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**INDENTURE OF TRUST**

**Dated as of August 1, 2013**

**by and between the**

**SUCCESSOR AGENCY OF THE  
REDEVELOPMENT AGENCY OF THE CITY OF BRISBANE**

**and**

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

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Relating to  
\$ \_\_\_\_\_  
Successor Agency of the Redevelopment Agency of the City of Brisbane  
2013 Tax Allocation Refunding Bonds

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EXHIBIT A: FORM OF BOND

## INDENTURE OF TRUST

THIS INDENTURE OF TRUST (this "Indenture") is dated as of August 1, 2013, by and between the SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF BRISBANE, as successor to the former Redevelopment Agency of the City of Brisbane, a public body corporate and politic, duly organized and existing under the laws of the State of California (the "Agency"), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee");

### WITNESSETH:

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

WHEREAS, a redevelopment plan for the Brisbane Community Redevelopment Project Area Number One in the City of Brisbane, San Mateo County, California ("Redevelopment Project No. 1"), has been adopted in compliance with all requirements of the Law;

WHEREAS, a redevelopment plan for the Brisbane Community Redevelopment Project Area Number Two in the City of Brisbane, San Mateo County, California ("Redevelopment Project No. 2" and, with Redevelopment Project No. 1, the "Redevelopment Projects"), has been adopted in compliance with all requirements of the Law;

WHEREAS, the Agency has previously issued its Redevelopment Agency of the City of Brisbane, 1998 Tax Allocation Bonds (Housing Set-Aside Revenues—Tower Site Senior Housing), originally issued in the principal amount of \$1,660,000 to finance low and moderate income housing activities within and for the benefit of the Redevelopment Projects, of which \$1,115,000 principal amount remains outstanding (the "1998 Agency Bonds");

WHEREAS, the Agency has also previously issued its Redevelopment Agency of the City of Brisbane, Brisbane Community Redevelopment Project Area Number One, 2001 Tax Allocation Bonds, originally issued in the principal amount of \$15,000,000 to refinance redevelopment activities within and for the benefit of the Redevelopment Project, of which \$12,415,000 principal amount remains outstanding (the "2001 Agency Bonds");

WHEREAS, the Brisbane Public Financing Authority (the "Authority") has previously issued its Brisbane Public Financing Authority 2001 Revenue Bonds (Brisbane Community Redevelopment Project Area Number One), originally issued in the principal amount of \$26,300,000, the proceeds of which were used to purchase the 2001 Agency Bonds, of which \$17,985,000 principal amount remains outstanding (the "2001 Authority Bonds");

WHEREAS, on June 28, 2011, the California Legislature adopted ABx1 26 (the "Dissolution Act") and ABx1 27 (the "Opt-in Bill");

WHEREAS, the California Supreme Court subsequently upheld the provisions of the Dissolution Act and invalidated the Opt-in Bill resulting in the Agency being dissolved as of February 1, 2012;

WHEREAS, the powers, assets and obligations of the Agency were transferred on February 1, 2012 to the Successor Agency;

WHEREAS, on or about June 27, 2012, the California Legislature adopted AB 1484 as a trailer bill in connection with the 2012-13 California Budget;

WHEREAS, AB 1484 specifically authorizes the issuance of refunding bonds by the Successor Agency;

WHEREAS, the Successor Agency has determined that, due to prevailing financial market conditions, it is in the best interests of the Successor Agency at this time to refinance redevelopment and low and moderate income housing activities within and for the benefit of the Redevelopment Projects and, in particular, to refund, on a current basis, the 2001 Agency Bonds and, therefore, the 2001 Authority Bonds;

WHEREAS, to provide moneys to refund the 1998 Agency Bonds and the 2001 Agency Bonds (and, therefore, 2001 Authority Bonds), the Successor Agency has determined to issue its Successor Agency of the Redevelopment Agency of the City of Brisbane, 2013 Tax Allocation Refunding Bonds, in the aggregate principal amount of not to exceed \$\_\_\_\_\_ (the "Bonds"), under the provisions of section 34177.5(g) of the Law and Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code;

WHEREAS, the Successor Agency has determined that the total net interest cost to maturity of the Bonds plus the principal amount of the Bonds will not exceed (a) the total net interest cost to maturity of the 1998 Agency Bonds to be refunded plus the principal amount of the 1998 Agency to be refunded, and (b) the total net interest cost to maturity of the 2001 Agency Bonds to be refunded plus the principal amount of the 2001 Agency to be refunded;

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

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

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

## ARTICLE I

### DETERMINATIONS; DEFINITIONS

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

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

*"Agency"* means the former Redevelopment Agency of the City of Brisbane.

*"Annual Debt Service"* means, for each Bond Year, the sum of (a) the interest payable on the Outstanding Bonds and any Parity Debt in such Bond Year, assuming that the Outstanding Bonds and Parity Debt are retired as scheduled, and (b) the principal or sinking fund amount of the Outstanding Bonds and Parity Debt payable by their terms in such Bond Year.

*"Bonds"* means the \$\_\_\_\_\_ Successor Agency of the Redevelopment Agency of the City of Brisbane 2013 Tax Allocation Refunding Bonds, and, when the context requires, any Parity Debt.

*"Bond Year"* means any twelve-month period beginning on May 2 in any year and ending on the next succeeding May 1, both dates inclusive, except that the first Bond Year shall begin on the Closing Date, and end on May 1, 2013.

*"Business Day"* means a day of the year, other than a Saturday or Sunday, on which banks in Los Angeles and San Francisco, California, are not required or permitted to be closed and on which the New York Stock Exchange is not closed.

*"Closing Date"* means the date on which the Bonds are delivered by the Successor Agency to the original purchaser thereof.

*"Code"* means the Internal Revenue Code of 1986 as in effect on the date of issuance of the Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the Bonds, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

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

*"Costs of Issuance Fund"* means the fund by that name established and held by the Trustee pursuant to Section 3.03.

*"City"* means City of Brisbane, a City duly organized and existing under the laws of the State.

*"Debt Service Fund"* means the fund by that name established and held by the Trustee pursuant to Section 4.03.

*"Defeasance Obligations"* means (a) cash, (b) direct non-callable obligations of the United States of America, (c) securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, to which direct obligation or guarantee the full faith and credit of the United States of America has been pledged, (d) Refcorp interest strips, (e) CATS, TIGRS, STRPS, and (f) defeased municipal bonds rated AAA by S&P or Aaa by Moody's (or any combination of the foregoing).

*"Dissolution Act"* means Parts 1.8 (commencing with section 34161) and 1.85 (commencing with section 34170) of Division 24 of the California Health and Safety Code, as amended.

*"Escrow Bank"* means The Bank of New York Mellon Trust Company, N.A., as escrow bank under the Escrow Agreement, or any successor thereto appointed as escrow bank thereunder.

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

*"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 Successor Agency to the Trustee in writing as its official fiscal year period.

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

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

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

*"Independent Redevelopment Consultant"* means any consultant or firm of such consultants appointed by the Successor Agency, and who, or each of whom: (a) is judged by the Successor Agency to have experience in matters relating to the collection of Pledged Tax Revenues or

otherwise with respect to the financing of redevelopment projects; (b) is in fact independent and not under domination of the Successor Agency; (c) does not have any substantial interest, direct or indirect, with the Successor Agency; and (d) is not connected with the Successor Agency as an officer or employee of the Successor Agency, but who may be regularly retained to make reports to the Successor Agency.

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

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

*"Interest Payment Date"* means May 1 and November 1 in each year, commencing November 1, 2013, so long as any of the Bonds remain Outstanding hereunder.

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

*"Maximum Annual Debt Service"* means, as of the date of calculation, the largest Annual Debt Service for the current or any future Bond Year following the anticipated issuance of Bonds and Parity Debt.

*"Moody's"* means Moody's Investors Service, its successors and assigns.

*"1998 Agency Bonds"* means the Redevelopment Agency of the City of Brisbane, 1998 Tax Allocation Bonds (Housing Set-Aside Revenues—Tower Site Senior Housing), originally issued in the principal amount of \$1,660,000 to finance low and moderate income housing activities within and for the benefit of the Redevelopment Projects, of which \$1,115,000 principal amount remains outstanding.

*"1998 Escrow Agreement"* means that certain Escrow Deposit and Trust Agreement, dated the Closing Date, by and between the Successor Agency and the Escrow Bank, pursuant to which provision will be made for the defeasance of the 1998 Agency Bonds and a sufficient amount will be deposited in the 1998 Escrow Fund to redeem all outstanding 1998 Agency Bonds in full on \_\_\_\_\_, 2013, at the price of 100% of the principal amount thereof, plus accrued interest.

*"1998 Escrow Fund"* means the Escrow Fund held by the Escrow Bank under and pursuant to the Escrow Agreement.

*"Original Purchaser"* means the original purchaser of the Bonds upon their delivery by the Trustee on the Closing Date.

*"Outstanding"* when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 10.05) 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 10.03; and (c) Bonds in lieu of or in substitution for which other Bonds shall have been authorized, executed, issued and delivered by the Successor Agency pursuant hereto.



*"Oversight Board"* means the oversight board duly constituted from time to time pursuant to section 34179 of the Dissolution Act.

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

*"Parity Debt"* means any loans, advances or indebtedness issued or incurred by the Successor Agency on a parity with the Bonds pursuant to Section 3.05.

*"Permitted Investments"* means the following, but only to the extent that the same are acquired at Fair Market Value:

(a) Federal Securities.

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

1. U.S. Export-Import Bank (Eximbank)  
Direct obligations or fully guaranteed certificates of beneficial ownership
2. U.S. Farmers Home Administration (FmHA)  
Certificates of Beneficial Ownership
3. Federal Financing Bank
4. Federal Housing Administration Debentures (FHA)
5. General Services Administration  
Participation Certificates
6. Government National Mortgage Association (GNMA or Ginnie Mae)  
GNMA—guaranteed mortgage-backed bonds  
GNMA—guaranteed pass-through obligations
7. U.S. Maritime Administration  
Guaranteed Title XI financing
8. U.S. Department of Housing and Urban Development (HUD)  
Project Notes  
Local Authority Bonds  
New Communities Debentures - U.S. government guaranteed debentures  
U.S. Public Housing Notes and Bonds - U.S. government guaranteed public housing notes and bonds

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

1. Federal Home Loan Bank System  
Senior debt obligations

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

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

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

(f) Certificates of deposit, savings accounts, deposit accounts or money market deposits which are fully insured by FDIC including those of the Trustee and its affiliates.

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

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

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

(j) other forms of investments that satisfy the Successor Agency's Statement of Investment Policy.

