



City Council Staff Report

DATE: November 19, 2014 NEW BUSINESS
SUBJECT: APPROVAL OF MEASURE A BOND FINANCING
FROM: David H. Ready, City Manager/Executive Director
BY: Suzanne Harrell, City Financial Advisor

SUMMARY

In 2002, voters in the County approved "Measure A," authorizing the continued levy of a sales tax to be paid to the Riverside County Transportation Commission (RCTC) to provide funding for certain regional and local transportation projects. The City is a member of RCTC and receives a portion of the Measure A Sales Tax to spend on qualifying projects such as local streets.

The City has an opportunity to leverage its share of Measure A Sales Tax to provide a substantial amount of up-front funding for its street resurfacing program. This would be accomplished by issuing bonds secured by Measure A revenues. To start the process of issuing such bonds, adoption of a resolution by the City Council is required.

If approved, the resolution would authorize (1) issuance of bonds secured by Measure A Sales Tax, (2) filing a judicial validation action in connection with the issuance of the bonds and (3) execution of various documents in connection therewith by the City Manager.

RECOMMENDATION:

Adopt Resolution No. ____ "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$7,000,000 PRINCIPAL AMOUNT OF 2015 LOCAL MEASURE A SALES TAX REVENUE BONDS AND AUTHORIZING INSTITUTION OF JUDICIAL VALIDATION PROCEEDINGS."

ITEM NO. 5A

STAFF ANALYSIS:

In 2002, voters in the County approved “Measure A,” authorizing the continued levy of a sales tax to be paid to the Riverside County Transportation Commission (RCTC) to provide funding for certain regional and local transportation projects. RCTC members such as the City receive a portion of the Measure A Sales Tax to spend on qualifying projects such as local streets.

Prior to the passage of the City’s Measure J, the City relied on funding street projects on a pay-as-you-go basis using Measure A funds. Due to the limited annual amount of such annual funding and competing needs for the Measure A funds, the City has a backlog of overdue street reconstruction and rehabilitation. Even with recent annual Measure J contributions to street repair, staff projected that these needs would not be met for a significant amount of time if done on a pay-as-you-go basis.

On October 15, 2014, the City Manager made a presentation to the City Council and the Measure J Commission that included funding a total of \$17 million in street resurfacing over the 5 year period from 2013-2017. Of this amount, \$5.7 million was proposed to be funded from bond proceeds available to the City by leveraging a portion of the annual Measure A Sales Tax for 7 years. The bonds would commit \$1.1 million of the annual \$2.1 million Measure A revenue, leaving \$1 million in annual Measure A funds for other projects.

The proposed total street repair funding is shown below.

<u>Year</u>	<u>Measure A</u>	<u>Measure J</u>	<u>Total</u>
2013	\$ 0	\$ 3,000,000	\$ 3,000,000
2014	1,000,000	1,000,000	2,000,000
2015	5,700,000	2,300,000	8,000,000
2016	0	2,000,000	2,000,000
2017	0	2,000,000	2,000,000
	<u>\$6,700,000</u>	<u>\$10,300,000</u>	<u>\$17,000,000</u>

Over 50 arterial pavement and road rehabilitation projects are expected to be funded from the proceeds of the bonds. The individual streets (or portions thereof) are listed in the City’s Multi-Year Pavement Rehabilitation Street List. The City has the flexibility to substitute specific streets to be repaired or add other qualified projects to be funded from Measure A bond proceeds, so long as either (1) they are included on the existing approved Measure A 5-Year CIP plan or (2) the Measure A 5-Year CIP plan is amended to include such projects.

The current Measure A 5-Year CIP Plan for Fiscal Years 2014-15 through 2018-19 includes a line item in each year for “Annual Street Overlay & Reconstruction, or Debt

Service for Same” in the amount of \$1.1 million. Staff considers that no amendment of the Measure A 5-Year CIP Plan is needed to fund the proposed street repairs with Measure A bond proceeds, and has asked RCTC for its concurrence.

If the City Council wishes to issue the Measure A bonds, staff recommends the transaction must go through a legal process in which the Riverside Superior Court will issue a judgment validating the City’s authority to issue the bonds and pledge the Measure A revenues. This process generally takes 90 days, with a subsequent 30 day challenge period. The bonds would not be issued until the validation process is complete. The 5 other cities in the County which have bonded against Measure A revenues have completed a judicial validation process, all of which have been successful to date.

In order to authorize the issuance of the bonds and the filing of the judicial validation, the City Council has been presented with a resolution for its consideration. The City Council resolution authorizes the issuance of Local Measure A Sales Tax Revenue Bonds in an amount not to exceed \$7 million, approves the material provisions of the Indenture of Trust in the form on file with the City Clerk, and authorizes Jones Hall, the City’s bond counsel, in cooperation with the City Attorney, to file the judicial validation action in connection with the bonds, the Indenture of Trust and related matters.

FISCAL IMPACT:

The bonds will be secured solely by Measure A revenues and there will be no General Fund commitment to pay debt service on the bonds.

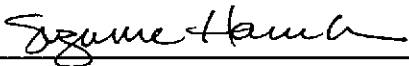
The City received \$1.9 million in Measure A revenues in 2013/14 and has budgeted \$2.1 million in 2014/15. By leveraging \$1.1 million of Measure A revenue annually for a period of 7 years, the City can issue \$6.5 million in bonds, to net approximately \$5.7 million to finance a significant amount of street projects throughout the City. Although the funds are pledged for a period of 7 years, the final payment will be paid from bond proceeds set aside in a reserve fund securing the bonds, and therefore, the City will only actually make payments for 6 years. The City will have approximately \$1 million of Measure A funds remaining each year to apply toward other approved projects.

The cost of the validation proceedings is \$7,500 plus any filing fees and court costs. This amount can be reimbursed from bond proceeds, but is not recoverable should the validation action fail.

If adopted, the resolution authorizes the City to issue Measure A Sales Tax Bonds in an amount not to exceed \$7 million. The costs of issuance for bond counsel, underwriter, financial advisor and other financing costs are expected to be approximately \$190,000,

which would be funded from bond proceeds. As noted above, staff expects that the actual bond size to be \$6.5 million. This will provide sufficient funds to pay bond costs of issuance, fund a \$610,000 reserve fund for the bonds, and provide \$5.7 million in net proceeds for the street repair projects.

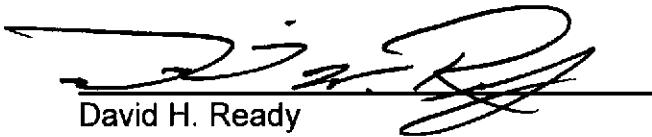
Staff expects to return to the City Council in March 2015, as the validation challenge period ends, for approval of the additional documents required for issuance of the bonds, such as the official statement and a contract with the City's underwriter. An update of market conditions, interest rates and estimated net bond proceeds based on a fixed annual contribution of \$1.1 million in Measure A funds will be provided at such time.



Suzanne Harrell
City Financial Advisor



Geoffrey Kiehl
Director of Finance



David H. Ready
City Manager



Douglas C. Holland
City Attorney

Attachments:
Resolution
Indenture

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM
SPRINGS AUTHORIZING THE ISSUANCE OF NOT TO EXCEED
\$7,000,000 PRINCIPAL AMOUNT OF 2015 LOCAL MEASURE A SALES
TAX REVENUE BONDS AND AUTHORIZING INSTITUTION OF
JUDICIAL VALIDATION PROCEEDINGS**

WHEREAS, the City of Palm Springs (the "City") is a charter city organized under the Constitution of the State of California and as such has the right and power to make and enforce all laws and regulations in respect of municipal affairs in accordance with and as more particularly provided in Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 200 of the Charter of the City; and

WHEREAS, at an election held on November 5, 2002, more than two-thirds of the voters in Riverside County (the "County") authorized the imposition of retail transaction and use taxes for the purpose of financing qualifying transportation projects in the County, which taxes are administered by the Riverside County Transportation Commission (the "Commission") pursuant to the Riverside County Transportation Sales Tax Act; and

WHEREAS, a portion of such taxes (the "Measure A Revenues") are allocated and paid by the Commission to the City for the purpose of financing qualified transportation projects, pursuant to Ordinance No. 02-001 which was adopted by the Commission on May 8, 2002; and

WHEREAS, pursuant to its municipal affairs powers as a charter city, the City is authorized to issue its revenue bonds which are payable from the Measure A Revenues for the purpose of providing financing for qualified transportation projects for which the Measure A Revenues are authorized to be expended; and

WHEREAS, to that end, the City has determined to issue its 2015 Local Measure A Sales Tax Revenue Bonds in the aggregate principal amount of not to exceed \$7,000,000 (the "Bonds") for the purpose of financing various street improvement projects which constitute qualified transportation facilities for which the Measure A Revenues are authorized to be expended (the "Qualifying Transportation Projects"); and

WHEREAS, the City Council wishes at this time to authorize the issuance of the Bonds and the institution of judicial proceedings to determine the validity thereof;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL, AS FOLLOWS:

Section 1. Authorization of Bonds. The City Council hereby authorizes the issuance of the Bonds pursuant to its municipal affairs powers as a charter city for the purpose of providing funds to finance Qualifying Transportation Projects of the City.

Section 2. Material Provisions of Bonds. The Bonds shall be issued under an Indenture of Trust (the "Indenture") between the City and U.S. Bank National

Association, as trustee (the "Trustee"), in substantially the form on file with the City Clerk. The Bonds shall be subject to the following limitations:

- (a) Interest on the Bonds will be calculated at a fixed rate, which shall not exceed the maximum rate of interest permitted by law.
- (b) Principal of and interest and redemption premium (if any) on the Bonds shall be payable from the Measure A Revenues. The Bonds shall not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation, and shall not constitute an obligation of the general fund of the City.
- (c) Proceeds of the Bonds, except to the extent required to pay the costs of issuing and underwriting the Bonds and except to the extent required to fund a reserve for the Bonds, shall be applied for the sole purpose of financing Qualifying Transportation Projects.

