trustee.

Any funds thereafter held by the Trustee, which are not required for said purposes, shall be paid over to the Agency.

**Section 9.04 Execution of Documents and Proof of Ownership by Bond Owners** Any request, declaration or other instrument which this Indenture may require or permit to be executed by Bond Owners may be in one or more instruments of similar tenor, and shall be executed by Bond Owners in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Bond Owner or his attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

Except as permitted by Section 7.02, the ownership of Bonds and the amount, Principal Payment Date, number and date of ownership thereof shall be proved by the Registration Books.

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

**Section 9.05 Execution of Documents and Proof of Ownership by Owners** Any request, declaration or other instrument which this Indenture may require or permit to be executed by any Owner may be in one or more instruments of similar tenor, and shall be executed by such Owner in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

The ownership of Bonds and the amount, maturity, number and date of ownership thereof shall be proved by the Registration Books.

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

**Section 9.06 Disqualified Bonds** In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned or held by or for the account of the Agency or the City (but excluding Bonds held in any employees' retirement fund) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, provided, however, that for the purpose of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver, only Bonds which the Trustee knows to be so owned or held shall be disregarded.

**Section 9.07 Waiver of Personal Liability.** No member, officer, agent or employee of the Agency shall be individually or personally liable for the payment of the principal of or interest on the Bonds; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law.

**Section 9.08 Destruction of Canceled Bonds** Whenever in this Indenture provision is made for the surrender to the Agency of any Bonds which have been paid or canceled pursuant to the provisions of this Indenture, a certificate of destruction duly executed by the Trustee shall be deemed to be the equivalent of the surrender of such canceled Bonds and the Agency shall be entitled to rely upon any statement of fact contained in any certificate with respect to the destruction of any such Bonds therein referred to.

**Section 9.09 Notices.** All written notices to be given under this Indenture shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) 48 hours after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Agency or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.



**Section 9.14 Governing Law.** This Indenture shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO has caused this Indenture to be signed in its name by its Treasurer and attested by its Secretary, and WELLS FARGO BANK, NATIONAL ASSOCIATION, in token of its acceptance of the trusts created hereunder, has caused this Indenture to be signed in its corporate name by its officers thereunto duly authorized, all as of the day and year first above written.

REDEVELOPMENT AGENCY OF THE CITY OF  
SAN DIEGO

By: \_\_\_\_\_  
Its: Executive Director

ATTEST:

\_\_\_\_\_  
Secretary

WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Trustee

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

**EXHIBIT A**  
**FORM OF BOND**

No. \_\_\_\_\_

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

**UNITED STATES OF AMERICA**  
**STATE OF CALIFORNIA**

**REDEVELOPMENT AGENCY**  
**OF THE CITY OF SAN DIEGO**

**NORTH PARK REDEVELOPMENT PROJECT**  
**SUBORDINATE TAX ALLOCATION BONDS, SERIES 2009A**

MATURITY DATE:      INTEREST RATE:      DATED DATE:      CUSIP:  
November 1, \_\_\_\_\_      \_\_\_\_\_%      \_\_\_\_\_, 2009

REGISTERED OWNER:      CEDE & CO.

PRINCIPAL AMOUNT:      \_\_\_\_\_ AND NO/00 DOLLARS

The REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic, duly organized and existing under the laws of the State of California (the "Agency"), for value received, hereby promises to pay to the Registered Owner specified above or registered assigns (the "Registered Owner"), on the Maturity Date specified above (subject to any right of prior redemption hereinafter provided for), the Principal Amount specified above in lawful money of the United States of America, and to pay interest thereon in like lawful money from the Interest Payment Date next preceding the date of authentication of this Bond (unless (i) this Bond is authenticated on or before an Interest Payment Date (as hereinafter defined) and after the close of business on the fifteenth day of the month preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (ii) this Bond is authenticated on or prior to October 15, 2009, in which event it shall bear interest from the Dated Date set forth above; provided, however, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment on this Bond), at the Interest Rate per annum specified above, payable semiannually on May 1 and November 1 in each year, commencing November 1, 2009 (the "Interest Payment Dates"). Principal hereof is payable at the principal corporate trust office of Wells Fargo Bank, National Association, as trustee (the "Trustee"), in Los Angeles, California or such other place designated by the Trustee. Interest hereon is payable by check or draft of the Trustee mailed on the Interest Payment Date to the Registered Owner hereof at the Registered Owner's address as it appears on the registration books of the Trustee as of the fifteenth (15th) day of the month preceding each Interest Payment Date, or at such other address as the Registered Owner may have filed with the Trustee for such purpose.