*"Pledged Tax Revenues"* means the moneys deposited from time to time in the Redevelopment Property Tax Trust Fund established pursuant to subdivision (c) of section 34172 of the Dissolution Act, as provided in paragraph (2) of subdivision (a) of section 34183 of the Dissolution Act. If, and to the extent, that the provisions of section 34172 or paragraph (2) of subdivision (a) of section 34183 are invalidated by a final judicial decision, then Pledged Tax Revenues shall include all tax revenues allocated to the payment of indebtedness pursuant to section 33670 of the California Health & Safety Code or such other section as may be in effect at the time providing for the allocation of tax increment revenues in accordance with Article XVI, Section 16 of the California Constitution.

*"Principal Account"* means the account by that name established and held by the Trustee pursuant to Section 4.03.

*"Principal Corporate Trust Office"* means such principal corporate trust office of the Trustee as may be designated from time to time by written notice from the Trustee to the Successor Agency, initially being at 400 South Hope Street, Suite 400, Los Angeles, CA 90071, except that, with respect to presentation of Bonds for payment or for registration of transfer and exchange, such term shall mean the office or agency of the Trustee at which, at any particular time, its corporate trust agency business shall be conducted.

*"Rating Category"* means any generic rating category of Moody's or S&P, without regard to any refinement of such category by plus or minus sign or by numerical or other qualifying designation.

*"Recognized Obligation Payment Schedule"* means a Recognized Obligation Payment Schedule, prepared and approved from time to time pursuant to subdivision (l) of section 34177 of the Dissolution Act.

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

*"Redemption Account"* means the account by that name established and held by the Trustee pursuant to Section 4.03.

*"Redevelopment Obligation Retirement Fund"* means the fund by that name referenced in Section 4.2 of this Indenture.

*"Refunding Bond Law"* means, collectively, section 34177.5(g) of the Law and section 53580 *et seq.* of the California Government Code

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

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

*"Reserve Account"* means the account by that name established and held by the Trustee pursuant to Section 4.03.

*"Reserve Requirement"* means, as of any date of calculation, to be equal to the least of (a) Maximum Annual Debt Service for the then current or every subsequent Bond Year, (b) 125% of average Annual Debt Service for the then current or every subsequent Bond Year, and (c) 10% of the original principal amount of the Bonds and any Parity Debt

*"Responsible Officer"* means any Vice President, Assistant Vice President or Trust Officer of the Trustee with responsibility for matters related to this Indenture.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., New York, New York, or its successors.

"Securities Depositories" means The Depository Trust Company, 55 Water Street, 50th Floor, New York, NY 10041-0099, Attention: Call Notification Department, Fax (212) 855-7232; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the Successor Agency may designate in a Certificate of the Successor Agency delivered to the Trustee.

"Sinking Account" means the account by that name established and held by the Trustee pursuant to Section 4.03.

"State" means the State of California.

"Statutory Pass-Through Amounts" means amounts paid to affected taxing agencies pursuant to sections 33607.5 and/or 33607.7 of the Law and section 34183 of the Dissolution Act.

"Successor Agency" means the Successor Agency of the Redevelopment Agency of the City of Brisbane, as successor to the former Redevelopment Agency of the City of Brisbane, a public body corporate and politic duly organized and existing under the Law.

"Supplemental Indenture" means any resolution, agreement or other instrument which has been duly adopted or entered into by the Successor Agency, but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

"Trustee" means The Bank of New York Mellon Trust Company, N.A., as trustee hereunder, or any successor thereto appointed as trustee hereunder in accordance with the provisions of Article VI.

"2001 Agency Bonds" means the Redevelopment Agency of the City of Brisbane, Brisbane Community Redevelopment Project Area Number One, 2001 Tax Allocation Bonds, originally issued in the principal amount of \$15,000,000 to refinance redevelopment activities within and for the benefit of the Redevelopment Project, of which \$12,415,000 principal amount remains outstanding.

"2001 Authority Bonds" means the Brisbane Public Financing Authority 2001 Revenue Bonds (Brisbane Community Redevelopment Project Area Number One), originally issued in the principal amount of \$26,300,000, of which \$17,985,000 principal amount remains outstanding.

"2001 Escrow Agreement" means that certain Escrow Deposit and Trust Agreement, dated the Closing Date, by and among the Successor Agency, the Authority and the Escrow Bank, pursuant to which provision will be made for the defeasance of the 2001 Authority Bonds and a sufficient amount will be deposited in the Escrow Fund to redeem all outstanding 2001 Authority Bonds in full on \_\_\_\_\_, 2013, at the price of 100% of the principal amount thereof, plus accrued interest. The refunding of the 2001 Authority Bonds will have the effect of satisfying, in full, the Successor Agency's obligations with respect to the 2001 Agency Bonds.

"2001 Escrow Fund" means the Escrow Fund held by the Escrow Bank under and pursuant to the 2001 Escrow Agreement.

"Written Request of the Successor Agency" or "Written Certificate of the Successor Agency" means a request or certificate, in writing signed by the Chairman, the Executive Director or the

Treasurer of the Successor Agency or by any other officer of the Successor Agency duly authorized by the Successor Agency for that purpose.

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

ARTICLE II

AUTHORIZATION AND TERMS

Section 2.01. Authorization of Bonds. Bonds in the aggregate principal amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) are hereby authorized to be issued by the Successor Agency under and subject to the terms of this Indenture and the Refunding Bond Law. This Indenture constitutes a continuing agreement with the Owners of all of the Bonds issued or to be issued hereunder and then Outstanding to secure the full and final payment of principal and redemption premiums (if any) and the interest on all Bonds which may from time to time be executed and delivered hereunder, subject to the covenants, agreements, provisions and conditions herein contained. The Bonds shall be designated the "Successor Agency of the Redevelopment Agency of the City of Brisbane 2013 Tax Allocation Refunding Bonds."

Section 2.02. Terms of Bonds.

(a) The Bonds shall be issued in fully registered form without coupons in the denomination of \$5,000 or any integral multiple thereof. The Bonds shall mature on the dates and shall bear interest (calculated on the basis of a 360-day year of twelve 30-day months) at the rates per annum as follows:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate Per Annum</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate Per Annum</u>
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(b) Interest on the Bonds (including the final interest payment upon maturity or earlier redemption) shall be payable on each Interest Payment Date to the person whose name appears on the Registration Books as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check of the Trustee mailed by first class mail, postage prepaid, on the Interest Payment Date, to such Owner at the address of such Owner as it appears on the Registration Books as of such Record Date; *provided however*, that payment of interest may be by wire transfer to an account in the United States of America to any registered owner of Bonds in the aggregate principal amount of \$1,000,000 or more who shall furnish written wire instructions to the Trustee on or before the applicable Record Date. Such instructions shall remain in effect until rescinded in writing by the Owner. Principal of and redemption premium (if any) on any Bond shall be paid upon presentation and surrender thereof, at maturity or redemption, at the Principal Corporate Trust Office. Both the principal of

and interest and premium (if any) on the Bonds shall be payable in lawful money of the United States of America.

(c) The Bonds shall be dated as of their date of delivery and shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date; or (b) the Bonds are authenticated on or before October 15, 2013, in which event they shall bear interest from their date of delivery; *provided, however*, that if, as of the date of authentication of the Bonds, interest thereon is in default, the Bonds shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

### Section 2.03. Redemption of Bonds.

(a) *Optional Redemption.* The Bonds maturing on or before May 1, \_\_\_\_\_, are not subject to optional redemption prior to maturity. The Bonds maturing on or after May 1, \_\_\_\_\_, are subject to redemption, at the option of the Successor Agency on any date on or after May 1, \_\_\_\_\_, as a whole or in part, by such maturities as shall be determined by the Successor Agency (and, in lieu of such determination, *pro rata* among maturities), and by lot within a maturity, from any available source of funds, at a redemption price equal to the principal amount thereof, together with accrued interest to the date fixed for redemption, without premium.

The Successor Agency shall be required to give the Trustee written notice of its intention to redeem Bonds under this subsection (a) with a designation of the maturities to be redeemed at least forty-five (45), but not more than seventy-five (75) days, prior to the date fixed for such redemption.

(b) *Sinking Account Redemption.* The Bonds are subject to mandatory redemption, in part by lot, from Sinking Account payments set forth in the following schedule on May 1, \_\_\_\_\_, and on each May 1 thereafter to and including May 1, \_\_\_\_\_, at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption; *provided, however*, that if some but not all of the Bonds have been redeemed pursuant to subsection (a) above, the total amount of Sinking Account payments to be made subsequent to such redemption shall be reduced in an amount equal to the principal amount of the Bonds so redeemed by reducing each such future Sinking Account payment on a *pro rata* basis (as nearly as practicable) in integral multiples of \$5,000, as shall be designated pursuant to written notice filed by the Successor Agency with the Trustee.

<u>Redemption Date</u> <u>(May 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Redemption Date</u> <u>(May 1)</u>	<u>Principal</u> <u>Amount</u>
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† Maturity.

In lieu of such redemption, the Trustee may apply amounts in the Sinking Account to the purchase of Bonds at public or private sale, as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account) as may be directed by the Successor Agency, except that the purchase price (exclusive

of accrued interest) may not exceed the redemption price then applicable to the Bonds, as set forth in a Written Request of the Successor Agency.

(c) *Notice of Redemption.* The Trustee on behalf of and at the expense of the Successor Agency will mail (by first class mail, postage prepaid) notice of any redemption at least thirty (30) but not more than sixty (60) days prior to the redemption date, to (i) the Owners of any Bonds designated for redemption at their respective addresses appearing on the Registration Books, and (ii) to the Securities Depositories and to the Information Services designated in a Written Request of the Successor Agency filed with the Trustee at the time the Successor Agency notifies the Trustee of its intention to redeem Bonds; but such mailing will not be a condition precedent to such redemption and neither failure to receive any such notice nor any defect therein will affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice will state the redemption date and the redemption price, will designate the CUSIP number of the Bonds to be redeemed, state the individual number of each Bond to be redeemed or state that all Bonds between two stated numbers (both inclusive) or all of the Bonds Outstanding (or all Bonds of a maturity) are to be redeemed, and will require that such Bonds be then surrendered at the Trust Office of the Trustee for redemption at the said redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date.

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

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall, to the extent practicable, bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(d) *Effect of Redemption.* From and after the date fixed for redemption, if funds available for the payment of the redemption price of and interest on the Bonds so called for redemption shall have been duly deposited with the Trustee, such Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price and accrued interest to the redemption date, and no interest shall accrue thereon from and after the redemption date specified in such notice.