Section 3. Institution of Judicial Validation Proceedings. The City Council hereby authorizes the filing of an action to determine the validity of the Bonds, the Indenture and related matters in the Superior Court of Riverside County, under the provisions of Sections 860 et seq. of the Code of Civil Procedure of the State of California. The firm of Jones Hall, A Professional Law Corporation, as bond counsel to the City, is hereby directed, in concert with the City Attorney, to prepare and cause to be filed and prosecuted to completion all proceedings required for the judicial validation of the Bonds, the Indenture and related matters.

Section 4. Consideration of Final Documentation. Following the conclusion of proceedings described in Section 3, the City Council shall consider taking action approving the final form of the Indenture, a Preliminary Official Statement describing the Bonds, the sale of the Bonds and other matters which are necessary or advisable in order to consummate the issuance and sale of the Bonds.

Section 5. Engagement of Professional Services. The firm of Harrell & Company Advisors, LLC has previously been retained as financial advisor to the City in connection with the issuance and sale of the Bonds. The firm of Jones Hall, A Professional Law Corporation, is hereby retained as bond counsel to the City in connection with the issuance and sale of the Bonds and the judicial validation thereof and the City Manager is hereby authorized and directed on behalf of the City to execute an agreement with said firm in the form on file with the City Clerk. The firm of Stifel, Nicolaus & Company, Incorporated, is hereby designated as the underwriter of the Bonds upon the negotiated sale thereof, pursuant to a bond purchase agreement which shall be considered for approval by the City Council following conclusion of the proceedings described in Section 3.

Section 6. Effective Date. This Resolution shall take effect from and after the date of approval and adoption thereof.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY
COUNCIL THIS 19th DAY OF NOVEMBER, 2014.

AYES:

NOES:

ABSENT:

ABSTENTION:

David H. Ready, City Manager

ATTEST:

JAMES THOMPSON, CITY CLERK

INDENTURE OF TRUST

Dated as of April 1, 2015

between the

CITY OF PALM SPRINGS

and

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

Relating to

\$ _____
City of Palm Springs
2015 Local Measure A Sales Tax Revenue Bonds

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APPENDIX A DEFINITIONS
APPENDIX B FORM OF BOND

INDENTURE OF TRUST

This INDENTURE OF TRUST (this "Indenture") dated as of April 1, 2015, is between the CITY OF PALM SPRINGS, a charter city and municipal corporation duly organized and existing under the Constitution and laws of the State of California (the "City"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee").

BACKGROUND:

1. The City is a charter city organized under the Constitution of the State of California and as such has the right and power to make and enforce all laws and regulations in respect of municipal affairs in accordance with and as more particularly provided in Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 200 of the Charter of the City.

2. At an election held on November 5, 2002, more than two-thirds of the voters in Riverside County (the "County") authorized the imposition of retail transaction and use taxes for the purpose of financing qualifying transportation projects in the County, which taxes are administered by the Riverside County Transportation Commission (the "Commission") pursuant to the Riverside County Transportation Sales Tax Act.

3. A portion of such taxes (the "Measure A Revenues") are allocated and paid by the Commission to the City for the purpose of financing qualifying transportation projects, pursuant to Ordinance No. 02-001 which was adopted by the Commission on May 8, 2002.

4. Pursuant to its municipal affairs powers as a charter city, the City is authorized to issue its revenue bonds which are payable from the Measure A Revenues for the purpose of providing financing for qualifying transportation projects for which the Measure A Revenues are authorized to be expended.

5. To that end, the City has determined to issue its 2015 Local Measure A Sales Tax Revenue Bonds in the aggregate principal amount of \$_____ (the "Bonds") pursuant to its municipal affairs powers as a charter city and under this Indenture, for the purpose of financing various street improvement projects which constitute qualifying transportation facilities for which the Measure A Revenues are authorized to be expended.

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

AGREEMENT:

In order to secure the payment of the principal of and the interest 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 mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable considerations, the receipt of which is hereby acknowledged, the City and the Trustee hereby covenant and agree with one another, for the respective Owners from time to time of the Bonds, as follows:

ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION

SECTION 1.01. *Definitions.* Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms defined in Appendix A attached to this Indenture have the respective meanings specified in Appendix A when used in this Indenture.

SECTION 1.02. *Authorization.* Each of the parties represents and warrants that it has full legal authority and is duly empowered to enter into this Indenture, and has taken all actions necessary to authorize the execution hereof by the officers and persons signing it.

SECTION 1.03. *Interpretation.*

(a) Unless the context otherwise indicates, words expressed in the singular include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

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

ARTICLE II

AUTHORIZATION AND TERMS OF BONDS

SECTION 2.01. *Authorization and Purpose of Bonds.* The City has reviewed all proceedings heretofore taken and as a result of such review has found, 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 City is now duly empowered, under each and every requirement of law, to issue the Bonds in the manner and form provided in this Indenture.

The City hereby authorizes the issuance of Bonds in the aggregate principal amount of \$_____ pursuant to the municipal affairs powers of the City as a charter city, for the purpose of providing funds to finance Qualifying Transportation Projects as provided herein. The Bonds are designated the "City of Palm Springs 2015 Local Measure A Sales Tax Revenue Bonds".

SECTION 2.02. *Terms of the Bonds.* The Bonds shall be issued in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be dated as of the Closing Date and mature on June 1 in the years and in the respective principal amounts and bear interest (calculated on the basis of a 360-day year comprised of twelve 30-day months) at the respective rates per annum, as set forth in the following table:

<u>Maturity Date</u> <u>(June 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2016		
2017		
2018		
2019		
2020		
2021		
2022		

Interest on the Bonds is payable from the Interest Payment Date immediately preceding the date of authentication thereof unless:

- (a) a Bond is authenticated on or before an Interest Payment Date and after the close of business on the preceding Record Date, in which event it will bear interest from such Interest Payment Date,
- (b) a Bond is authenticated on or before the first Record Date, in which event interest thereon will be payable from the Closing Date, or
- (c) interest on a Bond is in default as of the date of authentication thereof, in which event interest thereon will be payable from the date to which interest has been paid in full, payable on each Interest Payment Date.

Interest is payable on each Interest Payment Date to the persons in whose names the ownership of the Bonds is registered on the Registration Books at the close of business on the immediately preceding Record Date, except as provided below. Interest on a Bond which is not punctually paid or duly provided for on any Interest Payment Date is payable to the person in whose name the ownership of such Bond is registered on the Registration Books at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee, notice of which is given to such Owner by first-class mail not less than ten days prior to such special record date.

The Trustee will pay interest on the Bonds 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. 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, the Trustee will pay interest on such Bonds on each succeeding Interest Payment Date by wire transfer in immediately available funds to such account of a financial institution within the United States of America as specified in such written request, which written request will remain in effect until rescinded in writing by the Owner. The Trustee will pay principal of the Bonds in lawful money of the United States of America by check of the Trustee upon presentation and surrender thereof at the Office of the Trustee.

SECTION 2.03. *No Redemption of Bonds.* The Bonds are not subject to redemption prior to their respective stated maturities.

SECTION 2.03. *Book Entry System.*

(a) Original Delivery. The Bonds will be initially delivered in the form of a separate single fully registered bond (which may be typewritten) for each maturity of the Bonds. Upon initial delivery, the Trustee shall register the ownership of each Bond on the Registration Books in the name of the Nominee. Except as provided in subsection (c), the ownership of all of the Outstanding Bonds will be registered in the name of the Nominee on the Registration Books.

With respect to Bonds the ownership of which is registered in the name of the Nominee, the City and the Trustee have no responsibility or obligation to any Depository System Participant or to any person on behalf of which the Nominee holds an interest in the Bonds. Without limiting the generality of the immediately preceding sentence, the City and the Trustee have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, (iii) the selection by the Depository of the beneficial interests in the Bonds to be redeemed if the City elects to redeem the Bonds in part, (iv) the payment to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any amount with respect to principal, premium, if any, or interest on the Bonds or (v) any consent given or other action taken by the Depository as Owner of the Bonds. The City and the Trustee may treat and consider the person in whose name each Bond is registered as the absolute owner of such Bond for the purpose of payment of principal

of and premium, if any, and interest on such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers of ownership of such Bond, and for all other purposes whatsoever. The Trustee shall pay the principal of and the interest and premium, if any, on the Bonds only to the respective Owners or their respective attorneys duly authorized in writing, and all such payments will be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal of and interest and premium, if any, on the Bonds to the extent of the sum or sums so paid. No person other than a Bond Owner shall receive a Bond evidencing the obligation of the City to make payments of principal, interest and premium, if any, under this Indenture. Upon delivery by the Depository to the City of written notice to the effect that the Depository has determined to substitute a new Nominee in its place, and subject to the provisions herein with respect to Record Dates, such new nominee will become the Nominee hereunder for all purposes; and upon receipt of such a notice the City will promptly deliver a copy of the same to the Trustee.

(b) Representation Letter. In order to qualify the Bonds for the Depository's book-entry system, the City will execute and deliver to such Depository a letter representing such matters as necessary to so qualify the Bonds. The execution and delivery of such letter shall not in any way limit the provisions of subsection (a) above or in any other way impose upon the City or the Trustee any obligation whatsoever with respect to persons having interests in the Bonds other than the Bond Owners. Upon the written acceptance by the Trustee, the Trustee shall agree to take all action reasonably necessary for all representations of the Trustee in such letter with respect to the Trustee to at all times be complied with. In addition to the execution and delivery of such letter, the City may take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

(c) Transfers Outside Book-Entry System. If either (i) the Depository determines not to continue to act as Depository for the Bonds, or (ii) the City determines to terminate the Depository as such, then the City will thereupon discontinue the book-entry system with such Depository. In such event, the Depository shall cooperate with the City and the Trustee in the issuance of replacement Bonds by providing the Trustee with a list showing the interests of the Depository System Participants in the Bonds, and by surrendering the Bonds, registered in the name of the Nominee, to the Trustee on or before the date such replacement Bonds are to be issued. The Depository, by accepting delivery of the Bonds, agrees to be bound by the provisions of this subsection (c). If, prior to the termination of the Depository acting as such, the City fails to identify another Securities Depository to replace the Depository, then the Bonds shall no longer be required to be registered in the Registration Books in the name of the Nominee, but shall be registered in whatever name or names the Owners transferring or exchanging Bonds shall designate, in accordance with the provisions hereof.