This Bond is one of a duly authorized issue of bonds of the Agency designated the “Redevelopment Agency of the City of San Diego North Park Redevelopment Project Subordinate Tax Allocation Bonds, Series 2009A” (the “Bonds”) of an aggregate principal amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), all of like tenor and date (except for such variation, if any, as may be required to designate varying numbers, maturities, interest rates or redemption provisions) and all issued pursuant to the provisions of the Community Redevelopment Law, being Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code of the State of California (the “Law”), and pursuant to an Indenture of Trust dated as of July 1, 2009, by and between the Agency and the Trustee (the “Indenture”) and a resolution of the Agency adopted on June \_\_, 2009, authorizing the issuance of the Bonds. The Agency may issue or incur additional obligations secured under the Indenture on a parity with the Bonds, but only subject to the terms of the Indenture. Reference is hereby made to the Indenture (copies of which are on file at the office of the Agency) and all supplements thereto and to the Law for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Tax Revenues, as that term is defined in the Indenture, and the rights thereunder of the owners of the Bonds and the rights, duties and immunities of the Trustee and the rights and obligations of the Agency thereunder, to all of the provisions of which the Registered Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds have been issued by the Agency to aid in financing the North Park Redevelopment Project in the City of San Diego, California (the “Project Area”), a duly designated redevelopment project area under the laws of the State of California.

This Bond and the interest hereon and all other Bonds and the interest thereon (to the extent set forth in the Indenture) are payable from, and are secured by a charge and first lien on the Tax Revenues derived by the Agency from the Project Area subject only to the prior lien of the Senior Bonds (as defined in the Indenture). As and to the extent set forth in the Indenture, all of the Tax Revenues are irrevocably pledged in accordance with the terms and provisions of the Indenture and the Law, to the payment of the principal of and interest and premium (if any) on the Bonds. Notwithstanding the foregoing, certain amounts out of Tax Revenues may be applied for other purposes as provided in the Indenture.

This Bond is not a debt of the City of San Diego, the State of California, or any of its political subdivisions, and neither said City, said State, nor any of its political subdivisions, is liable hereon nor in any event shall this Bond be payable out of any funds or properties other than the Tax Revenues and amounts in the funds and accounts pledged therefore under the Indenture.

The rights and obligations of the Agency and the owners of the Bonds may be modified or amended at any time in the manner, to the extent and upon the terms provided in the Indenture, but no such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the redemption price thereof or in the rate of interest thereon without the consent of the owner of such Bond, or shall reduce the percentages of the owners required to effect any such modification or amendment.

The Bonds maturing on or before November 1, 20\_\_, are not subject to optional redemption prior to maturity. The Bonds maturing on or after November 1, 20\_\_, shall be subject to redemption, at the option of the Agency on any date on or after November 1, 20\_\_, as a whole or in part, among such maturities as shall be determined by the Agency and by lot within a maturity, from any

available source of funds at the following redemption prices (expressed as percentages of the principal amount of the Bonds to be redeemed) together with accrued interest thereon to the date fixed for redemption:

<i>Redemption Dates</i>	<i>Redemption Price</i>
November 1, 20__ through October 31, 20__	%
November 1, 20__ through October 31, 20__	
November 1, 20__ and thereafter	

The Term Bonds maturing on November 1, 20\_\_, are subject to mandatory redemption in part by lot prior to maturity from and to the extent of Sinking Account payments on November 1 in each of the years, commencing November 1, 20\_\_, in the respective amounts as follows, without premium, plus accrued interest to the date of redemption:

<i>Sinking Account Redemption Date (November 1)</i>	<i>Principal Amount to be Redeemed or Purchased</i>
	\$

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\* final maturity

As provided in the Indenture, notice of redemption shall be mailed by first class mail, postage prepaid, not less than thirty (30) nor more than sixty (60) days prior to the redemption date to the respective owners of any Bonds designated for redemption at their addresses appearing on the Bond registration books of the Trustee, but neither failure to mail or receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for redemption or the cessation of accrual of interest on such Bonds on the date fixed for redemption. The notice of redemption may be rescinded by the Agency as provided for in the Indenture.

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

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the principal corporate trust office of the Trustee in Los Angeles, California, or such other place as designated by the Trustee but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon registration of such transfer a new Bond or Bonds, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor.

The Agency and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Agency and the Trustee shall not be affected by any notice to the contrary.

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

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Trustee.

IN WITNESS WHEREOF, the Redevelopment Agency of the City of San Diego has caused this Bond to be executed in its name and on its behalf with the facsimile signature of its Executive Director and attested by the facsimile signature of its Secretary.

REDEVELOPMENT AGENCY OF THE CITY OF  
SAN DIEGO

By: \_\_\_\_\_  
Its: Executive Director

ATTEST:

\_\_\_\_\_  
Secretary

***[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION  
TO APPEAR ON BONDS]***

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

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

WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Trustee

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

***[FORM OF ASSIGNMENT]***

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

whose social security or other tax identifying number is \_\_\_\_\_, the  
within-mentioned Bond and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_

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

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

Signature Guaranteed:

\_\_\_\_\_  
Note: Signature(s) must be guaranteed by a  
member firm of the New York Stock Exchange  
or a commercial bank or trust company.

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