(e) *Manner of Redemption.* Whenever any Bonds or portions thereof are to be selected for redemption by lot, the Trustee shall make such selection, in such manner as the Trustee shall deem appropriate, and shall notify the Successor Agency thereof. All Bonds redeemed or purchased pursuant to this Section 2.03 shall be canceled.

(f) *Selection of Bonds for Redemption.* Whenever provision (other than pursuant to Section 2.03(b)) is made in this Indenture for the redemption of Bonds and less than all Bonds then currently outstanding are called for redemption, the Trustee will select Bonds for redemption from Bonds then currently Outstanding and not previously called for redemption, at the written direction of the Successor Agency in such order of maturity as shall be designated by the



Successor Agency, and in the absence of such direction, *pro rata* among maturities and by lot within a maturity. The Trustee will promptly notify the Successor Agency in writing of the Bonds so selected for redemption.

Section 2.04. Form of Bonds. The Bonds, the form of Trustee's Certificate of Authentication, and the form of Assignment to appear thereon, shall be substantially in the form set forth in Exhibit A, which is attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

Section 2.05. Execution of Bonds. The Bonds shall be executed on behalf of the Successor Agency by the signature of its Chairman and the signature of its Secretary who are in office on the date of execution and delivery of this Indenture or at any time thereafter. Either or both of such signatures may be made manually or may be affixed by facsimile thereof. If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the purchaser, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the purchaser. Any Bond may be signed and attested on behalf of the Successor Agency by such persons as at the actual date of the execution of such Bond shall be the proper officers of the Successor Agency although on the date of such Bond any such person shall not have been such officer of the Successor Agency.

Only such of the Bonds as shall bear thereon a Certificate of Authentication in the form hereinafter set forth, manually executed and dated by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such Certificate shall be conclusive evidence that such Bonds have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture. In the event temporary Bonds are issued pursuant to Section 2.09 hereof, the temporary Bonds may bear thereon a Certificate of Authentication executed and dated by the Trustee, may be initially registered by the Trustee, and, until so exchanged as provided under Section 2.09 hereof, the temporary Bonds shall be entitled to the same benefits pursuant to this Indenture as definitive Bonds authenticated and delivered hereunder.

Section 2.06. Transfer of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by a duly authorized attorney of such person, upon surrender of such Bond to the Trustee at its Principal Corporate Trust Office for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. Whenever any Bond or Bonds shall be surrendered for registration of transfer, the Successor Agency shall execute and the Trustee shall deliver a new Bond or Bonds, of like series, interest rate, maturity and principal amount of authorized denominations. The Trustee shall collect from the Owner any tax or other governmental charge on the transfer of any Bonds pursuant to this Section 2.06. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer shall be paid by the Successor Agency.

The Trustee may refuse to transfer, under the provisions of this Section 2.06, either (a) any Bonds during the period fifteen (15) days prior to the date established by the Trustee for the selection of Bonds for redemption, or (b) any Bonds selected by the Trustee for redemption.

Section 2.07. Exchange of Bonds. Bonds may be exchanged at the Principal Corporate Trust Office for a like aggregate principal amount of Bonds of other authorized denominations of the same series, interest rate and maturity. The Trustee shall collect any tax or other governmental charge on the exchange of any Bonds pursuant to this Section 2.07. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange shall be paid by the Successor Agency.

The Trustee may refuse to exchange, under the provisions of this Section 2.07, either (a) any Bonds during the fifteen (15) days prior to the date established by the Trustee for the selection of Bonds for redemption or (b) any Bonds selected by the Trustee for redemption.

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

Section 2.09. Temporary Bonds. The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Successor Agency, and may contain such reference to any of the provisions of this Indenture as may be appropriate. Every temporary Bond shall be executed by the Successor Agency upon the same conditions and in substantially the same manner as the definitive Bonds. If the Successor Agency issues temporary Bonds, it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange therefor at the Principal Corporate Trust Office, and the Trustee shall deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations, interest rates and like maturities. Until so exchanged, the temporary Bonds shall be entitled to the same benefits pursuant to this Indenture as definitive Bonds authenticated and delivered hereunder.

Section 2.10. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the Successor Agency, at the expense of the Owner of such Bond, shall execute, and the Trustee shall thereupon deliver, a new Bond of like tenor and amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be canceled by it. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Successor Agency and the Trustee and, if such evidence be satisfactory to both and indemnity satisfactory to them shall be given, the Successor Agency, at the expense of the Owner, shall execute, and the Trustee shall thereupon deliver, a new Bond of like tenor and amount in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond has matured or has been called for redemption, instead of issuing a substitute Bond, the Trustee may pay the same without surrender thereof upon receipt of indemnity satisfactory to the Trustee and the Successor Agency). The Successor Agency may require payment by the Owner of a sum not exceeding the actual cost of preparing each new Bond issued under this Section 2.10 and of the expenses which may be incurred by the Successor Agency and the Trustee in the premises. Any Bond issued under the provisions of this Section 2.10 in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Successor Agency whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds issued pursuant to this Indenture.

Section 2.11. CUSIP Numbers. The Trustee and the Successor Agency shall not be liable for any defect or inaccuracy in the CUSIP number that appears on any Bond, check, advise of payment or redemption notice and any such document may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference

and that neither the Successor Agency nor the Trustee shall be liable for any inaccuracy in such numbers.

Section 2.12. Book-Entry Only System. It is intended that the Bonds, be registered so as to participate in a securities depository system with DTC (the "DTC System"), as set forth herein. The Bonds shall be initially issued in the form of a separate single fully registered Bond for each of the maturities of the Bonds in the name of Southwest Securities, Inc. and shall thereafter be assigned to and registered in the name of Cede & Co., as nominee of DTC. The Successor Agency and the Trustee are authorized to execute and deliver such letters to or agreements with DTC as shall be necessary to effectuate the DTC System, including a representation letter in the form required by DTC (the "Representation Letter"). In the event of any conflict between the terms of any such letter or agreement, including the Representation Letter, and the terms of this Indenture, the terms of this Indenture shall control. DTC may exercise the rights of a Bondholder only in accordance with the terms hereof applicable to the exercise of such rights.

With respect to the Bonds registered in the books of the Trustee in the name of Cede & Co., as nominee of DTC, the Successor Agency and the Trustee, shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which DTC holds Bonds from time to time as securities depository (each such broker-dealer, bank or other financial institution being referred to herein as a "DTC Participant") or to any person on behalf of whom such a DTC Participant directly or indirectly holds an interest in the Bonds (each such person being herein referred to as an "Indirect Participant"). Without limiting the immediately preceding sentence, Successor Agency and the Trustee shall have no responsibility or obligation with respect to (a) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (b) the delivery to any DTC Participant or any Indirect Participant or any other person, other than a Bondholder, as shown in the Register, of any notice with respect to the Bonds, including any notice of redemption, (c) the payment to any DTC Participant or Indirect Participant or any other Person, other than a Bondholder, as shown in the Register, of any amount with respect to principal of, premium, if any, or interest on, the Bonds or (d) any consent given by DTC as registered owner. So long as certificates for the Bonds are not issued pursuant to Section 2.12 and the Bonds are registered to DTC, the Successor Agency, and the Trustee shall treat DTC or any successor securities depository as, and deem DTC or any successor securities depository to be, the absolute owner of the Bonds for all purposes whatsoever, including without limitation (i) the payment of principal and interest on the Bonds, (ii) giving notice of redemption and other matters with respect to the Bonds, (iii) registering transfers with respect to the Bonds and (iv) the selection of Bonds for redemption. While in the DTC System, no person other than Cede & Co., or any successor thereto, as nominee for DTC, shall receive a Bond certificate with respect to any Bond. Notwithstanding any other provision of this Indenture to the contrary, so long as any of the Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds and all notices with respect to such Bonds shall be made and given, respectively, in the manner provided in the Representation Letter.

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

Section 2.13. Successor Securities Depository; Transfers Outside Book Entry-Only System. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving written notice to the Successor Agency and the Trustee and discharging its responsibilities with respect thereto under applicable law. The Successor Agency, without the

consent of any other person, but following written notice to the Successor Agency and the Trustee, may terminate the services of DTC with respect to the Bonds. Upon the discontinuance or termination of the services of DTC with respect to the Bonds pursuant to the foregoing provisions, unless a substitute securities depository is appointed to undertake the functions of DTC hereunder, the Successor Agency, at the expense of the Successor Agency, is obligated to deliver Bond certificates to the beneficial owners of the Bonds, as described in this Indenture, and the Bonds shall no longer be restricted to being registered in the books of the Trustee in the name of Cede & Co. as nominee of DTC, but may be registered in whatever name or name Bondowner transferring or exchanging Bonds shall designate to the Trustee in writing, in accordance with the provisions of this Indenture. The Successor Agency may determine that the Bonds shall be registered in the name of and deposited with a successor depository operating a securities depository system, qualified to act as such under Section 17(a) of the Securities Exchange Act of 1934, as amended, as may be acceptable to the Successor Agency, or such depository's agent or designee.

ARTICLE III

DEPOSIT AND APPLICATION OF PROCEEDS OF BONDS;  
PARITY DEBT

Section 3.01. Issuance of Bonds. Upon the execution and delivery of this Indenture, the Successor Agency shall execute and deliver to the Trustee Bonds in the aggregate principal amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) and the Trustee shall authenticate and deliver the Bonds upon the Written Request of the Successor Agency.

Section 3.02. Application of Proceeds of Sale. Upon the receipt of payment for the Bonds on the Closing Date of \$\_\_\_\_\_, being the principal amount of the Bonds of \$\_\_\_\_\_, less an underwriter's discount of \$\_\_\_\_\_, and less an original issue discount of \$\_\_\_\_\_, the Trustee shall apply the proceeds of sale thereof as follows:

- (a) The Trustee shall deposit the amount of \$\_\_\_\_\_ in the Costs of Issuance Fund;
- (b) The Trustee shall deposit the amount of \$\_\_\_\_\_ in the Reserve Account;
- (c) The Trustee shall transfer the amount of \$\_\_\_\_\_ to the Escrow Bank for deposit in the 1998 Escrow Fund; and
- (d) The Trustee shall transfer the amount of \$\_\_\_\_\_ to the Escrow Bank for deposit in the 2001 Escrow Fund.

The Trustee may establish, as it deems necessary, a temporary fund or account on its records to facilitate the deposits and transfers set forth herein.