If the City determines that it is in the best interests of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the City may notify the Depository System Participants of the availability of such certificated Bonds through the Depository. In such event, the Trustee will authenticate, transfer and exchange Bonds as required by the Depository and others in appropriate amounts; and whenever the Depository requests, the Trustee and the City will cooperate with the Depository in taking appropriate action (a) to make available one or more separate certificates evidencing the Bonds to any Depository System Participant having Bonds credited to its account with

the Depository, or (b) to arrange for another Securities Depository to maintain custody of a single certificate evidencing such Bonds, all at the City's expense.

(d) Payments to the Nominee. Notwithstanding any other provision of this Indenture to the contrary, so long as a Bond is registered in the name of the Nominee, all payments with respect to principal of and interest and premium, if any, on that Bond and all notices with respect to that Bond shall be made and given, respectively, as provided in the letter described in subsection (b) of this Section or as otherwise instructed by the Depository.

SECTION 2.04. *Form and Execution of Bonds.* The Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, are set forth in Appendix B attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

The Mayor of the City shall execute, and the City Clerk of the City shall attest each Bond. Any or all of such signatures may be made manually or may be affixed by facsimile thereof. If any officer whose signature appears on a Bond ceases to be such officer before the Closing Date, such signature will nevertheless be as effective as if the officer had remained in office until the Closing Date. A Bond may be signed and attested on behalf of the City by such persons as at the actual date of the execution of that Bond are the proper officers of the City, duly authorized to execute debt instruments on behalf of the City, although on the date of that Bond any such person was not an officer of the City.

Only those Bonds bearing a certificate of authentication in the form set forth in Appendix B, manually executed and dated by the Trustee, are valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee is conclusive evidence that such Bonds have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

SECTION 2.05. *Transfer and Exchange of Bonds.*

(a) Transfer. A 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 that Bond to the Trustee at its Office for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. The Trustee shall collect any tax or other governmental charge on the transfer of any Bonds under this Section. Whenever any Bond or Bonds are surrendered for transfer, the City will execute and the Trustee shall authenticate and deliver to the transferee a new Bond or Bonds of like series, interest rate, maturity and aggregate principal amount. The City will pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer of Bonds.

(b) Exchange. The Bonds may be exchanged at the Office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations and of the same series, interest rate and maturity. The Trustee shall collect any tax or other governmental charge on the exchange of Bonds under this subsection (b). The City will

pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange of Bonds.

SECTION 2.06. *Registration Books.* The Trustee will keep or cause to be kept, at its Office, sufficient records for the registration and registration of transfer of the Bonds, which shall at all times during normal business hours, and upon reasonable notice, be open to inspection by the City. The Trustee will register the ownership and transfer of the Bonds on the Registration Books under such reasonable regulations as it may prescribe.

SECTION 2.07. *Bonds Mutilated, Lost, Destroyed or Stolen.* If a Bond is mutilated, the City, at the expense of the Owner of that Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in exchange and substitution for the Bond so mutilated, upon surrender to the Trustee of the Bond so mutilated. The Trustee shall cancel every mutilated Bond surrendered to it and deliver such mutilated Bond to or upon the order of the City. If a Bond is lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence is satisfactory to the Trustee and if indemnity satisfactory to the Trustee is given, the City, at the expense of the Owner, will execute, and the Trustee will thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen. The Trustee may require payment of a sum not exceeding the actual cost of preparing each new Bond issued under this Section and of the expenses which may be incurred by 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 will constitute an original additional contractual obligation on the part of the City whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and are equally and proportionately entitled to the benefits of this Indenture with all other Bonds issued under this Indenture.

Notwithstanding any other provision of this Section, in lieu of delivering a new Bond for which principal has become due for a Bond which has been mutilated, lost, destroyed or stolen, the Trustee may make payment of such Bond in accordance with its terms upon receipt of indemnity satisfactory to the Trustee.

ARTICLE III

DEPOSIT AND APPLICATION OF PROCEEDS OF BONDS; ISSUANCE OF PARITY DEBT

SECTION 3.01. *Issuance of Bonds.* Upon the execution and delivery of this Indenture, the City shall execute and deliver Bonds in the aggregate principal amount of \$_____ to the Trustee and the Trustee shall authenticate and deliver the Bonds to the Original Purchaser upon receipt of a Request of the City therefor.

SECTION 3.02. *Deposit and Application of Proceeds.* On the Closing Date, the Trustee shall deposit the proceeds of the Bonds into a fund to be held by the Trustee known as the "Bond Proceeds Account". Amounts on deposit in the Bond Proceeds Account shall be applied as follows, after which the Trustee shall close the Bond Proceeds Account:

- (a) The Trustee shall deposit the amount of \$_____ in the Reserve Account, constituting the full amount of the Reserve Requirement as of the Closing Date.
- (b) The Trustee shall deposit the amount of \$_____ in the Costs of Issuance Fund.
- (c) The Trustee shall deposit the amount of \$_____, constituting the remainder of such proceeds, in the Project Fund.

SECTION 3.03. *Establishment and Application of Costs of Issuance Fund.* The Trustee shall establish, maintain and hold in trust a separate fund designated as the "Costs of Issuance Fund" into which the Trustee shall deposit a portion of the proceeds of sale of the Bonds under Section 3.02(b). The Trustee shall disburse amounts in the Costs of Issuance Fund from time to time to pay the Costs of Issuance of the Bonds upon submission of a Request of the City stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. The Trustee may conclusively rely on such Requests of the City and shall be fully protected in relying thereon. On August 1, 2015, or upon the earlier Request of the City, the Trustee shall transfer all amounts remaining in the Costs of Issuance Fund to the Project Fund, and shall thereupon close the Costs of Issuance Fund.

SECTION 3.04. *Project Fund.* The Trustee shall establish, maintain and hold in trust a separate fund designated as the "Project Fund" into which the Trustee shall deposit a portion of the proceeds of sale of the Bonds under Section 3.02(c). The Trustee shall disburse amounts in the Project Fund from time to time to pay Project Costs upon submission of Requests of the City in substantially the form attached hereto as Appendix C. Upon the determination by the City that the Qualifying Transportation Projects have been completed and that no further amounts are required to be disbursed from the Project Fund to pay Project Costs, the City shall file a Certificate with the Trustee to that effect. Upon receipt of such Certificate, the Trustee shall withdraw all amounts remaining on deposit in the Project Fund and deposit such amounts in the

Interest Account, to be applied towards the payment of interest next coming due and payable on the Bonds.

The City hereby covenants that amounts on deposit in the Project Fund shall be expended only on transportation projects which are eligible for the expenditure of Measure A Revenues.

SECTION 3.05. *Issuance of Parity Debt.* The City may issue Parity Debt in such principal amount as it determines, which are secured in whole or in part by a pledge of and lien on the Measure A Revenues, subject to the following conditions precedent:

- (a) No Event of Default (or no event with respect to which notice has been given and which, once all notice of grace periods have passed, would constitute an Event of Default) has occurred and is continuing.
- (b) The Measure A Revenues, as shown in audited financial statements of the City for the most recent Fiscal Year for which audited financial statements are available, are at least equal to 150% of Maximum Annual Debt Service on all Bonds and Parity Debt which will be Outstanding following the issuance of the Parity Debt.
- (c) The Supplemental Indenture or other document authorizing the issuance of such Parity Debt shall provide that:
 - (i) interest on the Parity Debt is payable on June 1 and December 1 in each year of the term of the Parity Debt, except that interest during the first twelve month period may be payable on any June 1 or December 1;
 - (ii) the principal of the Parity Debt is payable on June 1 in any year in which principal is payable; and
 - (iii) an amount is deposited in a reserve fund from the proceeds of the sale of the Parity Debt in an amount equal to the maximum permitted under applicable federal tax law; or a Qualified Reserve Account Credit Instrument is issued to fund the reserve fund in such amount.

Any Parity Debt issued by the City shall be secured by a pledge of and lien on the Measure A Revenues which is on a parity with the pledge and lien which secures the Bonds. However, such Parity Debt will not be secured by or payable from amounts held in the Interest Account, the Principal Account or the Reserve Account which are established hereunder for the Bonds.

SECTION 3.06. *Issuance of Subordinate Debt.* The City may from time to time issue its bonds, notes or other obligations which are payable from Measure A Revenues, in such principal amount as the City may determine, provided that such bonds, notes or other obligations are unsecured or are secured by a pledge of or lien on any Measure A Revenues which is subordinate to the pledge and lien which secures the Bonds and any Parity Debt.

ARTICLE IV

SECURITY FOR THE BONDS; FLOW OF FUNDS; INVESTMENTS

SECTION 4.01. *Security of Bonds; Equal Security.* For the security of the Bonds, the City hereby grants a first pledge of and lien on, and a security interest in, all of the Measure A Revenues and all of the moneys on deposit in the Revenue Fund, on a parity with the pledge, lien and security interest which secures any Parity Debt. Such pledge, lien and security interest are for the equal security of the Bonds and any Parity Debt without preference or priority for number, date of execution or date of delivery.