Section 3.03. Costs of Issuance Fund. There is hereby established a separate fund to be known as the "Costs of Issuance Fund," which shall be held by the Trustee in trust. The moneys in the Costs of Issuance Fund shall be used and withdrawn by the Trustee from time to time to pay the Costs of Issuance upon submission of a Written Request of the Successor Agency stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. On the date six months following the Closing Date, or upon the earlier Written Request of the Successor Agency stating that all known Costs of Issuance have been paid, all amounts, if any, remaining in the Costs of Issuance Fund shall be withdrawn therefrom by the Trustee and transferred to the Interest Account.

Section 3.04. Issuance of Parity Debt. In addition to the Bonds, the Successor Agency may issue or incur Parity Debt to refund the Bonds or previously issued Parity Debt in such principal amount as shall be determined by the Successor Agency, pursuant to a separate or Supplemental Indenture adopted or entered into by the Successor Agency and Trustee and for such purposes as are permitted under the Dissolution Act, including without limitation section 34177.5 thereof. The Successor Agency may issue or incur such Parity Debt subject to the following specific conditions precedent:

(a) The Successor Agency will be in compliance with all covenants set forth in this Indenture ;

(b) The Oversight Board shall have approved the issuance of Parity Debt.

(c) The Parity Debt will be on such terms and conditions as may be set forth in a separate or Supplemental Indenture, which will provide for (i) bonds substantially in accordance with this Indenture , and (ii) the deposit of moneys into the Reserve Account in an amount sufficient, together with the balance of the Reserve Account, to equal the Reserve Requirement on all Bonds expected to be outstanding including the Parity Debt;

(d) Receipt of a certificate or opinion of an Independent Financial Consultant stating that the total net interest cost to maturity of the Parity Debt plus the principal amount of the Parity will not exceed the total net interest cost to maturity of the Bonds or previously issued Parity Debt to be refunded plus the principal amount of the Bonds or previously issued Parity Debt to be refunded.

(e) The Parity Debt will mature on and interest will be payable on the same dates as the Bonds (except the first interest payment may be from the date of the Parity Debt until the next succeeding May 1 or November 1).

Section 3.05. Validity of Bonds. The validity of the authorization and issuance of the Bonds shall not be dependent upon the completion of the Redevelopment Project or upon the performance by any person of his obligation with respect to the Redevelopment Project.

## ARTICLE IV

### SECURITY OF BONDS; FLOW OF FUNDS

Section 4.01. Security of Bonds; Equal Security. Except as provided in Sections 4.02 and 6.06, the Bonds and any additional Parity Debt shall be equally secured by a pledge and lien on all of the Pledged Tax Revenues and by a first and exclusive pledge and lien upon all of the moneys in the Debt Service Fund (including the Interest Account, the Principal Account, the Reserve Account and the Redemption Account therein) without preference or priority for series, issue, number, dated date, sale date, date of execution or date of delivery. Except for the Pledged Tax Revenues and such moneys, no funds or properties of the Successor Agency shall be pledged to, or otherwise liable for, the payment of principal of or interest or redemption premium (if any) on the Bonds.

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

Section 4.02. Redevelopment Obligation Retirement Fund; Deposit of Pledged Tax Revenues. There has been established a special trust fund known as the "Redevelopment Obligation Retirement Fund," which shall be held by the Successor Agency pursuant to section 34170.5 of the Dissolution Act. There is hereby established a special trust fund known as the "Debt Service Fund" and the accounts therein referred to below which shall be held by the Trustee. The Successor Agency shall deposit all of the Pledged Tax Revenues received in any Bond Year in the Redevelopment Obligation Retirement Fund promptly upon receipt thereof by the Successor Agency, and promptly thereafter shall transfer amounts received therein to the Debt Service Fund established and held by the Trustee under this Indenture until such time during such Bond Year as the amounts so transferred to the Debt Service Fund hereunder equal the aggregate amounts required to be deposited by the Trustee into the Interest Account, the Principal Account, the Reserve Account and the Redemption Account of the Debt Service Fund in such Bond Year pursuant to Section 4.03 of this Indenture and for deposit in such Bond Year in the funds and accounts established with respect to Parity Debt, as provided in any Supplemental Indenture.

Section 4.03. Deposit of Amounts by Trustee. There are hereby created accounts within the Debt Service Fund as set forth below, to be known respectively as the Interest Account, the Principal Account, the Sinking Account, the Reserve Account and the Redemption Account. Moneys in the Debt Service Fund will be transferred by the Trustee in the following amounts at the following times, for deposit by the Trustee in the following respective accounts within the Debt Service Fund, in the following order of priority:

(a) *Interest Account.* On or before the fifth Business Day preceding each Interest Payment Date, to the extent there are moneys available, the Trustee shall transfer funds from the Debt Service Fund for deposit in the Interest Account an amount which, when added to the amount contained in the Interest Account on that date, will be equal to the aggregate amount of the interest becoming due and payable on the Outstanding Bonds and Parity Debt on such Interest Payment Date. No such transfer and deposit need be made to the Interest Account if the

amount contained therein is at least equal to the interest to become due on the next succeeding Interest Payment Date upon all of the Outstanding Bonds and Parity Debt. Subject to this Indenture, all moneys in the Interest Account will be used and withdrawn by the Trustee solely for the purpose of paying the interest on the Bonds and Parity Debt as it becomes due and payable (including accrued interest on any Bonds and Parity Debt redeemed prior to maturity pursuant to this Indenture).

(b) *Principal Account.* On or before the fifth Business Day preceding each Interest Payment Date, commencing November 1, 2013, to the extent there are moneys available, the Trustee shall transfer funds from the Debt Service Fund for deposit in the Principal Account an amount equal to one-half of the principal payments becoming due and payable on Outstanding Bonds and Parity Debt on the next May 1, to the extent monies on deposit in the Debt Service Fund are available therefor. No such transfer and deposit need be made to the Principal Account if the amount contained therein is at least equal to the principal payments to become due on the next May 1 on all Outstanding Bonds and Parity Debt. Subject to this Indenture, all moneys in the Principal Account will be used and withdrawn by the Trustee solely for the purpose of paying the principal payments of the Bonds and Parity Debt as it becomes due and payable.

(c) *Sinking Account.* On or before the fifth Business Day preceding each Interest Payment Date, commencing \_\_\_\_\_, 20\_\_\_, to the extent there are moneys available, the Trustee shall transfer funds from the Debt Service Fund for deposit in the Sinking Account an amount equal to one-half of the sinking account payments becoming due and payable on Outstanding Bonds and Parity Debt on the next May 1, to the extent monies on deposit in the Debt Service Fund are available therefor. No such transfer and deposit need be made to the Sinking Account if the amount contained therein is at least equal to the sinking account payments to become due on the next May 1 on all Outstanding Bonds and Parity Debt. Subject to this Indenture, all moneys in the Sinking Account will be used and withdrawn by the Trustee solely for the purpose of paying the aggregate principal amount of the Term Bonds and term bonds relating to Parity Debt required to be redeemed on such May 1 pursuant to Section 2.03(b).

(d) *Reserve Account.* In the event moneys on deposit in the Debt Service Fund five (5) Business Days before any Interest Payment Date are less than the full amount of the interest and principal and sinking account payments required to be deposited by the Trustee pursuant to this Section 4.03, the Trustee will, five (5) Business Days before such Interest Payment Date, withdraw from the Reserve Account an amount equal to any such deficiency and will notify the Successor Agency of any such withdrawal. Promptly upon receipt of any such notice, the Successor Agency will withdraw from the Redevelopment Obligation Retirement Fund and transfer to the Trustee for deposit in the Reserve Account an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account. If there is not sufficient moneys in the Redevelopment Obligation Retirement Fund to transfer an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account, the Successor Agency will have an obligation to continue making transfers of Pledged Tax Revenues into the Debt Service Fund, as such revenues become available, and thereafter, as moneys become available in the Debt Service Fund, the Trustee will make transfers to the Reserve Account until there is an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account. No such transfer and deposit need be made to the Reserve Account (or any subaccount therein) so long as there is on deposit therein a sum at least equal to the Reserve Requirement. Subject to this Indenture all money in the Reserve Account will be used and withdrawn by the Trustee solely for the purpose of making transfers to the Interest Account, the Principal Account and the Sinking Account (and subaccounts therein, as the case may be), in such order of priority, in the event of any deficiency at any time in any of such accounts or for the retirement of all the Bonds then Outstanding, except that so long as the Successor Agency is not in default hereunder, any amount in the Reserve Account in excess of the Reserve Requirement will be withdrawn from



the Reserve Account semiannually on or before the 5th Business Day preceding May 1 and November 1 by the Trustee and deposited in the Interest Account. All amounts in the Reserve Account on the 5th Business Day preceding the final Interest Payment Date will be withdrawn from the Reserve Account and will be transferred either (i) to the Interest Account, the Principal Account and the Sinking Account, in such order, to the extent required to make the deposits then required to be made or, (ii) if the Successor Agency shall have caused to be deposited with the Trustee an amount sufficient to make the deposits required by this Indenture, then at the Written Request of the Successor Agency such amount shall be transferred as directed by the Successor Agency.

The Reserve Account may be maintained at the specific direction of the Successor Agency in the form of one or more separate sub-accounts which are established for the purpose of holding the proceeds of separate issues of the Bonds and Parity Debt in conformity with applicable provisions of the Tax Code.

(e) *Redemption Account.* On or before the fifth Business Day preceding any date on which Bonds are to be redeemed, the Trustee shall withdraw from the Debt Service Fund and transfer to the Redemption Account an amount required to pay the principal of and premium, if any, on the Bonds to be redeemed on such date, taking into account any funds then on deposit in the Redemption Account. The Trustee shall also deposit in the Redemption Account any other amounts received by it from the Successor Agency designated by the Successor Agency in writing to be deposited in the Redemption Account. All moneys in the Redemption Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of and premium, if any, on the Bonds to be redeemed on the respective dates set for such redemption.

## ARTICLE V

### OTHER COVENANTS OF THE AGENCY

Section 5.01. Covenants of the Successor Agency. As long as the Bonds are outstanding and unpaid, the Successor Agency shall (through its proper members, officers, agents or employees) faithfully perform and abide by all of the covenants, undertakings and provisions contained in this Indenture or in any Bond issued hereunder, including the following covenants and agreements for the benefit of the Bondowners which are necessary, convenient and desirable to secure the Bonds and any Parity Debt and will tend to make them more marketable; *provided, however*, that the covenants do not require the Successor Agency to expend any funds other than the Pledged Tax Revenues:

(a) *Use of Proceeds; Management and Operation of Properties*. The Successor Agency covenants and agrees that the proceeds of the sale of the Bonds will be deposited and used as provided in this Indenture and that it will manage and operate all properties owned by it comprising any part of the Redevelopment Project in a sound and businesslike manner.