In addition, the Bonds (but not any Parity Debt) are secured by a first pledge of and lien on, and a security interest in, all of the moneys on deposit in the Debt Service Fund and the Interest Account, the Principal Account and the Reserve Account. Except for the Measure A Revenues and such other moneys, no funds of the City are pledged to, or otherwise liable for, the payment of principal of or interest on the Bonds.

In consideration of the acceptance of the Bonds by those who hold the same from time to time, this Indenture constitutes a contract between the City and the Owners from time to time of the Bonds, and the covenants and agreements herein set forth to be performed on behalf of the City are 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.

SECTION 4.02. *Deposit of Measure A Revenues; Surplus.* The City has previously established the Revenue Fund, which it will continue to hold and maintain for the purposes and uses set forth herein. The City shall deposit all Measure A Revenues in the Revenue Fund promptly upon the receipt thereof, and shall apply amounts in the Revenue Fund solely for the uses and purposes set forth herein and purposes set forth in the documents relating to any issue of Parity Debt.

At such time during any Bond Year that the aggregate amount held by the City in the Revenue Fund equals or exceeds the amount required to be transferred to the Trustee in such Bond Year under Section 4.03, the remaining Measure A Revenues received by the City during such Bond Year shall be released from the pledge and lien which secures the Bonds and any Parity Debt, and may be applied by the City for any lawful purposes.

SECTION 4.03. *Debt Service Fund; Transfer of Amounts to Trustee.* There is hereby established a separate fund to be known as the "Debt Service Fund" which shall be held by the Trustee in trust for the benefit of the Bond Owners. The Trustee shall hold the Debt Service Fund for the uses and purposes set forth herein, so long as any of the Bonds remain Outstanding. In addition to any transfers required to be made in respect of outstanding Parity Debt, the City shall withdraw from the Revenue Fund and transfer to the Trustee the following amounts at the following times, for deposit by the

Trustee in the following respective special accounts within the Debt Service Fund, which accounts are hereby established with the Trustee with respect to the Bonds, in the following order of priority:

- (a) Interest Account. On or before the 5th Business Day preceding each date on which interest on the Bonds is due and payable, the City will transfer to the Trustee for deposit in the Interest Account an amount which, when added to the amount then on deposit in the Interest Account, equals the aggregate amount of the interest coming due and payable on the Outstanding Bonds on such date. The Trustee will apply amounts in the Interest Account solely for the purpose of paying the interest on the Bonds when due and payable.
- (b) Principal Account. On or before the 5th Business Day preceding each date on which principal of the Bonds becomes due and payable at maturity, the City will transfer to the Trustee for deposit in the Principal Account an amount which, when added to the amount then on deposit in the Principal Account, equals the amount of principal coming due and payable on such date on the Outstanding Bonds. The Trustee will apply amounts in the Principal Account solely for the purpose of paying the principal of the Bonds at the maturity thereof.
- (c) Reserve Account. If the Trustee has actual knowledge that the amount on deposit in the Reserve Account at any time falls below the Reserve Requirement, the Trustee shall promptly notify the City of that fact. Upon receipt of any such notice, the City will transfer to the Trustee an amount of available Measure A Revenues sufficient to maintain the amount of the Reserve Requirement on deposit in the Reserve Account. The Trustee will apply amounts in the Reserve Account solely (i) for the purpose of making transfers to the Interest Account and the Principal Account, in such order of priority, on any date on which the principal of or interest on the Bonds is due and payable hereunder, if there is a deficiency at any time in any of such accounts, or (ii) at any time for the retirement of all the Outstanding Bonds. So long as no Event of Default has occurred and is continuing, the Trustee shall withdraw any amount in the Reserve Account in excess of the Reserve Requirement no later than the 5th Business Day preceding each Interest Payment Date and deposit such amount in the Interest Account.

On the date on which all of the Outstanding Bonds mature, the City may (but is not required to) direct that the Trustee apply amounts in the Reserve Account to pay the principal of the Bonds on such date. Any amounts remaining in the Reserve Account following payment of the Outstanding Bonds in full shall be withdrawn therefrom by the Trustee and paid to the City to be used for any lawful purposes.

SECTION 4.04. *Qualified Reserve Account Credit Instrument*. The City may at any time tender to the Trustee a Qualified Reserve Account Credit Instrument. The Trustee shall comply with all documentation relating to a Qualified Reserve Account

Credit Instrument as required to maintain such Qualified Reserve Account Credit Instrument in full force and effect and as required to receive payments thereunder in the event and to the extent required to make any payment when and as required under Section 4.03(c). Upon the expiration of any Qualified Reserve Account Credit Instrument, the City will either (i) replace such Qualified Reserve Account Credit Instrument with a new Qualified Reserve Account Credit Instrument, or (ii) deposit or cause to be deposited with the Trustee an amount of funds equal to the amount of the Reserve Requirement, to be derived from the first available Measure A Revenues. Amounts paid to the City from the Reserve Account shall be expended by the City to finance Qualifying Transportation Projects.

SECTION 4.05. *Investment of Moneys in Funds.*

The Trustee shall invest moneys in the funds and accounts established and held by it hereunder in Permitted Investments specified in the Request of the City (which Request will be deemed to include a certification that the specified investment is a Permitted Investment) delivered to the Trustee at least two Business Days in advance of the making of such investments. If and to the extent set forth in a Request of the City filed with the Trustee, the City may designate an investment advisor or investment advisory firm that is authorized to act on its behalf for purposes of directing the investment of amounts in any of the funds and accounts established hereunder and held by the Trustee. In the absence of any direction from the City concerning the investment of amounts held by the Trustee hereunder, the Trustee shall invest any such amounts solely in Permitted Investments described in subsection (f) of the definition thereof.

The City shall invest amounts held by it under this Indenture in any obligations or securities in which the City is legally authorized to invest funds within its control under the laws of the State of California.

Obligations purchased as an investment of moneys in any fund or account will be deemed to be part of such fund or account. Whenever in this Indenture the City is required to transfer any moneys to the Trustee, such transfer may be accomplished by transferring a like amount of Permitted Investments. All interest or gain derived from the investment of amounts in any of the funds or accounts held by the Trustee hereunder will be retained in the respective fund or account from which such investment was made; except that the Trustee shall deposit all interest or gain from the investment of amounts in the Reserve Account in the Interest Account to the extent not required to cause the balance in the Reserve Account to equal the Reserve Requirement. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder upon receipt by the Trustee of a Request of the City. The Trustee may act as principal or agent in the acquisition or disposition of any investment and may impose its customary charges therefor. The Trustee shall incur no liability for losses arising from any investments made under this Section.

The City acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the City the right to receive brokerage confirmations of security transactions as they occur, the City specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the City periodic transaction statements which include detail for all investment transactions made by the Trustee hereunder.

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

SECTION 4.06. *Valuation and Disposition of Investments.*

(a) Except as otherwise provided in subsection (b) of this Section, the City covenants that all investments of amounts deposited in any fund or account created by or under this Indenture, or otherwise containing gross proceeds of the Bonds (within the meaning of Section 148 of the Tax Code) shall be acquired, disposed of and valued (as of the date that valuation is required by this Indenture or the Tax Code) at Fair Market Value as such term is defined in subsection (d) below. The Trustee has no duty in connection with the determination of Fair Market Value other than to follow the investment directions of the City in any Certificate or Request of the City.

(b) Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Tax Code shall be valued at cost thereof (consisting of present value thereof within the meaning of Section 148 of the Tax Code); provided that the City shall inform the Trustee which funds are subject to a yield restriction, and shall provide the Trustee with any necessary valuation criteria or formulae.

(c) Except as provided in the proceeding subsection (b), for the purpose of determining the amount in any fund, the Trustee shall value Permitted Investments credited to such fund at least annually at the Fair Market Value thereof. The Trustee may utilize computerized securities pricing services that may be available to it, including those available through its regular accounting system. If and as directed by the City in writing, the Trustee shall sell or present for redemption any Permitted Investment so purchased by the Trustee whenever it is necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited, and the Trustee has no liability or responsibility for any loss resulting therefrom.

(d) For purposes of this Section, the term "Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, or (iii) the investment is a United States Treasury Security -- State and Local Government Series which is acquired in accordance with applicable regulations of the United States Bureau of Public Debt.

ARTICLE V

OTHER COVENANTS OF THE CITY

SECTION 5.01. *Punctual Payment.* The City will punctually pay or cause to be paid the principal, premium (if any) and interest to become due in respect of all the Bonds in strict conformity with the terms of the Bonds and this Indenture. The City will faithfully observe and perform all of the conditions, covenants and requirements of this Indenture and all Supplemental Indentures. Nothing herein contained prevents the City from making advances of other legally available funds to make any payment referred to herein.

SECTION 5.02. *Budget and Appropriation.* So long as any Bonds remain Outstanding hereunder, the City shall adopt all necessary budgets and make all necessary appropriations for the payment of principal of and interest and premium (if any) on the Bonds from the Measure A Revenues. If any payment of principal of and interest and premium (if any) on the Bonds requires the adoption by the City of a supplemental budget or appropriation, the City shall promptly adopt the same. The covenants on the part of the City contained in this Section constitute duties imposed by law and it is the duty of each and every public official of the City to take such actions and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Section.

SECTION 5.03. *Compliance with Parity Debt Documents.* The City will faithfully observe and perform all of the conditions, covenants and requirements of the documents authorizing the issuance of any Parity Debt. The City shall not take any action, or omit to take any action within its control, which constitutes or which with the passage of time if not cured would constitute an event of default under and within the meaning of the documents authorizing the issuance of any Parity Debt.

SECTION 5.04. *Payment of Claims.* The City will 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 City or upon the Measure A Revenues or any part thereof, or upon any funds held by the Trustee hereunder, or which might impair the security of the Bonds. Nothing herein requires the City to make any such payment so long as the City in good faith contests the validity of said claims.