(b) *No Priority*. The Successor Agency covenants and agrees that it will not issue any obligations payable, either as to principal or interest, from the Pledged Tax Revenues which have any lien upon the Pledged Tax Revenues prior or superior to the lien of the Bonds. Except as permitted by Section 3.04 hereof, it will not issue any obligations, payable as to principal or interest, from the Pledged Tax Revenues, which have any lien upon the Pledged Tax Revenues on a parity with the Bonds authorized herein. Notwithstanding the foregoing, nothing in this Indenture shall prevent the Successor Agency (i) from issuing and selling pursuant to law, refunding obligations payable from and having any lawful lien upon the Pledged Tax Revenues, if such refunding obligations are issued for the purpose of, and are sufficient for the purpose of, refunding all of the Outstanding Bonds and Parity Debt, (ii) from issuing and selling obligations which have, or purport to have, any lien upon the Pledged Tax Revenues which is junior to the Bonds or (iii) from issuing and selling bonds or other obligations which are payable in whole or in part from sources other than the Pledged Tax Revenues. As used herein "obligations" includes, without limitation, bonds, notes, interim certificates, debentures or other obligations.

(c) *Punctual Payment*. The Successor Agency covenants and agrees that it will duly and punctually pay or cause to be paid the principal of and interest on each of the Bonds on the date, at the place and in the manner provided in the Bonds, and that it will take all actions required under the Dissolution Act to include scheduled debt service on the Bonds, as well as any amount required under the Indenture to replenish the Reserve Account of the Debt Service Fund, in Recognized Obligation Payment Schedules for each six-month period so as to enable the County Auditor-Controller to distribute from the Redevelopment Property Tax Trust Fund to the Successor Agency's Redevelopment Obligation Retirement Fund on each January 2 and June 1 amounts required for the Successor Agency to pay principal of, and interest on, the Bonds coming due in the respective six-month period, including, without limitation, placing on the periodic Recognized Obligation Payment Schedule for approval by the Oversight Board and State Department of Finance, to the extent necessary, the amounts to be held by the Successor Agency as a reserve until the next six-month period, as contemplated by paragraph (1)(A) of subdivision (d) of section 34171 of the Dissolution Act, that are necessary to provide for the payment of principal and interest hereunder when the next property tax allocation is projected to be insufficient to pay all obligations due under this Indenture and for the next payment due thereunder and hereunder in the following six-month period.

(d) *Payment of Taxes and Other Charges.* The Successor Agency covenants and agrees that it will from time to time pay and discharge, or cause to be paid and discharged, all payments in lieu of taxes, service charges, assessments or other governmental charges which may lawfully be imposed upon the Successor Agency or any of the properties then owned by it in the Redevelopment Project, or upon the revenues and income therefrom, and will pay all lawful claims for labor, materials and supplies which if unpaid might become a lien or charge upon any of the properties, revenues or income or which might impair the security of the Bonds or the use of Pledged Tax Revenues or other legally available funds to pay the principal of and interest on the Bonds, all to the end that the priority and security of the Bonds shall be preserved; provided, however, that nothing in this covenant shall require the Successor Agency to make any such payment so long as the Successor Agency in good faith shall contest the validity of the payment.

(e) *Books and Accounts; Financial Statements.* The Successor Agency covenants and agrees that it will at all times keep, or cause to be kept, proper and current books and accounts (separate from all other records and accounts) in which complete and accurate entries shall be made of all transactions relating to the Redevelopment Project and the Pledged Tax Revenues and other funds relating to the Redevelopment Project. The Successor Agency will prepare within one hundred eighty (180) days after the close of each of its Fiscal Years a post-audit of the financial transactions and records of the Successor Agency for the Fiscal Year to be made by an Independent Certified Public Accountant appointed by the Successor Agency, and will furnish a copy of the post-audit to the Trustee and any rating agency which maintains a rating on the Bonds, and, upon written request, to any Bondowner. The Trustee shall have no duty to review such post-audits.

(f) *Eminent Domain Proceeds.* The Successor Agency covenants and agrees that if all or any part of the Redevelopment Project should be taken from it without its consent, by eminent domain proceedings or other proceedings authorized by law, for any public or other use under which the property will be tax exempt, it shall take all steps necessary to adjust accordingly the base year property tax roll of the Redevelopment Project.

(g) *Disposition of Property.* The Successor Agency covenants and agrees that it will not dispose of land area in the Redevelopment Projects (except property in effect on the date this Indenture is adopted as planned for public use, or property to be used for public streets, public off-street parking, sewage facilities, parks, easements or right-of-way for public utilities, or other similar uses) to public bodies or other persons or entities whose property is tax exempt, unless such disposition will not result in Pledged Tax Revenues to be less than 1.25 times Maximum Annual Debt Service, based upon the certificate or opinion of an Independent Financial Consultant appointed by the Successor Agency.

(h) *Protection of Security and Rights of Bondowners.* The Successor Agency covenants and agrees to preserve and protect the security of the Bonds and the rights of the Bondowners and to contest by court action or otherwise (i) the assertion by any officer of any government unit or any other person whatsoever against the Successor Agency that (A) the Law is unconstitutional or (B) that the Pledged Tax Revenues pledged under this Indenture cannot be paid to the Successor Agency for the debt service on the Bonds or (ii) any other action affecting the validity of the Bonds or diluting the security therefor, including, with respect to the Pledged Tax Revenues, the senior lien position of the Bonds to the Statutory Pass-Through Agreements.

(i) *Tax Covenants.* The Successor Agency covenants and agrees to contest by court action or otherwise any assertion by the United States of America or any departments or agency thereof that the interest received by the Bondowners is includable in gross income of the recipient under federal income tax laws on the date of issuance of the Bonds. Notwithstanding any other provision of this Indenture, absent an opinion of Bond Counsel that the exclusion

from gross income of interest with respect to the Bonds and Parity Debt will not be adversely affected for federal income tax purposes, the Successor Agency covenants to comply with all applicable requirements of the Tax Code necessary to preserve such exclusion from gross income and specifically covenants, without limiting the generality of the foregoing, as follows:

(i) **Rebate Requirement.** The Successor Agency shall take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government. In the event that the Successor Agency shall determine that any amounts are due and payable to the United States of America hereunder and that the Trustee has on deposit an amount of available moneys (excluding moneys on deposit in the Interest Account, the Principal Account, the Sinking Account or the Reserve Account and excluding any other moneys required to pay the principal of or interest or redemption premium, if any, on the Bonds) to make such payment, the Successor Agency shall promptly pay from available Pledged Tax Revenues or any other source of legally available funds the sum of (a) one hundred percent (100%) of the amounts determined to be due and payable to the United States of America as a result of the investment of amounts on deposit in any fund or account established hereunder, plus (b) all other amounts due and payable to the United States of America.

(ii) **Private Business Use Limitation.** The Successor Agency 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.

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

(iv) **Federal Guarantee Prohibition.** The Successor Agency 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.

(v) **No Arbitrage.** The Successor Agency 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 of the Bonds, would have caused the Bonds to be "arbitrage bonds" within the meaning of section 148(a) of the Tax Code.

(j) *Compliance with Dissolution Act.* The Successor Agency covenants that it will comply with the requirements of the Dissolution Act. Without limiting the generality of the foregoing, the Successor Agency covenants and agrees to file all required statements and hold all public hearings required under the Dissolution Act to assure compliance by the Successor Agency with its covenants hereunder.

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

(l) *Continuing Disclosure.* The Successor Agency hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Indenture, failure of the Successor Agency to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, any participating underwriter, holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

## ARTICLE 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 waiver 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, duties or obligations shall 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 person would exercise or use under the circumstances in the conduct of its own affairs.

(b) The Successor Agency may remove the Trustee at any time, unless an Event of Default shall have occurred and then be continuing, and shall remove the Trustee (i) if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing), or (ii) if at any time the Successor Agency has knowledge that the Trustee shall cease to be eligible in accordance with subsection (e) of this Section 6.01, or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property shall be appointed, or any public officer shall take control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation. In each case such removal shall be accomplished by the giving of written notice of such removal by the Successor Agency to the Trustee, whereupon the Successor Agency shall immediately 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 Successor Agency and by giving the Owners notice of such resignation by first class mail, postage prepaid, at their respective addresses shown on the Registration Books. Upon receiving such notice of resignation, the Successor Agency shall promptly appoint a successor Trustee by an instrument in writing.

(d) Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. If no successor Trustee shall have been appointed and have accepted appointment within forty-five (45) days of giving notice of removal or notice of resignation as aforesaid, the resigning Trustee or any Owner (on behalf of such Owner and all other Owners) may petition any court of competent jurisdiction at the expense of the Successor Agency 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, acknowledging and delivering to the Successor Agency and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the Written Request of the Successor Agency or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall pay over, transfer,

assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the Successor Agency shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the Successor Agency shall mail a notice of the succession of such Trustee to the trusts hereunder to each rating agency which then has a current rating on the Bonds and to the Owners at their respective addresses shown on the Registration Books. If the Successor Agency fails to mail such notice within fifteen (15) days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Successor Agency.

(e) Any Trustee appointed under the provisions of this Section 6.01 in succession to the Trustee shall be a financial institution having a trust office in the State, having (or in the case of a corporation or trust company included in a bank holding company system, the related bank holding company shall have) a combined capital and surplus of at least \$75,000,000, and subject to supervision or examination by federal or state authority. If such financial institution publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such financial institution shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this subsection (e), the Trustee shall resign immediately in the manner and with the effect specified in this Section 6.01.

Section 6.02. Merger or Consolidation. Any bank, corporation or trust company into which the Trustee may be merged or converted or with which either of them may be consolidated or any bank, corporation or trust company resulting from any merger, conversion or consolidation to which it shall be a party or any bank, corporation or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such bank, corporation or trust company shall be eligible under subsection (e) of Section 6.01, shall be the successor to such Trustee without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

Section 6.03. Liability of Trustee.

(a) The recitals of facts herein and in the Bonds contained shall be taken as statements of the Successor Agency, and the Trustee shall not assume responsibility for the correctness of the same, nor make any representations as to the validity or sufficiency of this Indenture or of the security for the Bonds or the tax status of interest thereon nor shall incur any responsibility in respect thereof, other than as expressly stated herein. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the Bonds. The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or intentional misconduct. The Trustee shall not be liable for the acts of any agents of the Trustee selected by it with due care. The Trustee and its officers and employees may become the Owner of any 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.