SECTION 5.05. *Books and Accounts.* The City shall keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the City, in which complete and correct entries are made of all transactions relating to the Measure A Revenues. Such books of record and accounts shall at all times during business hours be subject, upon prior written request, to the reasonable inspection of the Trustee (who has no duty to inspect) and the Owners of not less than 10% in aggregate principal amount of the Bonds then Outstanding, or their representatives authorized in writing.

SECTION 5.06. *Protection of Security and Rights of Owners.* The City shall preserve and protect the security of the Bonds and the rights of the Owners. From and

after the date of issuance of the Bonds, the City shall not contest the validity or enforceability of the Bonds or this Indenture.

SECTION 5.07. *Continuing Disclosure.* The City shall comply with and carry out all of the provisions of the Continuing Disclosure Certificate which has been executed and delivered by the City on the Closing Date. Notwithstanding any other provision hereof, failure of the City to comply with such Continuing Disclosure Certificate does not constitute an Event of Default hereunder; *provided, however,* that any Participating Underwriter (as such term is defined in such Continuing Disclosure Certificate) or any Owner or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the City to comply with its obligations under this Section.

SECTION 5.08. *Tax Covenants Relating to Bonds.*

(a) Generally. The City shall not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would cause, interest on the Bonds to become includable in gross income for federal income tax purposes.

(b) Private Activity Bond Limitation. The City shall assure that the proceeds of the Bonds are not used in a manner which would cause the Bonds to become "private activity bonds" within the meaning of section 141(a) of the Tax Code or to meet the private loan financing test of Section 141(c) of the Tax Code.

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

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

(e) Rebate of Excess Investment Earnings. The City shall calculate or cause to be calculated all amounts of excess investment earnings with respect to the Bonds which are required to be rebated to the United States of America under Section 148(f) of the Tax Code, at the times and in the manner required under the Tax Code. The City shall pay when due an amount equal to excess investment earnings to the United States of America in such amounts, at such times and in such manner as may be required under the Tax Code, such payments to be made from any source of legally available funds of the City. The City shall keep or cause to be kept, and retain or cause to be retained for a period of six years following the retirement of the Bonds, records of the determinations made under this subsection (e).

The Trustee has no duty to monitor the compliance by the City with any of the covenants contained in this Section.

SECTION 5.09. *Further Assurances.* The City shall 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 Bond Owners the rights and benefits provided in this Indenture.

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 or waiving of all Events of Default which may have occurred, perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or duties will be read into this Indenture against the Trustee. The Trustee shall, during the existence of any Event of Default (which has not been cured or waived), 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 reasonable corporate trustee would exercise or use.

(b) The City may remove the Trustee at any time, 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 (A) the Trustee ceases to be eligible in accordance with subsection (e) of this Section, (B) becomes incapable of acting, (C) is adjudged a bankrupt or insolvent, (D) a receiver of the Trustee or its property is appointed, or (E) any public officer takes control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation. The City may accomplish such removal by giving 30 days written notice to the Trustee, whereupon the City will 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 City, and by giving notice of such resignation by first class mail, postage prepaid, to the Bond Owners at their respective addresses shown on the Registration Books. Upon receiving such notice of resignation, the City will promptly appoint a successor Trustee by an instrument in writing.

(d) Any removal or resignation of the Trustee and appointment of a successor Trustee becomes effective upon acceptance of appointment by the successor Trustee. If no successor Trustee has been appointed and accepted appointment within 45 days following giving notice of removal or notice of resignation as aforesaid, the resigning Trustee, at the expense of the City, or any Owner (on behalf of such Owner and all other Owners) may petition any federal or state court 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 City and to its predecessor Trustee a written acceptance thereof, and to the predecessor Trustee an instrument indemnifying the predecessor Trustee for any costs or claims arising during the time the successor Trustee serves as Trustee hereunder, and 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, upon the receipt by the predecessor Trustee of the Request of the City 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 City will 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 City will mail or cause the successor Trustee to mail, by first class mail postage prepaid, a notice of the succession of such Trustee to the trusts hereunder to each rating agency which then maintains a rating on the Bonds, and to the Owners at the addresses shown on the Registration Books. If the City fails to mail such notice within 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 City.

(e) Any Trustee appointed under the provisions of this Section in succession to the Trustee shall:

- be a company or bank having trust powers,
- have a corporate trust office in the State of California,
- have (or be part of a bank holding company system whose bank holding company has) a combined capital and surplus of at least \$50,000,000, and
- be subject to supervision or examination by federal or state authority.

If such bank or company publishes a report of condition at least annually, under 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 or company is 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 subsection (c) of this Section.

The City shall maintain a Trustee qualified under the provisions of the foregoing provisions of this subsection (e), so long as any Bonds are Outstanding.

SECTION 6.02. *Merger or Consolidation.* Any bank or company into which the Trustee may be merged or converted or with which either of them may be consolidated or any bank or company resulting from any merger, conversion or consolidation to which it shall be a party or any bank or company to which the Trustee may sell or transfer all or

substantially all of its corporate trust business, provided such bank or 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 recitals of facts herein and in the Bonds contained shall be taken as statements of the City, and the Trustee assumes no responsibility for the correctness of the same, nor does it have any liability whatsoever therefor, nor does it make any representations as to the validity or sufficiency of this Indenture or of the Bonds nor does it incur any responsibility in respect thereof, other than as expressly stated herein. The Trustee is, however, responsible for its representations contained in its certificate of authentication on the Bonds. The Trustee is not liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Trustee is not liable for the acts of any agents of the Trustee selected by it with due care. 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 the Owners, whether or not such committee shall represent the Owners of a majority in principal amount of the Bonds then Outstanding. The Trustee, either as principal or agent, may engage in any financial or other transaction with the City.

(b) The Trustee is not liable with respect to any action taken or omitted to be taken by it in accordance with the direction of the Owners of 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.

(c) The Trustee is not 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, except for actions arising from the negligence or willful misconduct of the Trustee. The permissive right of the Trustee to do things enumerated hereunder shall not be construed as a mandatory duty.

(d) The Trustee will not be deemed to have knowledge of any Event of Default hereunder unless and until a responsible officer of the Trustee has actual knowledge thereof, or unless and until a responsible officer of the Trustee has received written notice thereof at its 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 hereunder or thereunder. The Trustee shall not be responsible for the City's payment of principal and interest on the Bonds, the City's observance or performance of any other covenants, conditions or terms contained herein, or the validity or effectiveness of any collateral given to or held by it. Without limiting the generality of the foregoing, and notwithstanding anything herein to the contrary, the Trustee is not responsible for reviewing the contents of any financial statements furnished to the Trustee under Section 5.05 and may rely conclusively on the Certificate of the City accompanying such financial statements to establish the City's compliance with its financial covenants

hereunder, including, without limitation, its covenants regarding the deposit and investment of Measure A Revenues (other than its covenants to transfer such moneys to the Trustee when due hereunder).

(e) No provision in this Indenture requires the Trustee to risk or expend its own funds or otherwise incur any financial liability hereunder. The Trustee is entitled to receive interest on any moneys advanced by it hereunder, at the maximum rate permitted by law.

(f) The Trustee may establish additional accounts or subaccounts of the funds established hereunder as the Trustee deems necessary or prudent in furtherance of its duties under this Indenture.

(g) The Trustee has no responsibility or liability whatsoever with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds, nor shall the Trustee have any obligation to review any such material, and any such review by the Trustee will not be deemed to create any obligation, duty or liability on the part of the Trustee.

(h) Before taking any action under Article VIII hereof the Trustee may require indemnity satisfactory to the Trustee be furnished to it to hold the Trustee harmless from any expenses whatsoever and to protect it against any liability it may incur hereunder.

(i) The immunities extended to the Trustee also extend to its directors, officers, employees and agents.

(j) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty.

(k) The Trustee may execute any of the trusts or powers hereof and perform any of its duties through attorneys, agents and receivers and shall not be answerable for the conduct of the same if appointed by it with reasonable care.

SECTION 6.04. *Right to Rely on Documents.* The Trustee is protected in acting upon any notice, resolution, requisition, request, consent, order, certificate, report, opinion 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, including, without limitation, Bond Counsel or other counsel of or to the City, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Trustee hereunder in accordance therewith.

The Trustee is not bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and such person's 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 deems it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and

established by a Certificate of the City, 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 Certificate, but in its discretion the Trustee may (but has no duty to), in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable. The Trustee may conclusively rely on any certificate or report of any Independent Accountant appointed by the City.

SECTION 6.05. *Preservation and Inspection of Documents.* The Trustee shall retain in its possession all documents received by it under the provisions of this Indenture, which are subject during normal business hours, and upon reasonable prior written notice, to the inspection of the City and any Owner, and their agents and representatives duly authorized in writing.

SECTION 6.06. *Compensation and Indemnification.* Absent any agreement to the contrary, the City shall pay to the Trustee from time to time compensation for all services rendered under this Indenture and also all expenses, charges, legal and consulting fees and other disbursements and those of its attorneys (including any allocated costs of internal counsel), agents and employees, incurred in and about the performance of its powers and duties under this Indenture. The Trustee has a first lien on the Measure A Revenues and all funds and accounts held by the Trustee hereunder to secure the payment to the Trustee of all fees, costs and expenses, including compensation to its experts, attorneys and counsel incurred in declaring such Event of Default and in exercising the rights and remedies set forth in Article VIII. Any such expenses incurred by the Trustee will be deemed to constitute a substantial contribution to the trust estate which secures the Bonds.

The City further covenants to indemnify the Trustee and its officers, directors, agents and employees, against any loss, expense and liabilities, whether or not litigated, 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 of enforcing any remedies hereunder and under any related documents, but excluding any and all losses, expenses and liabilities which are due to the negligence or willful misconduct of the Trustee, its officers, directors, agents or employees. The obligations of the City under this Section shall survive resignation or removal of the Trustee under this Indenture and payment of the Bonds and discharge of this Indenture.