(b) The Trustee shall not be liable for any error of judgment made by a responsible employee or officer, unless the Trustee shall have been negligent in ascertaining the pertinent facts.

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

(d) The Trustee shall not be liable for any action taken by it 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 intentional misconduct of the Trustee. The permissive right of the Trustee to do things enumerated hereunder shall not be construed as a mandatory duty.

(e) The Trustee shall not be deemed to have knowledge of any Event of Default hereunder unless and until a Responsible Officer shall have actual knowledge thereof, or shall have received written notice thereof from the Successor Agency at its Principal Corporate Trust Office. In the absence of such actual knowledge or notice, the Trustee may conclusively assume that no default has occurred and is continuing under this Indenture. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Bonds, or as to the existence of an Event of Default thereunder. The Trustee shall not be responsible for the validity or effectiveness of any collateral given to or held by it. Without limiting the generality of the foregoing, the Trustee may rely conclusively on the Successor Agency's certificates to establish the Successor Agency's compliance with its financial covenants hereunder, including, without limitation, its covenants regarding the deposit of Pledged Tax Revenues into the Special Fund and the investment and application of moneys on deposit in the Special Fund (other than its covenants to transfer such moneys to the Trustee when due hereunder).

The Trustee shall have no liability or obligation to the Bond Owners with respect to the payment of debt service by the Successor Agency or with respect to the observance or performance by the Successor Agency of the other conditions, covenants and terms contained in this Indenture, or with respect to the investment of any moneys in any fund or account established, held or maintained by the Successor Agency pursuant to this Indenture or otherwise.

No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers. The Trustee shall be entitled to interest on all amounts advanced by it at the maximum rate permitted by law.

The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys or receivers and shall be entitled to opinion and advice of counsel concerning all matters of trust and its duties hereunder. The Trustee shall not be responsible for any action taken or not taken on the part of any agent, attorney or receiver appointed with due care by it hereunder.

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

Before taking any action under Article VIII or this Article at the written request of a majority of the Owners, the Trustee may require that a satisfactory indemnity bond be furnished by the Owners for the reimbursement of all expenses to which it may be put and to



protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any action so taken.

Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Bonds. The Trustee shall not be accountable for the use or application by the Successor Agency or any other party of any funds which the Trustee has released in accordance with the terms of this Indenture. The immunities and exceptions from liability of the Trustee shall extend to its officers, directors, employees, agents and attorneys. Whether or not expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of the Trustee shall be subject to the provisions of this Article VI.

The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay ("unavoidable delay") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Trustee.

Section 6.04. Right to Rely on Documents and Opinions. The Trustee shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, facsimile transmission, electronic mail, opinion or other paper or document believed by it to be genuine and to have been signed or prescribed by the proper party or parties, and shall not be required to make any investigation into the facts or matters contained thereon. The Trustee may consult with counsel, including, without limitation, counsel of or to the Successor Agency, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Trustee hereunder in accordance therewith.

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

The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to this Indenture provided, however, that: (a) subsequent to such facsimile transmission of written instructions and/or directions the Trustee shall forthwith receive the originally executed instructions and/or directions, (b) such originally executed instructions and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (c) the Trustee shall have received a current incumbency certificate containing the specimen signature of such designated person.

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

Section 6.06. Compensation and Indemnification. The Successor Agency shall pay to the Trustee from time to time reasonable compensation for all services rendered under this Indenture in accordance with the letter proposal from the Trustee approved by the Successor Agency and also all reasonable expenses, charges, legal and consulting fees and other disbursements and those of its attorneys (including the allocated costs and disbursement of in-house counsel to the extent such services are not redundant with those provided by outside counsel), agents and employees, incurred in and about the performance of its powers and duties under this Indenture. The Trustee shall have a first lien on the Pledged Tax 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 reasonable compensation to its experts, attorneys and counsel (including the allocated costs and disbursement of in-house counsel to the extent such services are not redundant with those provided by outside counsel).

The Successor Agency further covenants and agrees to indemnify, defend and save the Trustee and its officers, directors, agents and employees, harmless against any loss, expense and liabilities, including legal fees and expenses, which it may incur arising out of or in connection with the exercise and performance of its powers and duties hereunder, including the costs and expenses of defending against any claim of liability, but excluding any and all losses, expenses and liabilities which are due to the negligence or intentional misconduct of the Trustee, its officers, directors, agents or employees. The obligations of the Successor Agency and the rights of the Trustee under this Section 6.06 shall survive resignation or removal of the Trustee under this Indenture and payment of the Bonds and discharge of this Indenture.

Section 6.07. Deposit and Investment of Moneys in Funds. Subject to the provisions of Article V hereof, all moneys held by the Trustee in the Debt Service Fund, Costs of Issuance Fund or the Redemption Account, shall, at the written direction of the Successor Agency, be invested only in Permitted Investments. If the Trustee receives no written directions from the Successor Agency as to the investment of moneys held in any fund or account, the Trustee shall request such written direction from the Successor Agency and, pending receipt of instructions, shall invest such moneys solely in Permitted Investments described in subsection (d) of the definition thereof.

(a) Moneys in the Redevelopment Obligation Retirement Fund shall be invested by the Successor Agency only in obligations permitted by the Law which will by their terms mature not later than the date the Successor Agency estimates the moneys represented by the particular investment will be needed for withdrawal from the Redevelopment Obligation Retirement Fund.

(b) Moneys in the Interest Account, the Principal Account, the Sinking Account and the Redemption Account of the Debt Service Fund shall be invested only in obligations which will by their terms mature on such dates as to ensure that before each interest and principal payment date, there will be in such account, from matured obligations and other moneys already in such account, cash equal to the interest and principal payable on such payment date.

(c) Moneys in the Reserve Account shall be invested in (i) obligations which will by their terms mature on or before the date of the final maturity of the Bonds or five (5) years from the date of investment, whichever is earlier or (ii) an investment agreement which permits

withdrawals or deposits without penalty at such time as such moneys will be needed or in order to replenish the Reserve Account.

Obligations purchased as an investment of moneys in any of the funds or accounts shall be deemed at all times to be a part of such respective Fund or Account and the interest accruing thereon and any gain realized from an investment shall be credited to such Fund or Account and any loss resulting from any authorized investment shall be charged to such Fund or Account without liability to the Trustee. The Successor Agency or the Trustee, as the case may be, shall sell or present for redemption any obligation purchased whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such Fund or Account as required by this Indenture and shall incur no liability for any loss realized upon such a sale. All interest earnings received on any monies invested in the Interest Account, Principal Account, Sinking Account, Redemption Account or Reserve Account, to the extent they exceed the amount required to be in such Account, shall be transferred on each Interest Payment Date to the Debt Service Fund. The Trustee may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section 6.07. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Section 6.07 hereof. The Successor Agency acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Successor Agency the right to receive brokerage confirmations of security transactions as they occur, the Successor Agency specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Successor Agency periodic cash transaction statements which shall 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.

The value of Permitted Investments shall be determined as follows: (i) as to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination; (ii) as to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or *The New York Times*: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service; (iii) as to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest; and (iv) as to any investment not specified above: the value thereof established by prior agreement between the Successor Agency and the Trustee. If more than one provision of this definition of "value" shall apply at any time to any particular investment, the value thereof at such time shall be determined in accordance with the provision establishing the lowest value for such investment; provided, notwithstanding the foregoing, in making any valuations hereunder, the Trustee may utilize and conclusively rely upon such pricing services as may be regularly available to it, including, without limitation, those within its regular accounting system.

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

relating to the proceeds of the Bonds and all funds and accounts held by the Trustee pursuant to this Indenture. The Trustee shall maintain and store such records for a period of one year after the stated maturity of the Bonds.

Section 6.09. Appointment of Co-Trustee or Agent. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in the case of litigation under this Indenture, and in particular in case of the enforcement of the rights of the Trustee on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate trustee or co-trustee. The following provisions of this Section 6.09 are adopted to these ends.

In the event that the Trustee appoints an additional individual or institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-trustee but only to the extent necessary to enable such separate or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them; *provided, however*, in no event shall the Trustee be responsible or liable for the acts or omissions of any co-trustee.

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

Section 6.10. Other Transactions with Agency. The Trustee, either as principal or agent, may engage in or be interested in any financial or other transaction with the Successor Agency.

## ARTICLE VII

### MODIFICATION OR AMENDMENT OF THIS INDENTURE

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

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

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

(c) to provide for the issuance of Parity Debt in accordance with Section 3.04; or

(d) to amend any provision hereof relating to the requirements of or compliance with the Code, to any extent whatsoever but only if and to the extent such amendment will not adversely affect the exemption from federal income taxation of interest on any of the Bonds, in the opinion of nationally recognized bond counsel.

Except as set forth in the preceding paragraph, this Indenture and the rights and obligations of the Successor Agency and of the Owners may be modified or amended at any time by a Supplemental Indenture which shall become binding when the written consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding are filed with the Trustee. No such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Successor Agency to pay the principal, interest or redemption premiums (if any) at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the Owner of such Bond, or (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification. In no event shall any Supplemental Indenture modify any of the rights or obligations of the Trustee without its prior written consent. In addition, the Trustee shall be entitled to an opinion of counsel concerning the Supplemental Indenture's lack of any material adverse effect on the Owners and that all conditions precedent for any supplement or amendment has been satisfied.

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

Section 7.03. Endorsement or Replacement of Bonds After Amendment. After the effective date of any amendment or modification hereof pursuant to this Article VII, the Successor Agency may determine that any or all of the Bonds shall bear a notation, by

endorsement in form approved by the Successor Agency, as to such amendment or modification and in that case upon demand of the Successor Agency, the Owners of such Bonds shall present such Bonds for that purpose at the Principal Corporate Trust Office, and thereupon a suitable notation as to such action shall be made on such Bonds. In lieu of such notation, the Successor Agency may determine that new Bonds shall be prepared at the expense of the Successor Agency and executed in exchange for any or all of the Bonds, and in that case, upon demand of the Successor Agency, the Owners of the Bonds shall present such Bonds for exchange at the Principal Corporate Trust Office, without cost to such Owners.