SECTION 6.07. *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 made by it relating to the proceeds of the Bonds and all funds and accounts established and held by the Trustee under this Indenture. Such books of record and account shall be available for inspection by the City at reasonable hours, during regular business hours, with reasonable prior notice and under reasonable circumstances. The Trustee shall furnish to the City, at least semiannually, an accounting (which may be in the form of its customary statements) of all transactions relating to the proceeds of the Bonds and all funds and accounts held by the Trustee under this Indenture.

ARTICLE VII

MODIFICATION OR AMENDMENT OF THIS INDENTURE

SECTION 7.01. *Amendments Permitted.*

(a) Amendment With Bond Owner Consent. This Indenture and the rights and obligations of the City and of the Owners of the Bonds may be modified or amended by the City and the Trustee upon Request of the City at any time by the execution of a Supplemental Indenture, with the written consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 9.05. Any such Supplemental Indenture becomes effective upon the execution and delivery thereof by the parties thereto and upon consent of the requisite Bond Owners. No such modification or amendment may:

- (i) extend the maturity of a Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the City to pay the principal thereof, or interest thereon, at the time and place and at the rate and in the currency provided therein, without the written consent of the Owner of that Bond;
- (ii) permit the creation by the City of any mortgage, pledge or lien upon the Measure A Revenues superior to or on a parity with the pledge and lien created for the benefit of the Bonds (except as expressly permitted by this Indenture), or reduce the percentage of Bonds required for the affirmative vote or written consent to an amendment or modification;
- (iii) modify any of the rights or obligations of the Trustee without its written consent; or
- (iv) to amend any provision hereof to assure the exclusion from gross income of interest on the Bonds for federal income tax purposes under the Tax Code, in the opinion of Bond Counsel filed with the City and the Trustee.

(b) Amendment Without Bond Owner Consent. This Indenture and the rights and obligations of the City and of the Owners of the Bonds may also be modified or amended at any time by a Supplemental Indenture, without the consent of any Owners of the Bonds, for any one or more of the following purposes:

- (i) to add to the covenants and agreements of the City 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 City;
- (ii) to provide additional security for the Bonds;
- (iii) to cure any ambiguity, or to cure, correct or supplement any defective provision contained in this Indenture, or in any other

respect whatsoever as the City deems necessary or desirable, provided under any circumstances that such modifications or amendments do not materially adversely affect the interests of the Owners in the opinion of Bond Counsel filed with the City and the Trustee;

- (iv) to provide for the issuance of Parity Debt under Section 3.04, and to provide the terms and conditions under which such Parity Debt may be issued, including but not limited to the establishment of funds and accounts relating thereto and any other provisions relating solely thereto, subject to and in accordance with the provisions of Section 3.04; or
- (v) to provide for the issuance of a Qualified Reserve Account Credit Instrument under Section 4.04, including but not limited to provisions securing such Qualified Reserve Account Credit Instrument and providing for the repayment of any draws made thereunder.

SECTION 7.02. *Effect of Supplemental Indenture.* From and after the time any Supplemental Indenture becomes effective under 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 under this Article VII, the City may determine that any or all of the Bonds shall bear a notation, by endorsement in form approved by the City, as to such amendment or modification and in that case upon demand of the City 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 City 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 City 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 do not prevent any Owner from accepting any amendment as to the particular Bond held by such Owner.

SECTION 7.05. *Trustee's Reliance.* The Trustee may conclusively rely, and is protected in relying, upon a Certificate of the City 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 Bond Owners.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 8.01. *Events of Default.* Each of the following events constitutes an Event of Default hereunder:

- (a) Failure to pay any installment of the principal of any Bonds when due, whether at maturity as therein expressed, by acceleration or otherwise.
- (b) Failure to pay any installment of interest on the Bonds when due.
- (c) Failure by the City to observe and perform any of the other covenants, agreements or conditions on its part contained in this Indenture or in the Bonds, if such failure has continued for a period of 30 days after written notice thereof, specifying such failure and requiring the same to be remedied, has been given to the City by the Trustee; *provided, however*, if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 30-day period, such failure will not constitute an Event of Default if the City institutes corrective action within such 30-day period and thereafter diligently and in good faith cures the failure in a reasonable period of time.
- (d) The City commences a voluntary case under Title 11 of the United States Code or any substitute or successor statute.
- (e) The occurrence and continuation of an event of default under and as defined in the documents authorizing the issuance of any Parity Debt.

SECTION 8.02. *Remedies on Default.* Whenever any Event of Default has happened and is continuing, the Trustee has the right, at its option and without any further demand upon or notice to the City, to take any one or more of the following actions:

(a) Acceleration of Maturities. The Trustee may declare the principal of the Bonds, together with the accrued interest thereon, to be due and payable immediately, and upon any such declaration the same will become immediately due and payable, anything in this Indenture or in the Bonds to the contrary notwithstanding. This provision, however, is subject to the condition that if, at any time after the principal of the Bonds has been so declared due and payable, and before any judgment or decree for the payment of the moneys due has been obtained or entered, the City deposits with the Trustee a sum sufficient to pay all principal on the Bonds matured prior to such declaration and all matured installments of interest (if any) upon all the Bonds, with interest on such overdue installments of principal and interest at the respective rates of interest borne by those Bonds, and the reasonable fees and expenses of the Trustee, including fees and expenses of its attorneys, and any and all other defaults 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) has been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate has been made therefor, then, and in every such case, the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding, by written notice to the City and to the Trustee, may, on behalf of the Owners of all of the Bonds, rescind and annul such declaration and its consequences. However, no such rescission and annulment extends to or affects any subsequent default, or impairs or exhausts any right or power consequent thereon.

(b) Actions at Law or in Equity. The Trustee may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement or covenant of the City under this Indenture.

(c) Appointment of Receiver. As a matter of right, in connection with the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and the Bond Owners hereunder, the Trustee may cause the appointment of a receiver or receivers of the Measure A Revenues and other amounts pledged hereunder, with such powers as the court making such appointment shall confer.

SECTION 8.03. *Notice of Event of Default.* Immediately upon becoming aware of the occurrence of an Event of Default, but in no event later than five Business Days following becoming aware of such occurrence, the Trustee shall give notice of such Event of Default to the City by telephone confirmed in writing. Such notice shall also state whether the principal of the Bonds has been declared to be or have immediately become due and payable as provided in Section 8.02(a). With respect to any Event of Default described in Section 8.01(a) or (b), the Trustee shall, and with respect to any Event of Default described in Section 8.01(c) the Trustee in its sole discretion may, also give such notice to the Bond Owners, which shall include the statement that interest on the Bonds will cease to accrue from and after the date, if any, on which the Trustee declares the Bonds to become due and payable under Section 8.02 (but only to the extent that principal and any accrued, but unpaid, interest on the Bonds is actually paid on such date).

SECTION 8.04. *Application of Funds Upon Event of Default.* All of the Measure A Revenues and all sums in the funds and accounts established and held by the Trustee hereunder upon the occurrence of an Event of Default, and all sums thereafter received by the Trustee hereunder, shall be applied by the Trustee as follows and in the following order:

- (a) *First*, to the payment of any fees, costs and expenses incurred by the Trustee to protect the interests of the Owners of the Bonds; payment of the fees, costs and expenses of the Trustee (including fees and expenses of its counsel, including any allocated costs of internal counsel) incurred in and about the performance of its powers and duties under this Indenture and the payment of all fees, costs and expenses owing to the Trustee under Section 6.06, together with interest on all such amounts advanced by the Trustee at the maximum rate permitted by law.
- (b) *Second*, to the payment of the whole amount then owing and unpaid upon the Bonds for interest and principal, with interest on such

overdue amounts at the respective rates of interest borne by those Bonds, and in case such moneys are insufficient to pay in full the whole amount so owing and unpaid upon the Bonds, then to the payment of such interest, principal and interest on overdue amounts without preference or priority among such interest, principal and interest on overdue amounts ratably to the aggregate of such interest, principal and interest on overdue amounts.

SECTION 8.05. *Power of Trustee to Control Proceedings.* If the Trustee, upon the happening of an Event of Default, takes any action, by judicial proceedings or otherwise, in the performance of its duties hereunder, whether upon its own discretion, upon the request of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding, it has full power, in the exercise of its discretion for the best interests of the Owners of the Bonds, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action. The Trustee may not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of a majority in principal amount of the Outstanding Bonds hereunder opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation.

SECTION 8.06. *Limitation on Owners' Right to Sue.* No Owner of a Bond has the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, unless:

- (a) said Owner has previously given to the Trustee written notice of the occurrence of an Event of Default;
- (b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding have requested the Trustee in writing to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name;
- (c) said Owners have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and
- (d) the Trustee has failed to comply with such request for a period of 60 days after such written request has been received by, and said tender of indemnity has been made to, the Trustee.

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

The right of any Owner of any Bond to receive payment of the principal of and premium, if any, and interest on such Bond as herein provided, shall not be impaired or affected without the written consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Indenture.

SECTION 8.07. *Non-waiver.* Nothing in this Article VIII or in any other provision of this Indenture or in the Bonds, affects or impairs the obligation of the City, which is absolute and unconditional, to pay from the Measure A Revenues and other amounts pledged hereunder, the principal of and interest on the Bonds to the Bond Owners when due and payable as herein provided, or affects or impairs the right of action, which is also absolute and unconditional, of the Bond Owners to institute suit to enforce such payment by virtue of the contract embodied in the Bonds.