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

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES OF OWNERS

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

(a) if default shall be made by the Successor Agency in the due and punctual payment of the principal or sinking fund payment of or interest or redemption premium (if any) on any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by declaration or otherwise;

(b) if default shall be made by the Successor Agency in the observance of any of the covenants, agreements or conditions on its part in this Indenture or in the Bonds contained, other than a default described in the preceding clause (a), and such default shall have continued for a period of sixty (60) days following receipt by the Successor Agency of written notice from the Trustee or any Owner of the occurrence of such default provided that if in the reasonable opinion of the Successor Agency the failure stated in the notice can be corrected, but not within such 60 day period, such failure will not constitute an event of default if corrective action is instituted by the Successor Agency within such 60 day period and the Successor Agency thereafter diligently and in good faith cures such failure within 120 days; or

(c) if the Successor Agency files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction will approve a petition seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or, if under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction will approve a petition, seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or, if under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction will assume custody or control of the Successor Agency or of the whole or any substantial part of its property.

If an Event of Default has occurred under this Section 8.01 and is continuing, the Trustee may, and, if requested in writing by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding the Trustee shall, (a) 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 shall become immediately due and payable, anything in this Indenture or in the Bonds to the contrary notwithstanding, and (b) the Trustee shall, subject to the provisions of Section 8.06, exercise any other remedies available to the Trustee and the Bond Owners in law or at equity.

Promptly upon receiving written notice or actual knowledge (of a Responsible Officer) of the occurrence of an Event of Default, the Trustee shall give notice of such Event of Default to the Successor Agency by telephone confirmed in writing. With respect to any Event of Default described in clauses (a) or (c) above the Trustee shall, and with respect to any Event of Default described in clause (b) above the Trustee in its sole discretion may, also give such notice to the Owners by mail, which shall include the statement that interest on the Bonds shall cease to accrue from and after the date, if any, on which the Trustee shall have declared the Bonds to become due and payable pursuant to the preceding paragraph (but only to the extent that principal and any accrued, but unpaid, interest on the Bonds is actually paid on such date).

This provision, however, is subject to the condition that if, at any time after the principal of the Bonds shall have been so declared due and payable, and before any judgment or decree

for the payment of the moneys due shall have been obtained or entered, the Successor Agency shall deposit 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 (to the extent permitted by law), and the reasonable expenses of the Trustee, (including the allocated costs and disbursements of its in-house counsel) to and any and all other defaults of which the Trustee has notice (other than in the payment of principal of and interest on the Bonds due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then, and in every such case, with the prior written approval of the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding, by written notice to the Successor Agency 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 shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

Section 8.02. Application of Funds Upon Acceleration. All of the Pledged Tax Revenues and all sums in the funds and accounts established and held by the Trustee hereunder upon the date of the declaration of acceleration as provided in Section 8.01, and all sums thereafter received by the Trustee hereunder, shall be applied by the Trustee in the following order upon presentation of the several Bonds, and the stamping thereon of the payment if only partially paid, or upon the surrender thereof if fully paid:

*First*, to the payment of the fees, costs and expenses of the Trustee in declaring such Event of Default and in exercising the rights and remedies set forth in this Article VIII, including reasonable compensation to its agents, attorneys (including the allocated costs and disbursements of its in-house counsel to the extent such services are not redundant with those provided by outside counsel) and counsel and any outstanding fees, expenses of the Trustee; and

*Second*, to the payment of the whole amount then owing and unpaid upon the Bonds for principal and interest, with interest on the overdue principal and installments of interest at the net effective rate then borne by the Outstanding Bonds (to the extent that such interest on overdue installments of principal and interest shall have been collected), and in case such moneys shall be insufficient to pay in full the whole amount so owing and unpaid upon the Bonds, then to the payment of such principal and interest without preference or priority of principal over interest, or interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and interest.

Section 8.03. Limitation on Owner's Right to Sue. No Owner of any Bond issued hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, unless (a) such Owner shall have 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 shall have made Written Request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall 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 shall have refused or omitted to comply with such request for a period of sixty (60) days after such Written Request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of any remedy



hereunder; it being understood and intended that no one or more Owners shall have 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 8.03 or any other provision of this Indenture.

Section 8.04. Non-Waiver. Nothing in this Article VIII or in any other provision of this Indenture or in the Bonds, shall affect or impair the obligation of the Successor Agency, which is absolute and unconditional, to pay from the Pledged Tax Revenues and other amounts pledged hereunder, the principal of and interest and redemption premium (if any) on the Bonds to the respective Owners on the respective Interest Payment Dates, as herein provided, or affect or impair the right of action, which is also absolute and unconditional, of the Owners or the Trustee to institute suit to enforce such payment by virtue of the contract embodied in the Bonds.

A waiver of any default by any Owner or the Trustee shall 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 and the Trustee by the Law or by this Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Owners and the Trustee.

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

Section 8.05. Actions by Trustee as Attorney-in-Fact. Any suit, action or proceeding which any Owner shall have the right to bring to enforce any right or remedy hereunder may be brought by the 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 or Parity Debt 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; *provided, however,* the Trustee shall have no duty or obligation to exercise any such right or remedy unless it has been indemnified to its satisfaction from any loss, liability or expense (including fees and expenses of its outside counsel and the allocated costs and disbursements of its in-house counsel).

Section 8.06. 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 the Law or any other law.

Section 8.07. Parties Interested Herein. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Successor Agency, the Trustee, their officers, employees and agents, and the Owners any right, remedy or claim under or by reason of this Indenture, or any covenant, condition or stipulation of this Indenture, and all covenants, stipulations, promises and agreements in this Indenture shall be for the sole and exclusive benefit of the Successor Agency, the Trustee, their officers, employees and agents, and the Owners.

ARTICLE IX  
MISCELLANEOUS

Section 9.01. Benefits Limited to Parties. Nothing in this Indenture, expressed or implied, is intended to give to any person other than the Successor Agency, the Trustee and the Owners, any right, remedy or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture contained by and on behalf of the Successor Agency shall be 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 Successor Agency or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the Successor Agency or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 9.03. Discharge of Indenture. If the Successor Agency shall pay and discharge the entire indebtedness on all Bonds or any portion thereof in any one or more of the following ways:

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

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

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

and, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given pursuant to Section 2.03(c) or provision satisfactory to the Trustee shall have been made for the giving of such notice, then, at the election of the Successor Agency, and notwithstanding that any Bonds shall not have been surrendered for payment, the pledge of the Pledged Tax Revenues and other funds provided for in this Indenture and all other obligations of the Trustee and the Successor Agency under this Indenture shall cease and terminate with respect to all Outstanding Bonds or, if applicable, with respect to that portion of the Bonds which has been paid and discharged, except only (a) the covenants of the Successor Agency hereunder with respect to the Code, (b) the obligation of the Trustee to transfer and exchange Bonds hereunder, (c) the obligations of the Successor Agency under Section 6.06 hereof, and (d) the obligation of the Successor Agency to pay or cause to be paid to the Owners, from the amounts so deposited with the Trustee, all sums due thereon and to pay the Trustee all fees, expenses and costs of the Trustee. In the event the Successor Agency shall, pursuant to the foregoing provision, pay and discharge any portion or all of the Bonds then Outstanding, the Trustee shall be authorized to take such actions and execute and deliver to the Successor Agency all such instruments as may be necessary or desirable to evidence such discharge,

including, without limitation, selection by lot of Bonds of any maturity of the Bonds that the Successor Agency has determined to pay and discharge in part.

In the case of a defeasance or payment of all of the Bonds Outstanding, any funds thereafter held by the Trustee which are not required for said purpose or for payment of amounts due the Trustee pursuant to Section 6.06 shall be paid over to the Successor Agency.

To accomplish defeasance the Successor Agency shall cause to be delivered (i) a Report of an Independent Accountant verifying the sufficiency of the escrow established to pay the Bonds in full on the maturity or earlier redemption date ("Verification"), (ii) an escrow deposit agreement, and (iii) an opinion of nationally recognized bond counsel to the effect that the Bonds are no longer "Outstanding" under this Indenture; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the Successor Agency and the Trustee.

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

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

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

Any request, declaration or other instrument or writing of the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the Successor Agency or the Trustee and in accordance therewith, *provided, however*, that the Trustee shall not be deemed to have knowledge that any Bond is owned by or for the account of the Successor Agency unless the Successor Agency is the registered Owner or the Trustee has received written notice that any other registered Owner is such an affiliate.

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 Successor Agency or the City (but excluding Bonds held in any employees' retirement fund) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination. Upon request of the Trustee, the Successor Agency shall specify to the Trustee those Bonds disqualified pursuant to this Section 9.05.

Section 9.06. Waiver of Personal Liability. No member, officer, agent or employee of the Successor Agency shall be individually or personally liable for the payment of the principal of or interest or any premium on the Bonds; but nothing herein contained shall relieve any such 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 Trustee of any Bonds which have been paid or canceled pursuant

to the provisions of this Indenture, the Trustee shall destroy such bonds and upon request of the Successor Agency provide the Successor Agency a certificate of destruction. The Successor Agency shall be entitled to rely upon any statement of fact contained in any certificate with respect to the destruction of any such Bonds therein referred to.

Section 9.08. Notices. Any notice, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by first class, registered or certified mail, postage prepaid, or sent by telegram, addressed as follows:

If to the Successor Agency:	Successor Agency of the Redevelopment Agency of the City of Brisbane 50 Park Place Brisbane, CA 94005 Attention: Treasurer Phone: (415) 508-2151 Fax: (415) 467-4989
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If to the Trustee:	The Bank of New York Mellon Trust Company, N.A. 400 South Hope Street, Suite 400 Los Angeles, CA 90071 Phone: (213) 630-6260 Fax: (213) 630-6215
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The Successor Agency and the Trustee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 9.09. Partial Invalidity. If any Section, paragraph, sentence, clause or phrase of this Indenture shall for any reason be held illegal, invalid or unenforceable, such holding shall not affect the validity of the remaining portions of this Indenture. The Successor Agency hereby declares that it would have adopted this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issue of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Indenture may be held illegal, invalid or unenforceable. If, by reason of the judgment of any court, the Trustee is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the Trustee hereunder shall, pending appointment of a successor Trustee in accordance with the provisions of Section 6.01 hereof, be assumed by and vest in the Treasurer of the Successor Agency in trust for the benefit of the Owners. The Successor Agency covenants for the direct benefit of the Owners that its Treasurer in such case shall be vested with all of the rights and powers of the Trustee hereunder, and shall assume all of the responsibilities and perform all of the duties of the Trustee hereunder, in trust for the benefit of the Bonds, pending appointment of a successor Trustee in accordance with the provisions of Section 6.01 hereof.

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 (2) 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 (2) 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 Successor Agency as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Bond Owners shall look only to the Successor Agency for the payment of the principal of and interest and redemption premium (if any) on of 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.

IN WITNESS WHEREOF, the SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF BRISBANE, has caused this Indenture to be signed in its name by its officer thereunto duly authorized and attested by its Secretary, and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. 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.

SUCCESSOR AGENCY OF THE  
REDEVELOPMENT AGENCY OF THE  
CITY OF BRISBANE

By \_\_\_\_\_  
Executive Director

Attest:

\_\_\_\_\_  
Secretary

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

By \_\_\_\_\_  
Vice President

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

United States of America  
State of California  
City of Brisbane

**SUCCESSOR AGENCY OF THE  
REDEVELOPMENT AGENCY OF THE CITY OF BRISBANE  
2013 Tax Allocation Refunding Bond**

INTEREST RATE	MATURITY DATE	DATED DATE	CUSIP
_____%	_____, 1, _____	August __, 2013	_____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: \_\_\_\_\_ DOLLARS

The SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF BRISBANE, as successor to the former Redevelopment Agency of the City of Brisbane, a public body, corporate and politic, duly organized and existing under and by virtue of the laws of the State of California (the "Agency"), for value received hereby promises to pay to the Registered Owner stated above, or registered assigns (the "Registered Owner"), on the Maturity Date stated above (subject to any right of prior redemption hereinafter provided for), the Principal Sum stated above, in lawful money of the United States of America, and to pay interest thereon in like lawful money from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication of this Bond, unless (i) this Bond is authenticated on or before an Interest Payment Date and after the close of business on the fifteenth (15th) day of the month immediately preceding an Interest Payment Date (the "Record Date"), in which event it shall bear interest from such Interest Payment Date, or (ii) this Bond is authenticated on or before October 15, 2013, in which event it shall bear interest from the Dated Date above; *provided however*, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the interest payment date to which interest has previously been paid or made available for payment on this Bond, until payment of such Principal Sum in full, at the Interest Rate per annum stated above, payable semiannually on each May 1 and November 1, commencing November 1, 2013, or, if such day is not a Business Day (as such term is defined in the Indenture, hereinafter defined), on the next succeeding Business Day (each an "Interest Payment Date"), calculated on the basis of 360-day year comprised of twelve 30-day months. Principal hereof and premium, if any, upon early redemption hereof are payable upon surrender of this Bond at the Principal Corporate Trust Office (as such term is defined in the Indenture) of The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), or at such other place as designated by the Trustee. Interest hereon (including the final interest payment upon maturity or earlier redemption) is payable by check of the Trustee mailed by first class mail, postage prepaid, on the Interest Payment Date to the Registered Owner hereof at the Registered Owner's address as it appears on the registration books maintained by the Trustee as of the Record Date for which such Interest Payment Date occurs; provided however, that payment of interest may be by wire transfer to an account in the United States of America to



any registered owner of Bonds in the aggregate principal amount of \$1,000,000 or more upon written instructions of any such registered owner filed with the Trustee for that purpose on or before the Record Date preceding the applicable Interest Payment Date.

This Bond is one of a duly authorized issue of bonds of the Successor Agency designated as "Successor Agency of the Redevelopment Agency of the City of Brisbane 2013 Tax Allocation Refunding Bonds" (the "Bonds"), of an aggregate principal amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_), all of like tenor and date (except for such variation, if any, as may be required to designate varying series, numbers, maturities, interest rates, or redemption and other provisions) and all issued pursuant to the provisions of section 34177.5(g) of the California Health and Safety Code and section 53580 *et seq.* of the California Government Code and pursuant to Resolution No. \_\_\_\_\_ of the Successor Agency, adopted on \_\_\_\_\_, 2013, and a resolution adopted by the Oversight Board on \_\_\_\_\_, 2013, and an Indenture of Trust, dated as of August 1, 2013, entered into by and between the Successor Agency and the Trustee (the "Indenture"), authorizing the issuance of the Bonds. Additional bonds, or other obligations may be issued 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 Successor Agency) and all indentures supplemental thereto and to the provisions of the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the California Health and Safety Code (the "Redevelopment Law") for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Pledged Tax Revenues (as that term is defined in the Indenture), and the rights thereunder of the registered owners of the Bonds and the rights, duties and immunities of the Trustee and the rights and obligations of the Successor Agency thereunder, to all of the provisions of which Indenture the Registered Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds have been issued by the Successor Agency for the purpose of providing funds to (a) refinance redevelopment and low and moderate income housing activities with respect to its Brisbane Community Redevelopment Project Area Number One and its Brisbane Community Redevelopment Project Area Number Two (collectively, the "Redevelopment Projects"), and, in particular, to (i) refund, on a current basis, the Redevelopment Agency of the City of Brisbane, 1998 Tax Allocation Bonds (Housing Set-Aside Revenues—Tower Site Senior Housing), and (ii) refund, on a current basis, the Redevelopment Agency of the City of Brisbane, Brisbane Community Redevelopment Project Area Number One, 2001 Tax Allocation Bonds (the "2001 Agency Bonds") and, therefore, refund, on a current basis, the Brisbane Public Financing Authority Revenue Bonds, 2001 Series A (Redevelopment Agency of the City of Brisbane—Brisbane Community Redevelopment Project Area Number One Area), the proceeds of which were used to purchase the 2001 Agency Bonds, of which \$17,985,000 principal amount remains outstanding (the "2001 Authority, (b) fund a reserve account for the Bonds, and (c) pay certain expenses of the Successor Agency in issuing the Bonds.

The Bonds are special obligations of the Successor Agency and this Bond and the interest hereon and on all other Bonds and the interest thereon (to the extent set forth in the Indenture), are payable from, and are secured by a pledge of, security interest in and lien on the Pledged Tax Revenues being the moneys deposited from time to time in the Redevelopment Property Tax Trust Fund established pursuant to subdivision (c) of section 34172 the California Health and Safety Code, as provided in paragraph (2) of subdivision (a) of section 34183 of the California Health and Safety Code. If, and to the extent, that the provisions of section 34172 or paragraph (2) of subdivision (a) of section 34183 the California Health and Safety Code are invalidated by a final judicial decision, then Pledged Tax Revenues shall include all tax revenues allocated to the payment of indebtedness pursuant to section 33670 of the California Health and Safety Code or such other section as may be in effect at the time providing for the allocation of tax increment revenues in accordance with Article XVI, Section 16 of the California Constitution.

There has been created and will be maintained by the Successor Agency, the Redevelopment Obligation Retirement Fund (as defined in the Indenture) into which Pledged Tax Revenues shall be deposited and from which the Successor Agency shall transfer amounts to the Trustee for payment of the principal of and the interest and redemption premium, if any, on the Bonds when due. As and to the extent set forth in the Indenture, all such Pledged Tax Revenues are exclusively and irrevocably pledged to and constitute a trust fund, in accordance with the terms hereof and the provisions of the Indenture and the Redevelopment Law, for the security and payment or redemption of, including any premium upon early redemption, and for the security and payment of interest on, the Bonds. In addition, the Bonds shall be additionally secured at all times by a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Redevelopment Obligation Retirement Fund, the Debt Service Fund, the Interest Account, the Principal Account, the Sinking Account, the Reserve Account, and the Redemption Account (as such terms are defined in the Indenture). Except for the Pledged Tax Revenues and such moneys, no funds or properties of the Successor Agency shall be pledged to, or otherwise liable for, the payment of principal of or interest or redemption premium, if any, on the Bonds.

The Bonds maturing on or before May 1, \_\_\_\_\_, are not subject to optional redemption prior to maturity. The Bonds maturing on or after May 1, \_\_\_\_\_, are subject to redemption, at the option of the Successor Agency on any date on or after May 1, \_\_\_\_\_, as a whole or in part, by such maturities as shall be determined by the Successor Agency (and, in lieu of such determination, *pro rata* among maturities), and by lot within a maturity, from any available source of funds, at a redemption price equal to the principal amount thereof, together with accrued interest to the date fixed for redemption, without premium.

The Bonds are also subject to mandatory redemption from sinking fund payments made by the Successor Agency, in part by lot, on May 1, \_\_\_\_\_, and on each May 1 to and including May 1, \_\_\_\_\_, at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, as set forth in the following table:

Redemption Date ( <u>May 1</u> )	Principal <u>Amount</u>	Redemption Date ( <u>May 1</u> )	Principal <u>Amount</u>
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† Maturity.

As provided in the Indenture, notice of redemption shall be given by first class mail no less than thirty (30) nor more than sixty (60) days prior to the redemption date to the respective registered owners of any Bonds designated for redemption at their addresses appearing on the Bond registration books maintained by the Trustee, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for redemption.

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

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

The Bonds are issuable as fully registered Bonds without coupons in denominations of \$5,000 and any integral multiple thereof. Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Indenture, Bonds may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations and of the same maturity.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Principal Corporate Trust Office of the Trustee, but only in the manner and subject to the limitations provided in the Indenture, and upon surrender and cancellation of this Bond. Upon registration of such transfer a new fully registered Bond or Bonds, of any 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 Trustee may refuse to transfer or exchange (a) any Bonds during the fifteen (15) days prior to the date established for the selection of Bonds for redemption, or (b) any Bonds selected for redemption.

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

The rights and obligations of the Successor Agency and the registered 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 (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Successor Agency to pay the principal, interest or redemption premiums (if any) at the time and place and at the rate and in the currency provided herein of any Bond without the express written consent of the registered owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification or (c) without its written consent thereto, modify any of the rights or obligations of the Trustee.

This Bond is not a debt of the City of Brisbane, 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 those of the Successor Agency. The Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

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 and manner as required by the Redevelopment Law and the laws of the State of California, and that the amount of this Bond, together with all other indebtedness of the Successor Agency, does not exceed any limit prescribed by the Redevelopment Law or any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the Trustee's Certificate of Authentication hereon shall have been manually signed by the Trustee.

IN WITNESS WHEREOF, the Successor Agency of the Redevelopment Agency of the City of Brisbane has caused this Bond to be executed in its name and on its behalf with the facsimile signature of its Chairman and attested by the facsimile signature of its Secretary, all as of Dated Date stated above.

SUCCESSOR AGENCY OF THE  
REDEVELOPMENT AGENCY OF THE  
CITY OF BRISBANE

By \_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

**TRUSTEE'S CERTIFICATE OF AUTHENTICATION**

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

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

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

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

**ASSIGNMENT**

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

\_\_\_\_\_  
\_\_\_\_\_

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

the within Bond and do(es) hereby irrevocably constitute and appoint

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

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

Signature Guaranteed:

\_\_\_\_\_  
NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution (banks, stock brokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program) pursuant to Securities and Exchange Commission Rule 17 Ad-15.

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