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

If a suit, action or proceeding to enforce any right or exercise any remedy is abandoned or determined adversely to the Owners, the City and the Owners will be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

SECTION 8.08. *Actions by Trustee as Attorney-in-Fact.* Any suit, action or proceeding which any Owner has the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Owners similarly situated and the Trustee is hereby appointed (and the successive respective Owners by taking and holding the Bonds shall be conclusively deemed so to have appointed it) the true and lawful attorney-in-fact of the respective Owners for the purpose of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the respective Owners as a class or classes, as may be necessary or advisable in the opinion of the Trustee as such attorney-in-fact, subject to the provisions of Article VI. Notwithstanding the foregoing provisions of this Section, the Trustee has no duty to enforce any such right or remedy unless it has been indemnified to its satisfaction for any additional fees, charges and expenses of the Trustee related thereto, including without limitation, fees and charges of its attorneys and advisors.

SECTION 8.09. *Remedies Not Exclusive.* No remedy herein conferred upon or reserved to the Owners is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by law.

ARTICLE IX

MISCELLANEOUS

SECTION 9.01. *Benefits Limited to Parties.* Nothing in this Indenture, expressed or implied, gives any person other than the City, the Trustee and the Owners, any right, remedy, claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture contained by and on behalf of the City are for the sole and exclusive benefit of the Trustee and the Owners.

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

SECTION 9.03. *Defeasance of Bonds.* If the City pays and discharges the entire indebtedness on any 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 an escrow bank, in trust, at or before maturity, an amount of cash which, together with the available amounts then on deposit in the funds and accounts established under this Indenture, in the opinion or report of an Independent Accountant is fully sufficient to pay such Bonds, including all principal thereof and interest thereon;
- (c) by irrevocably depositing with the Trustee or an escrow bank, in trust, Federal Securities in such amount as an Independent Accountant determines will, together with the interest to accrue thereon and available moneys then on deposit in any of the funds and accounts established under this Indenture, be fully sufficient to pay and discharge the indebtedness on such Bonds (including all principal thereof and interest thereon) at or before maturity; or
- (d) by purchasing such Bonds prior to maturity and tendering such Bonds to the Trustee for cancellation;

then, at the election of the City, and notwithstanding that any such Bonds have not been surrendered for payment, the pledge of the Measure A Revenues and other funds provided for in this Indenture and all other obligations of the Trustee and the City under this Indenture with respect to such Bonds shall cease and terminate, except only:

- (a) the obligation of the Trustee to transfer and exchange Bonds hereunder,

- (b) the obligation of the City 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
- (c) the obligations of the City to compensate and indemnify the Trustee under Section 6.06.

The City shall file notice of such election with the Trustee. The Trustee shall pay any funds thereafter held by it, which are not required for said purpose, to the City.

In the case of a defeasance or payment of all of the Bonds Outstanding in accordance with this Section, the Trustee shall pay all amounts held by it in any funds or accounts hereunder, which are not required for said purpose or for payment of amounts due the Trustee under Section 6.06, to the City.

SECTION 9.04. *Execution of Documents and Proof of Ownership by Owners.* Any request, consent, 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, consent, 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 are conclusively proved by the Registration Books.

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

SECTION 9.05. *Disqualified Bonds.* In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned or held by or for the account of the City shall be disregarded and deemed not to be Outstanding for the purpose of any such determination. The Trustee will not be deemed to have knowledge that any Bond is owned or held by the City unless the Trustee has received written notice to that effect.

SECTION 9.06. *Waiver of Personal Liability.* No member, officer, agent or employee of the City is individually or personally liable for the payment of the principal of or interest or any premium on the Bonds. However, nothing contained herein relieves any such member, officer, agent or employee from the performance of any official duty provided by law.

SECTION 9.07. *Destruction of Canceled Bonds.* Whenever in this Indenture provision is made for the surrender to the City of any Bonds which have been paid or canceled under 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 City is entitled to rely upon any statement of fact contained in any certificate with respect to the destruction of any such Bonds therein referred to. The City will pay all costs of any microfilming of Bonds to be destroyed.

SECTION 9.08. *Notices.* All written notices 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 is effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) upon actual receipt after deposit in the United States mail, postage prepaid, or (c) in any other case, upon actual receipt. The City or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are given hereunder.

If to the City: City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, California 92262
Attention: City Manager

If to the Trustee: U.S. Bank National Association
633 West Fifth Street, 24th Floor
LM-CA-T24T
Los Angeles, California 90071
Attention: Corporate Trust Services

SECTION 9.09. *Partial Invalidity.* If any Section, paragraph, sentence, clause or phrase of this Indenture is for any reason held illegal, invalid or unenforceable, such holding will not affect the validity of the remaining portions of this Indenture. The City and the Trustee hereby declare that they would have entered into this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issue of the Bonds irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Indenture may be held illegal, invalid or unenforceable.

SECTION 9.10. *Unclaimed Moneys.* Anything contained herein to the contrary notwithstanding, any money held by the Trustee in trust for the payment and discharge of the interest or premium (if any) on or principal of the Bonds which remains unclaimed for two years after the date when the payments of such interest, premium and principal have become payable, if such money was held by the Trustee at such date, or for two years after the date of deposit of such money if deposited with the Trustee after the date when the interest and premium (if any) on and principal of such Bonds have become payable, shall be repaid by the Trustee to the City as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Owners shall look only to the City for the payment of the principal of and interest on such Bonds.

SECTION 9.11. *Execution in Counterparts.* This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 9.12. *Governing Law.* This Indenture shall be construed and governed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the CITY OF PALM SPRINGS has caused this Indenture to be signed in its name by its Mayor and attested to by its City Clerk, and U.S. 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 officer thereunto duly authorized, all as of the day and year first above written.

CITY OF PALM SPRINGS

By _____
Mayor

Attest:

City Clerk

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By _____
Authorized Officer

APPENDIX A

DEFINITIONS

“Bond Counsel” means (a) Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys appointed by or acceptable to the City, 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 any twelve-month period beginning on June 2 in any year and extending to the next succeeding June 1, both dates inclusive; except that the first Bond Year begins on the Closing Date and ends on June 1, 201__.

“Bonds” means the City of Palm Springs 2015 Local Measure A Sales Tax Revenue Bonds issued by the City in the aggregate principal amount of \$_____ under the municipal affairs powers of the City as a charter city of the State of California, and under this Indenture.

“Business Day” means a day of the year (other than a Saturday or Sunday) on which banks in California are not required or permitted to be closed, and on which the New York Stock Exchange is open.

“Certificate of the City” means a certificate in writing signed by the Mayor, City Manager or Finance Director of the City, or any other person designated as an authorized officer of the City by a written certificate executed by the City Manager and filed with the Trustee.

“City” means the City of Palm Springs, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California.

“Closing Date” means April __, 2015, being the date on which the Bonds are delivered by the City to the Original Purchaser.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the City relating to the authorization, issuance, sale and delivery of the Bonds, including but not limited to: printing expenses; rating agency fees; filing and recording fees; initial fees, expenses and charges of the Trustee and its counsel, including the Trustee’s first annual administrative fee; 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; 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 under Section 3.03.

“Debt Service Fund” means the fund by that name established and held by the Trustee under Section 4.03.

“Depository” means (a) initially, DTC, and (b) any other Securities Depository acting as Depository under Section 2.03.

"Depository System Participant" means any participant in the Depository's book-entry system.

"DTC" means The Depository Trust Company, New York, New York, and its successors and assigns.

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

"Federal Securities" means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.

"Fiscal Year" means any twelve-month period beginning on July 1 in any year and extending to the next succeeding June 30, both dates inclusive, or any other twelve-month period selected and designated by the City as its official fiscal year period under a Certificate of the City filed with the Trustee.

"Indenture" means this Indenture of Trust between the City and the Trustee, as amended or supplemented from time to time under any Supplemental Indenture entered into under the provisions hereof.

"Independent 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 or acceptable to the City, and who, or each of whom: (a) is in fact independent and not under domination of the City; (b) does not have any substantial interest, direct or indirect, with the City; and (c) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make reports to the City.

"Interest Account" means the account by that name established and held by the Trustee under Section 4.03(a).

"Interest Payment Date" means December 1, 2015, and each June 1 and December 1 thereafter so long as any of the Bonds remain unpaid.

"Maximum Annual Debt Service" means, with respect to the Outstanding Bonds or Parity Debt, the largest amount of principal and interest coming due with respect to the Outstanding Bonds or Parity Debt during the current or any future Bond Year.

"Measure A Ordinance" means Ordinance No. 02-001, the Transportation Expenditure Plan and Retail Transaction and Use Tax Ordinance, adopted by the Riverside County Transportation Commission on May 8, 2002, and approved by at least two-thirds of electors voting on such proposition in the November 5, 2002 election, as supplemented and amended.

"Measure A Revenues" means the revenues of the Riverside County Transportation Commission derived from a retail transactions and use tax (Measure A funds) imposed in the County of Riverside pursuant to the Riverside County Transportation Sales Tax Act, Division 25 (Section 240000 et seq.) of the Public Utilities Code of the State of California, as now in effect and as it may from time to time hereafter be amended or supplemented, and the Measure A Ordinance, which revenues are allocated by the Riverside County Transportation Commission to the City under the Measure A Ordinance.

"Nominee" means (a) initially, Cede & Co. as nominee of DTC, and (b) any other nominee of the Depository designated under Section 2.03(a).

"Office" means, with respect to the Trustee, the corporate trust office of the Trustee at the address set forth in Section 9.08, or at such other or additional offices as may be specified by the Trustee in writing to the City; except that with respect to presentation of Bonds for payment or for registration of transfer and exchange, such term means the office or agency of the Trustee at which, at any particular time, its corporate trust agency business is conducted.

"Original Purchaser" means Stifel, Nicolaus & Company, Incorporated, as original purchaser of the Bonds upon the negotiated sale thereof.

"Outstanding", when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 9.05) 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 have been authorized, executed, issued and delivered by the City hereunder.

"Owner" means, with respect to any Bond, the person in whose name the ownership of such Bond is registered on the Registration Books.

"Parity Debt" means any bonds, notes, loans, advances or other indebtedness issued or incurred by the City which are secured by a pledge of and lien on the Measure A Revenues on a parity with the Bonds under Section 3.04.

"Permitted Investments" means any of the following:

- (a) Federal Securities.
- (b) Any direct or indirect obligations of an agency or department of the United States of America whose obligations represent the full faith and credit of the United States of America, or which are rated A or better by S&P.
- (c) Interest-bearing deposit accounts (including certificates of deposit) in federal or State chartered savings and loan associations or in federal or State of California banks (including the Trustee), provided that: (i) the unsecured obligations of such commercial bank or savings and loan association are rated A or better by S&P; or (ii)

such deposits are fully insured by the Federal Deposit Insurance Corporation.

- (d) Commercial paper rated "A-1+" or better by S&P.
- (e) Federal funds or bankers acceptances with a maximum term of one year of any bank which an unsecured, uninsured and unguaranteed obligation rating of "A-1+" or better by S&P.
- (f) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of at least AAAm-G, AAAm or AAm, which funds may include funds for which the Trustee, its affiliates, parent or subsidiaries provide investment advisory or other management services.
- (g) Obligations the interest on which is excludable from gross income under Section 103 of the Tax Code, and which are either (a) rated A or better by S&P, or (b) fully secured as to the payment of principal and interest by Permitted Investments described in clauses (a) or (b).
- (h) Obligations issued by any corporation organized and operating within the United States of America having assets in excess of \$500,000,000, which obligations are rated A or better by S&P.
- (i) Bonds or notes issued by any state or municipality which are rated A or better by S&P.
- (j) Any investment agreement with, or guaranteed by, a financial institution the long-term unsecured obligations or the claims paying ability of which are rated A or better by S&P at the time of initial investment, by the terms of which all amounts invested thereunder are required to be withdrawn and paid to the Trustee in the event such rating at any time falls below A.
- (k) The Local Agency Investment Fund of the State of California, created pursuant to Section 16429.1 of the California Government Code, to the extent the Trustee is authorized to register such investment in its name.

"Principal Account" means the account by that name established and held by the Trustee under Section 4.03(b).

"Project Costs" means all costs of payment of, or reimbursement for, the engineering, design, acquisition, installation, provision and financing of the Qualified Transportation Projects, including but not limited to, engineering and installation management costs, administrative costs and capital expenditures relating to financing payments, costs of accounting, feasibility, environmental and other reports, interest during the period of acquisition and installation of the Qualified Transportation Projects, insurance costs, inspection costs, permit fees, filing and recording costs, printing costs,

reproduction and binding costs, initial fees and charges of the Trustee, escrow fees, financing discounts, legal fees and charges, financial and other professional consultant fees and charges in connection with the foregoing.

"Qualified Reserve Account Credit Instrument" means an irrevocable surety bond, bond insurance policy or other credit instrument issued by a commercial bank or insurance company and deposited with the Trustee under Section 4.04, provided that all of the following requirements are met as of the date such instrument is deposited with the Trustee:

- (a) at the time of issuance the long-term credit rating of such bank or insurance company is in one of the two highest rating categories by S&P, or the claims paying ability of such insurance company is rated in one of the two highest rating category by A.M. Best & Company;
- (b) such surety bond, bond insurance policy or other credit instrument has a term of at least 12 months;
- (c) such surety bond, bond insurance policy or other credit instrument has a stated amount at least equal to the portion of the Reserve Requirement with respect to which funds are proposed to be released under Section 4.04; and
- (d) the Trustee is authorized under the terms of such surety bond, bond insurance policy or other credit instrument to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Interest Account or the Principal Account for the purpose of making payments required under Section 4.03(a) or (b).

"Qualified Transportation Projects" means transportation projects of the City which are funded from the proceeds of the Bonds, which are eligible for the expenditure of the Measure A Revenues.

"Record Date" means, with respect to any Interest Payment Date, the close of business on the 15th calendar day of the month preceding such Interest Payment Date, whether or not such 15th calendar day is a Business Day.

"Registration Books" means the records maintained by the Trustee under Section 2.06 for the registration and transfer of ownership of the Bonds.

"Request of the City" means a request in writing signed by the Mayor, City Manager or Finance Director of the City, or any other person designated as an authorized officer of the City by a written certificate executed by the City Manager and filed with the Trustee.

"Reserve Account" means the account by that name established and held by the Trustee under Section 4.03(c).

"Reserve Requirement" means, as of the date of any calculation, an amount equal to the lesser of (a) [10% of the par amount of the Bonds, (b) [125% of average

annual debt service on the Bonds] or (c) the amount of Maximum Annual Debt Service on the Bonds.

"S&P" means Standard & Poor's Corporation, of New York, New York, and its successors.

"Securities Depositories" means DTC; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the City may designate in a Request of the City delivered by the City to the Trustee.

"Supplemental Indenture" means any indenture, agreement or other instrument which amends, supplements or modifies this Indenture and which has been duly entered into between the City and the Trustee; but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

"Term Bonds" means the Bonds maturing on June 1, 20__.

"Trustee" means U.S. Bank National Association, as Trustee hereunder, or any successor thereto appointed as Trustee hereunder in accordance with the provisions of Article VI.

Minnesota, or such other place as designated by the Trustee. Interest hereon is payable by check of the Trustee mailed by first class mail on each Interest Payment Date to the Registered Owner hereof at the address of such Registered Owner as it appears on the registration books of the Trustee as of the preceding Record Date; provided that at the written request of the owner of at least \$1,000,000 aggregate principal amount of Bonds which written request is on file with the Trustee prior to the Record Date immediately preceding any Interest Payment Date, interest on such Bonds shall be paid on such Interest Payment Date by wire transfer to such account within the United States of America as shall be specified in such written request.

This Bond is one of a duly authorized issue of bonds of the City designated as the "City of Palm Springs 2015 Local Measure A Sales Tax Revenue Bonds" (the "Bonds") of an aggregate principal amount of \$ _____, all of like tenor and date (except for such variation, if any, as may be required to designate varying numbers, maturities or interest rates) and all issued under an Indenture of Trust, dated as of April 1, 2015, between the City and the Trustee (the "Indenture"). The Bonds have been authorized to be issued by the City pursuant to a resolution adopted by the City Council of the City on November 19, 2014. The City may issue or incur additional obligations 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 City) and all supplements thereto for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Measure A 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 City 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 City to finance the acquisition, construction and improvement of qualifying transportation projects of the City for which the proceeds of the Measure A Revenues are authorized to be expended.

This Bond and the interest hereon and all other parity obligations and the interest thereon (to the extent set forth in the Indenture) are payable from, and are secured by a charge and lien on the Measure A Revenues of the city. The City may issue additional obligations on a parity with the Bonds under and in accordance with the Indenture. As and to the extent set forth in the Indenture, all of the Measure A Revenues are exclusively and irrevocably pledged in accordance with the terms hereof and the provisions of the Indenture, to the payment of the principal of and interest on the Bonds and any such parity obligations. Notwithstanding the foregoing, certain amounts out of Measure A Revenues may be applied for other purposes as provided in the Indenture.

This Bond is not a debt of the City of Palm Springs, 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 Measure A Revenues.

The rights and obligations of the City 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 maturity of the principal of any outstanding Bond or of any installment of interest thereon or a reduction 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 are not subject to redemption prior to their respective stated maturities.

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

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at said 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 City and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the City 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 laws of the State of California and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any limit prescribed by any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

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

This Bond is not entitled to any benefit under the Indenture and is not valid or obligatory for any purpose until the certificate of authentication hereon endorsed has been signed by the Trustee.

IN WITNESS WHEREOF, the CITY OF PALM SPRINGS has caused this Bond to be executed in its name and on its behalf with the facsimile signature of its Mayor and to be attested to by the facsimile signature of its City Clerk, all as of the Original Issue Date specified above.

CITY OF PALM SPRINGS

By _____
Mayor

Attest:

City Clerk

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

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

Dated:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By _____
Authorized Signatory

ASSIGNMENT

For value received the undersigned hereby sells, assigns and transfers unto _____ whose address and social security or other tax identifying number is _____, the within-mentioned Bond and hereby irrevocably constitute(s) _____ and appoint(s) _____ attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Note: Signature(s) shall be guaranteed by an eligible guarantor institution.

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

APPENDIX C

**WRITTEN REQUEST NO. __ FOR DISBURSEMENT
FROM THE PROJECT FUND**

The undersigned hereby states and certifies that:

(i) I am the duly appointed, qualified and _____ of the City of Palm Springs, a charter city and municipal corporation duly and validly existing under the Constitution and laws of the State of California (the "City"), and as such, I am familiar with the facts herein certified and am authorized and qualified to certify the same;

(ii) I am a duly authorized representative of the City for all purposes of that certain Indenture of Trust dated as of April 1, 2015 (the "Indenture"), between the City and U.S. Bank National Association, as trustee (the "Trustee");

(iii) under Section 3.04 of the Indenture, the Trustee is hereby requested to disburse this date from the Project Fund established thereunder to the payees set forth on Exhibit A attached hereto and by this reference incorporated herein, the respective sum set forth opposite each such payee, for the purposes identified therein;

(iv) each item to be paid pursuant to this Request has been properly incurred, is a proper charge against the Project Fund and has not been the basis of any previous disbursement;

(v) each amount to be disbursed herein is for payment of a Project Cost relating to a Qualified Transportation Project which is authorized for the expenditure of Measure A Revenues; and

(vi) all payments shall be made by check or wire transfer in accordance with payment instructions contained in Exhibit A or in any related invoice, and the Trustee has no duty or obligation to authenticate such payment instructions or the authorization thereof.

Capitalized terms used herein and not otherwise defined have the meanings given them in the Indenture.

Dated:

CITY OF PALM SPRINGS

By: _____
Name:
Title: