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INDENTURE OF TRUST

by and between

SOUTHWESTERN ILLINOIS FLOOD PREVENTION DISTRICT COUNCIL,  
MADISON, ST. CLAIR AND MONROE COUNTIES, ILLINOIS

AND

UMB BANK, N.A., ST. LOUIS, MISSOURI  
as Trustee

Dated as of November 23, 2010

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Securing

\$94,195,000

Southwestern Illinois Flood Prevention District Council,  
Madison, St. Clair and Monroe Counties, Illinois  
Flood Prevention District Council Sales Tax Revenue Bonds, Series 2010

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## INDENTURE OF TRUST

THIS INDENTURE OF TRUST is made and entered into as of November 23, 2010, from the SOUTHWESTERN ILLINOIS FLOOD PREVENTION DISTRICT COUNCIL, MADISON, ST. CLAIR AND MONROE COUNTIES, ILLINOIS (the "*Council*"), a unit of local government created pursuant to an intergovernmental cooperation agreement among the Madison County Flood Prevention District, Madison County, Illinois, the St. Clair County Flood Prevention District, St. Clair County, Illinois, and the Monroe County Flood Prevention District, Monroe County, Illinois, organized and existing under the laws of the State of Illinois, located in Madison, St. Clair and Monroe Counties, Illinois, and UMB BANK, N.A., a national banking association organized under the laws of the United States of America having a corporate trust office in the St. Louis, Missouri, as trustee (said association, and any successor or successors as trustee hereunder, being herein referred to as the "*Trustee*");

### WITNESSETH:

WHEREAS, The Counties of Madison, St. Clair and Monroe, Illinois (each a "*County*" and together the "*Counties*"), are duly organized and existing units of local government created under the provisions of the laws of the State of Illinois, and are now operating under the provisions of the Counties Code of the State of Illinois, and all laws amendatory thereof and supplementary thereto; and

WHEREAS, the County Board of each County (each, a "*County Board*"), pursuant to the Flood Prevention District Act of the State of Illinois, as amended (the "*Act*"), has heretofore declared an emergency and created, respectively, the Madison County Flood Prevention District, Madison County, Illinois, the St. Clair County Flood Prevention District, St. Clair County, Illinois, and the Monroe County Flood Prevention District, Monroe County, Illinois (each, a "*District*" and collectively the "*Districts*") for the purpose of performing emergency levee repair and flood prevention in order to prevent the loss of life or property; and

WHEREAS, the Districts are duly organized and existing units of local government created under the provisions of the laws of the State of Illinois, and are now operating under the provisions of the Act, and all laws amendatory thereof and supplementary thereto; and

WHEREAS, the Board of Commissioners of each District (each, a "*Board of Commissioners*") has been duly appointed by the Chairman of each County Board; and

WHEREAS, each Board of Commissioners has determined that an emergency situation exists regarding levee repair or flood prevention within each District and each County; and

WHEREAS, each County Board has confirmed the determination of the respective Board of Commissioners that an emergency situation exists; and

WHEREAS, each County Board has imposed a flood prevention retailers' occupation tax and a flood prevention service occupation tax pursuant to the Act (the "*Flood Prevention District Sales Taxes*"); and

WHEREAS, each Board of Commissioners has determined that it is advisable, necessary and in the best interests of each County and each District to provide emergency levee repair and flood protection, within or outside of each District's corporate limits (the "*Project*") as permitted by the Act; and

WHEREAS, the estimated cost of the Project, including engineering, legal, financial, bond discount, printing and publication costs, capitalized interest, bond reserve and other expenses, is not less than \$150,000,000, and there are insufficient funds on hand and lawfully available to pay such costs; and

WHEREAS, subject to and in accordance with the provisions of the Act, each District is authorized to issue revenue bonds (the "*Bonds*") for the purpose of providing funds to pay the cost of the Project, the Bonds being payable from revenues received from the Flood Prevention District Sales Taxes and from any other revenue sources available to each District; and

WHEREAS, pursuant to the authority granted by Article VII, Section 10(a) of the Constitution of the State of Illinois and the Illinois Intergovernmental Cooperation Act, the Districts have entered into an Intergovernmental Cooperation Agreement (the "*District/Council Intergovernmental Agreement*") to finance, design, construct, manage and oversee the Project; and

WHEREAS, the Act provides that the Districts may join together through intergovernmental cooperation agreement to provide any services described in the Act, to construct, reconstruct, repair or otherwise provide any facilities described in the Act either within or without each District's corporate limits, to issue bonds, notes or other evidences of indebtedness, to pledge the sales taxes imposed pursuant to the Act to the obligations of any other District, and to exercise any other power authorized by the Act; and

WHEREAS, pursuant to the District/Council Intergovernmental Agreement the Council was created to finance, design, construct, manage and oversee the Project; and

WHEREAS, it is necessary and for the best interests of the Counties and the Districts that the Project be completed and in order to raise the funds required for such purpose it will be necessary for the Council to borrow at this time \$94,195,000; and

WHEREAS, it is in the best interest of the Districts that the Council issue the Bonds for the Project in an aggregate principal amount of \$94,195,000; and

WHEREAS, before the Council may issue the Bonds it is required by the Act to submit a request to each County Board and each Board of Commissioners for approval of the issuance of the Bonds; and

WHEREAS, the County Board of each County and the Board of Commissioners of each District have approved of the issuance of the Bonds by the Council; and

WHEREAS, in order to provide credit enhancement for the Bonds, it is in the best interest of the Council to enter into an intergovernmental agreement with each County providing for the direct deposit of the Flood Prevention District Sales Taxes with a trustee for the payment of the Bonds; and

WHEREAS, the execution and delivery of the Bonds and of this Indenture have in all respects been duly authorized and all things necessary to make such Bonds, when executed by the Council and authenticated by the Trustee, the valid and binding legal obligations of the Council and to make this Indenture a valid and binding agreement have been done.

NOW THEREFORE THIS INDENTURE WITNESSETH that to secure the Bonds issued and Outstanding under this Indenture, the payment of the principal or redemption price thereof and interest thereon, the rights of the Bondholders and the performance and observance of all of the covenants contained in the Bonds and herein, and for and in consideration of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Bondholders, from time to time, and of the acceptance by the Trustee of the trusts hereby created, and intending to be legally bound hereby, the Council does hereby sell, assign, transfer, set over, and pledge unto the Trustee, its successors in trust, and its assigns forever, and does grant to the Trustee, its successors in trust, and its assigns all right, title, and interest of the Council in and to the Flood Prevention District Sales Taxes, the Bond Fund, and all moneys and securities from time to time held by the Trustee under the terms of this Indenture and all other property, if any, pledged to the Trustee as security under this Indenture (collectively, the "*Trust Estate*");

TO HAVE AND TO HOLD all and singular the Trust Estate, whether now owned or hereafter acquired, irrevocably unto the Trustee and its successors in trust and assigns forever;

IN TRUST NEVERTHELESS, for the equal and ratable benefit and security of all present and future holders of Bonds issued and to be issued under this Indenture, without preference, priority, or distinction (except as otherwise specifically provided herein) of any one Bond over any other Bond;

PROVIDED HOWEVER that if the Council shall well and truly pay or cause to be paid the principal or redemption price of and interest on the Bonds due or to become due thereon at the times and in the manner set forth in the Bonds according to the true intent and meaning thereof, shall cause the payments to be made on the Bonds as required under Article V hereof, or shall provide, as permitted hereby, for the payment thereof by depositing with the Trustee the entire amount due or to become due thereon and shall well and truly cause to be kept, performed, and observed all of its covenants and conditions pursuant to the terms of this Indenture and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then, upon the final payment thereof, as provided in Article VI of this Indenture, the rights hereby granted shall cease and be void; otherwise this Indenture shall remain in full force and effect.

## ARTICLE I

### DEFINITIONS

**Section 1.01. Definitions.** In addition to the words and terms defined elsewhere in this Indenture, each of the following terms shall have the meaning assigned to it in this Section 1.01 whenever it is used in this Indenture, unless the context in which it is used clearly requires otherwise:

“*Act*” means the Flood Prevention District Act of the State of Illinois, as amended.

“*Additional Bonds*” means additional bonds authorized to be issued by the Council on a parity with the Bonds, pursuant to Section 5.14 of this Indenture.

“*Authorized Denomination*” means \$5,000 or any integral multiple thereof.

“*Beneficial Owner*” means the person in whose name a Bond is recorded as beneficial owner of such Bond by the Securities Depository or a Participant or an Indirect Participant on the records of such Securities Depository, Participant, or Indirect Participant, as the case may be, or such person’s subrogee.

“*Board of Commissioners*” means the Board of Commissioners of each District.

“*Board of Directors*” means the Board of Directors of the Council.

“*Bond*” or “*Bonds*” means one or more, as applicable, of the Flood Prevention District Council Sales Tax Revenue Bonds, Series 2010, and any Additional Bonds issued under this Indenture.

“*Bond Counsel*” means, with respect to the original issuance of the Series 2010 Bonds, Chapman and Cutler LLP, Chicago, Illinois, and thereafter, Chapman and Cutler LLP, or any firm of attorneys whose opinions are generally acceptable to purchasers of tax-exempt obligations of political subdivisions of state and local government, selected by the Council, and acceptable to the Trustee.

“*Bond Fund*” means the Southwestern Illinois Flood Prevention District Council Sales Tax Revenue Bond and Interest Fund created and established by Section 5.03 of this Indenture.

“*Bond Insurance Policy*” means the municipal bond insurance policy issued by the Bond Insurer guaranteeing the scheduled payment of principal of and interest on the Bonds.

“*Bond Insurer*” means any bond insurer issuing a credit facility for Bonds issued hereunder.

“*Bond Register*” means the books of the Council kept by the Trustee to evidence the registration and transfer of the Bonds.



*“Bond Resolution”* means the resolution, duly adopted by the Board of Directors on October 21, 2010, authorizing the issuance, sale, and delivery of the Series 2010 Bonds.

*“Bond Year”* means a twelve month period commencing with April 16 of the calendar year (or the dated date of the Bonds, as applicable) and ending on the next succeeding April 15. The first Bond Year will end on April 15, 2011.

*“Bondholder”* or *“bondholder,”* when used with respect to a Series 2010 Bond, means the person or entity in whose name such Series 2010 Bond shall be registered.

*“Book-Entry System”* means a book-entry system established and operated for the recordation of Beneficial Owners of a series of Bonds pursuant to Section 2.11 hereof.

*“Build America Payments”* means payments received by the Council directly from the Secretary of the U.S. Treasury as more fully set forth and described in Section 5.04 of this Indenture.

*“Build America Bonds”* means taxable bonds as defined in Section 54AA of the Code.

*“Business Day”* means any day which is not (i) a Saturday or a Sunday, (ii) a day on which banking institutions in the cities of New York, New York or Chicago, Illinois (or, if different, in the city in which the principal corporate trust office of the Trustee is located) are authorized or required by law or executive order to close, or (iii) a day on which the New York Stock Exchange is closed.

*“Closing Date”* means the date upon which the Series 2010 Bonds are delivered to the Underwriters against payment therefor pursuant to the Purchase Contract as authorized and defined in the Bond Resolution.

*“Code”* means the Internal Revenue Code of 1986, as amended.

*“Construction Account”* means the account of that name established in Section 5.01 hereof.

*“Costs of Issuance Account”* means the account of that name established in Section 5.01 hereof.

*“Council”* means the Southwestern Illinois Flood Prevention District Council, Madison, St. Clair and Monroe Counties, Illinois.

*“Council Administrative Fund”* means the sub-fund of that name established by Section 5.08 hereof.

*“Council Sales Tax Fund”* means the Southwestern Illinois Flood Prevention District Council Sales Tax Fund created and established by Section 5.02 of this Indenture.

*“Counties”* means The Counties of Madison, St. Clair and Monroe, Illinois.

*“Counties Code”* means the Counties Code of the State of Illinois, as amended.

*“County Board”* means the County Board of each County.

*“County/Council Intergovernmental Agreement”* means each agreement among each County, each District and the Council providing for the direct deposit of the Flood Prevention District Sales Taxes with the Trustee.

*“County Flood Prevention Occupation Tax Fund”* means the special fund known as the (name of County) County, Illinois, Flood Prevention Occupation Tax Fund, established by each County pursuant to Section 25(j) of the Act.

*“Credit Facility”* means the Bond Insurance Policy, any letter of credit, line of credit, bank bond purchase agreement, revolving credit agreement, surety bond, other bond insurance policy, or other agreement or instrument under which any Person other than the Council undertakes to make or provide funds to make payment of the principal or premium, if any, and interest on Bonds, delivered to and received by the Trustee.

*“Designated Representative”* means the President of the Board of Directors, the Chief Supervisor of Construction and any other official so designated by the Board of Directors.

*“Discount Bond”* means (i) any Bond offered for sale to the public or sold to the initial purchaser thereof at the time of sale thereof at an initial reoffering price or initial principal amount of less than ninety-eight percent (98%) of the principal amount due at maturity thereof, without reduction to reflect underwriter’s discount or placement agent’s fees, and (ii) any other Bond designated as a Discount Bond by Supplemental Indenture.

*“District/Council Intergovernmental Agreement”* means the agreement the Districts have entered into to finance, design, manage and oversee the Project and to create the Council.

*“Districts”* means the Madison County Flood Prevention District, Madison County, Illinois, the St. Clair County Flood Prevention District, St. Clair County, Illinois and the Monroe County Flood Prevention District, Monroe County, Illinois.

*“Event of Default,”* used with respect to this Indenture, means any event specified in Section 7.01 of this Indenture.

*“Extraordinary Event”* means that a change has occurred to Section 54AA or 6431 of the Code (as defined herein) or there is any guidance published by the Internal Revenue Service or the United States Treasury or the United States Congress with respect to such sections or any other determination by the Internal Revenue Service or the United States Treasury, pursuant to which the Council’s cash subsidy payment from the United States Treasury is reduced or eliminated, and which is not the result of any act or omission by the Council to satisfy the requirements to qualify to receive the cash subsidy payment from the United States Treasury.

*“Favorable Bond Counsel Opinion”* means an opinion of Bond Counsel to the effect that a given action is authorized and permitted under applicable State law and this Indenture or related documents and will not adversely affect the Tax-exempt, Build America Bond or Recovery Zone Bond status of the Bonds.

*“Fiscal Year”* means any 12-month period beginning on October 1 of any calendar year and ending on the last day of September of the following calendar year.

*“Flood Prevention District Revenues”* means (i) the Flood Prevention District Sales Taxes, (ii) Build America Payments and Recovery Zone Payments and (iii) any other revenues of the Districts and the Council which are permitted to be used to pay debt service on Bonds.

*“Flood Prevention District Sales Taxes”* means the Flood Prevention District Retailers’ Occupation Tax and the Flood Prevention District Service Occupation Tax imposed by each County pursuant to Section 25 of the Act and any substitute therefor as provided by the State in the future.

*“Government Obligations”* means (i) direct obligations of the United States of America or any agency or instrumentality of the United States of America, (ii) obligations on which the timely payment of principal and interest is fully guaranteed by the United States of America or any agency or instrumentality of the United States of America, or (iii) evidences of a direct ownership interest in amounts payable upon any of the obligations set forth in (i) or (ii) of this definition.

*“Indenture”* means this Indenture of Trust, including all amendments hereof and supplements hereto.

*“Indirect Participant”* means a broker-dealer, bank, or other financial institution for which the Securities Depository holds Series 2010 Bonds as a securities depository through a Participant.

*“Interest Payment Date”* means each April 15 and October 15 commencing April 15, 2011.

*“Interest Requirement”* means, for any Bond Year, the aggregate amount of interest on Outstanding Bonds due and payable during such Bond Year. The calculation of interest on Bonds bearing a variable rate of interest shall be made on the assumption that the rate of interest applicable for such period will be the same as the average annual rate of interest on such Bonds for the 12-month period immediately preceding the date of calculation or, if such Bonds were not Outstanding during such entire 12-month period, the average interest rate for the portion of such period during which such Bonds were Outstanding, or if such Bonds were not Outstanding during any part of such 12-month period, at a fixed rate equal to the Bond Buyer Revenue Index or such similar index if the Bond Buyer Revenue Index is no longer available.

*“Maturity”* means the date the principal of any Bond becomes due and payable, either by redemption or at Stated Maturity.

*“Maximum Annual Debt Service”* means an amount of money equal to the highest future Principal Requirement and Interest Requirement in any Bond Year, including and subsequent to the Bond Year in which the computation is made. Any Outstanding Bonds required to be redeemed pursuant to mandatory redemption from the Bond Fund shall be treated as falling due on the date required to be redeemed (except in the case of failure to make any such mandatory redemption or in the case of a Credit Facility specifically designated to pay such mandatory redemption) and not on the stated maturity date of such Outstanding Bonds.

*“Moody’s”* shall mean Moody’s Investors Service, Inc., its successors and assigns, and, if dissolved or liquidated or no longer performing the functions of a securities rating agency, shall refer to any other nationally recognized securities rating organization designated by the Council, by notice to the Trustee.

*“Official Statement”* means the Official Statement relating to the offering and sale of the Series 2010 Bonds.

*“OID”* means the original issue discount in connection with the sale of the Bonds by the Underwriter to the public.

*“Outstanding”* or *“Bonds outstanding”* or *“Bonds then outstanding,”* at the time in question, means all Bonds which have been executed and delivered by the Council and authenticated by the Trustee under this Indenture, except:

- A. Bonds theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation;
- B. Bonds paid or deemed to be paid pursuant to Article VI hereof; and
- C. Bonds in lieu of or in exchange for which other Bonds shall have been executed and delivered by the Council and authenticated by the Trustee pursuant to Sections 2.06, 2.07, 2.09, or 3.04 hereof.

*“Outstanding Bonds”* means Series 2010 Bonds and Additional Bonds which are outstanding and unpaid; *provided, however,* such term shall not include Bonds or Additional Bonds (i) which have matured and for which moneys are on deposit with proper paying agents, or are otherwise properly available, sufficient to pay all principal thereof and interest thereon, or (ii) the provision for payment of which has been made by the Council by the deposit in an irrevocable trust or escrow of funds or direct, full faith and credit obligations of the United States of America, the principal of and interest on which will be sufficient to pay at maturity or as called for redemption all the principal of and interest on and premium, if any, such Series 2010 Bonds or Additional Bonds, as provided in Section 6.01 hereof.

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

“*Person*” means an individual, a corporation, a partnership, an association, a trust, or any other entity or organization, including a governmental or political subdivision or any agency or instrumentality thereof.

“*Preliminary Official Statement*” means the Preliminary Official Statement relating to the offering and sale of the Bonds.

“*Principal Requirement*” means, for any Bond Year, the aggregate principal amount of Outstanding Bonds due and payable during such Bond Year.

“*Project*” is defined in the preambles hereto.

“*Project Fund*” means the Southwestern Illinois Flood Prevention District Council Project Fund created and established by Section 5.01 of this Indenture.

“*Purchase Contract*” means the Purchase Contract among the Underwriter, the Purchaser and the Council, relating to the sale of the Series 2010 Bonds.

“*Purchaser*” means the Southwestern Illinois Development Authority.

“*Qualified Investments*” means any lawful investment under the Public Funds Investment Act of the State of Illinois, as amended.

“*Qualified Tax Exempt Obligations*” means (a) any obligation described in Section 103(a) of the Code, the interest on which is excludable from gross income of the owner thereof for federal income tax purposes and is not an item of tax preference for purposes of the alternative minimum tax imposed by Section 55 of the Code; (b) an interest in a regulated investment company to the extent that at least ninety-five percent of the income to the holder of the interest is interest which is excludable from gross income under Section 103 of the Code of any owner thereof for federal income tax purposes and is not an item of tax preference for purposes of the alternative minimum tax imposed by Section 55 of the Code; and (c) certificates of indebtedness issued by the United States Treasury pursuant to the Demand Deposit State and Local Government Series program described in 31 C.F.R. part 344.

“*Rating Agencies*” means S&P, Moody’s, or any national rating agency, according to which of such rating agencies then rates the Bonds; and, *provided*, that, if at any time only one Rating Agency then rates the Bonds, “*Rating Agencies*” shall at that time mean only such Rating Agency as is then rating the Bonds.

“*Rebate Fund*” means the sub-fund by that name established hereunder and funded as provided in the Tax Certificate.

“*Record Date*” means the close of business on the first day of the calendar month of an Interest Payment Date.

*“Recovery Zone Payments”* means payments received by the Council directly from the Secretary of the U.S. Treasury as more fully described and set forth in Section 5.04 of this Indenture.

*“Recovery Zone Bonds”* means taxable bonds as defined in Section 1400U-2 of the Code.

*“Regulations”* means the temporary and permanent Income Tax Regulations promulgated or proposed by the Department of the Treasury pursuant to the Code, as applicable to the Bonds.

*“Reserve Fund”* means the Southwestern Illinois Flood Prevention District Council Sales Tax Revenue Bond Debt Service Reserve Sub-Fund created and established by Section 5.05 of this Indenture.

*“Reserve Fund Credit Instrument”* shall mean a non-cancellable insurance policy, a non-cancellable surety bond or an irrevocable letter of credit which may be delivered to the Trustee in lieu of or in partial substitution for cash or securities required to be on deposit in the Reserve Fund. In the case of an insurance policy or surety bond, the company providing the policy or bond shall be an insurer which, at the time of the issuance of the policy or surety bond, has been assigned a credit rating which is within one of the two highest ratings accorded insurers by at least two of the Rating Agencies. In the case of a letter of credit, it shall be issued by a banking institution which has, or the parent of which has, or the holding corporation of which it is the principal bank has, at the time of the issuance of the letter of credit, a credit rating on its long-term unsecured debt within one of the two highest rating categories from at least two of the Rating Agencies. The insurance policy, surety bond or letter of credit shall grant to the Trustee the right to receive payment for the purposes for which the Reserve Fund may be used and shall be irrevocable during its term.

*“Reserve Fund Credit Instrument Coverage”* shall mean, with respect to any Reserve Fund Credit Instrument, at any date of determination, the amount available to pay principal or redemption price of and interest on the Bonds secured by such Reserve Fund Credit Instrument.

*“Reserve Requirement”* shall mean as of any date of calculation, the least of (i) 10% of the original principal amount of the Bonds (less any OID); (ii) the Maximum Annual Debt Service (net of Build America Payments and Recovery Zone Payments) and (iii) 125% of the average annual debt service on the Bonds (net of Build America Payments and Recovery Zone Payments).

*“S&P”* means Standard & Poor’s, a division of The McGraw Hill Companies, Inc., its successors and assigns, and, if dissolved or liquidated or no longer performing the functions of a securities rating agency, shall refer to any other nationally recognized securities rating organization designated by the Council, by notice to the Trustee.

*“Securities Depository”* means The Depository Trust Company and any substitute for or successor to such securities depository that shall maintain a Book-Entry System with respect to the Bonds.

*“Securities Depository Nominee”* means the Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the Bond Register the Bonds to be delivered to such Securities Depository during the continuation with such Securities Depository of participation in its Book-Entry System.

*“Series 2010A Bond Fund Account”* means the account of that name established in Section 5.03 hereof.

*“Series 2010B Bond Fund Account”* means the account of that name established in Section 5.03 hereof.

*“Series 2010C Bond Fund Account”* means the account of that name established in Section 5.03 hereof.

*“Series 2010 Bonds”* are as defined in Section 2.01 hereof.

*“State”* means the State of Illinois.

*“Stated Maturity”* means the stated date of final maturity with respect to the Bonds.

*“Subordinate Bonds”* means Bonds issued by the Council payable from Flood Prevention District Revenues on a subordinate basis with respect to the Bonds and Additional Bonds.

*“Subordinate Lien Bond Fund”* means the sub-fund of that name established in Section 5.06 hereof.

*“Supplemental Indenture”* means a supplemental indenture executed and delivered in accordance with Article IX hereof.

*“Surplus Fund”* means the sub-fund of that name established in Section 5.09 hereof.

*“Tax Certificate”* means, collectively, the Tax Exemption Certificate and Agreement and the Tax Compliance Certificate and Agreement to be executed and delivered by the Council and the Trustee in connection with the issuance of the Bonds.

*“Tax-exempt”* when used with respect to the Bonds means the status of interest paid and received thereon as exempt from federal income taxation as provided in Section 103 of the Code.

*“Treasury Rate”* means as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available on the Determination Date (excluding inflation indexed securities) (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to the Stated Maturity of the Series 2010B Bonds or Series 2010C Bonds to be redeemed; *provided, however*, that if the period from the redemption date to such Stated Maturity is less than one year, the weekly

average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used. The “Determination Date” shall be four (4) Business Days prior to the redemption date.

“*Trust Estate*” means the property conveyed to the Trustee pursuant to the Granting Clause of this Indenture.

“*Trustee*” means UMB Bank, N.A., St. Louis, Missouri, as bond registrar, paying agent and trustee, and successors and assigns.

“*Underwriter*” means Morgan Keegan & Company, Inc., Memphis, Tennessee, on behalf of itself and as representative of Stifel, Nicolaus & Company, Incorporated, St. Louis, Missouri, Hutchinson, Shockey, Erley & Co., Chicago, Illinois, and Loop Capital Markets, LLC, Chicago, Illinois.

“*Written Request*” is described in Section 5.01(c)(2) of this Indenture.

**Section 1.02. Article and Section Headings.** The headings or titles of the several Articles and Sections of this Indenture, and the Table of Contents appended hereto, are solely for convenience of reference and shall not affect the meaning or construction of the provisions hereof.

**Section 1.03. Construction.** This Indenture, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

A. All words and terms importing the singular number shall, where the context requires, import the plural number and vice versa.

B. Pronouns include both singular and plural and cover both genders and non-natural entities.

C. Any percentage of Bonds, for the purposes of this Indenture, shall be computed on the basis of the Bonds Outstanding at the time the computation is made or is required to be made hereunder.

D. Headings of sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

E. Unless otherwise expressly provided, all times specified herein shall mean New York City local time.

F. The words “hereof,” “herein,” “hereto,” “hereby,” and “hereunder” (except in the form of the Bond), refer to this entire Indenture.



## ARTICLE II

### THE BONDS

**Section 2.01. Bonds Authorized, Delivery to Purchaser.** The Series 2010 Bonds are authorized for delivery as provided in this Section 2.01 as follows:

A. The Series 2010 Bonds shall each be designated "Flood Prevention District Council Sales Tax Revenue Bonds, Series 2010." The Series 2010 Bonds shall be issued in the aggregate principal amount of \$94,195,000 in three series, designated Flood Prevention District Sales Tax Revenue Bonds, Series 2010A in the amount of \$64,015,000, Taxable Flood Prevention District Sales Tax Revenue Bonds, Series 2010B (Build America Bonds) in the amount of \$9,050,000 and Taxable Flood Prevention District Sales Tax Revenue Bonds, Series 2010C (Recovery Zone Economic Development Bonds) in the amount of \$21,130,000. The Series 2010 Bonds shall be subject to redemption as provided in Article III hereof.

B. Upon the execution and delivery of this Indenture, the Council shall execute the Series 2010 Bonds and deliver them to the Trustee for authentication. At the direction of the Council, the Trustee shall authenticate the Series 2010 Bonds and deliver them to or upon the order of the Purchaser, upon receipt of the purchase price therefor, the same being \$64,219,335.40 for the Series 2010A Bonds, \$8,989,365.00 for the Series 2010B Bonds and \$20,988,429.00 for the Series 2010C Bonds. The Council has entered into a Bond Purchase Agreement with the Underwriter and the Purchaser regarding the issuance of the Purchaser's bonds being issued to finance the purchase of the Series 2010 Bonds by the Purchaser from the Council.

C. Additional Bonds are hereby authorized to be issued pursuant to Section 5.14 and supplemental indentures described in Article IX. No obligations may be issued (a) which are senior in claim on the Trust Estate to the Bonds, or (b) which, other than Additional Bonds, have a claim on the Trust Estate in parity with the Bonds.

**Section 2.02. Bonds Limited Obligations.** The Bonds shall be limited obligations of the Council, payable solely from the Trust Estate. The Bonds shall constitute a valid claim of the respective owners thereof against the Trust Estate, which is pledged to secure the payment of the principal of, redemption premium, if any, and interest on the Bonds, and which shall be utilized for no other purpose, except as expressly authorized in this Indenture. The Bonds shall not constitute general obligations of the Council, the Counties, the Districts or the State and under no circumstances shall the Bonds be payable from, nor shall the holders thereof have any rightful claim to, any income, revenues, funds or assets of the Council other than those pledged hereunder as security for the payment of the Bonds.

**Section 2.03. Details of Bonds.** The Series 2010 Bonds shall be issued in Authorized Denominations, shall be dated the date of issuance, shall be numbered from 1 and upward and shall bear interest (calculated on the basis of a 360-day year of twelve 30-day months) payable on April 15, 2011, and thereafter on each Interest Payment Date for the series and at the rates per annum and shall mature on the dates in the years and amounts as follows:

SERIES 2010A

DATE OF MATURITY	PRINCIPAL AMOUNT	RATE OF INTEREST
April 15, 2012	\$2,455,000	2.000%
April 15, 2013	2,505,000	2.000%
April 15, 2014	2,555,000	2.000%
April 15, 2015	2,605,000	3.000%
April 15, 2016	2,685,000	5.000%
April 15, 2017	2,070,000	5.000%
April 15, 2017	750,000	4.000%
April 15, 2018	2,950,000	4.000%
April 15, 2019	3,070,000	3.000%
April 15, 2020	3,160,000	3.250%
April 15, 2021	3,265,000	3.500%
April 15, 2022	3,380,000	3.750%
April 15, 2023	3,505,000	4.000%
April 15, 2024	95,000	5.000%
April 15, 2025	7,345,000	4.000%
April 15, 2030	11,620,000	4.250%
April 15, 2030	10,000,000	5.000%

TAXABLE SERIES 2010B (BUILD AMERICA BONDS)

DATE OF MATURITY	PRINCIPAL AMOUNT	RATE OF INTEREST
April 15, 2032	\$9,050,000	7.03%

TAXABLE SERIES 2010C (RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS)

DATE OF MATURITY	PRINCIPAL AMOUNT	RATE OF INTEREST
October 15, 2035	\$21,130,000	7.23%

All Series 2010 Bonds shall bear interest (i) from the date of issuance, if authenticated prior to the first Interest Payment Date, or (ii) otherwise from the Interest Payment Date that is, or that immediately precedes, the date on which such Series 2010 Bond is authenticated (unless payment of interest is in default, in which case such Series 2010 Bond shall bear interest from the date to which interest has been paid).

The principal of, redemption premium, if any, and interest on the Series 2010 Bonds shall be payable in lawful money of the United States of America. Principal of and redemption premium, if any, on the Series 2010 Bonds shall be payable by the Trustee upon presentation and surrender of the Series 2010 Bonds as they become due at the principal office of the Trustee. Interest on Series 2010 Bonds shall be payable by the Trustee to the Bondholders of Series 2010 Bonds by check or draft mailed to such Bondholders at their addresses as they appear on the Trustee on the Record Date. Principal of, redemption premium, if any, and interest payable to any person holding Series 2010 Bonds in aggregate principal amount of \$1,000,000 or more will be paid, upon the written request of any such Bondholder in form and substance satisfactory to the Paying Agent, by wire transfer of immediately available funds to an account within the United States of America designated by such Bondholder on or before the Record Date.

If any principal of, redemption premium, if any, or interest on any Series 2010 Bond is not paid when due (whether at maturity, by acceleration or call for redemption or otherwise), then the overdue installments of principal and, to the extent permitted by law, interest and redemption premium, if any, shall bear interest until paid at the same rate set forth in such Series 2010 Bond.

Details of Additional Bonds shall be as set forth in supplemental indentures providing for their issuance.

**Section 2.04. Form of Series 2010 Bonds.** The Series 2010 Bonds and the certificate of authentication, the provision for registration, and the form of assignment thereof shall be in substantially the form set forth in *Exhibit A* hereto, with such appropriate variations, omissions, substitutions, insertions, notations, legends, and endorsements as may be deemed necessary or appropriate by the officers of the Council executing the same and as shall be permitted or required by the Act and this Indenture. The form of each series of Additional Bonds shall be as set forth in the Supplemental Indenture providing for their issuance.

**Section 2.05. Execution and Authentication of Bonds.** The Bonds shall be executed on behalf of the Council with the manual or facsimile signatures of the President and Secretary of the Board of Directors, and shall have impressed or imprinted thereon the corporate seal or facsimile thereof of the Council. In case any officer of the Council whose signature or a facsimile thereof appears on a Bond shall cease to be such officer before the delivery of such Bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in the office until delivery. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Bond substantially in the form in *Exhibit A* hereto shall have been duly manually executed by the Trustee. Any such executed certificate upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Trustee, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds issued hereunder.

***Section 2.06. Registration and Exchange of Bonds; Persons Treated as Bondholders.***

Bonds may be transferred only on the registration books maintained for the purpose by the Trustee. Upon surrender for transfer of any Bond to the Trustee, duly endorsed for transfer or accompanied by an assignment duly executed by the Bondholder or such Person's attorney duly authorized in writing, the Trustee will authenticate a new Bond or Bonds of the same series in an equal total principal amount and registered in the name of the transferee. Bonds may be exchanged for an equal total principal amount of Bonds of the same series of different denominations. The Trustee will authenticate and deliver Bonds that the Bondholder making the exchange is entitled to receive, bearing numbers not then outstanding. The Trustee will not be required to transfer or exchange any Bond after the mailing of notice calling such Bond or any portion of such Bond for redemption or during the 15-day period preceding the mailing of a notice of redemption of any Bonds. The Bondholder as shown in the Bond Register shall, except as otherwise described herein with respect to certain rights of Beneficial Owners, be the absolute owner of the Bond for all purposes, and payment of principal, premium, if any, interest, or purchase price shall be made only to or upon the Bondholder's written order. The Trustee will require the payment by a Bondholder requesting exchange or transfer of any tax or other governmental charge (other than as imposed by the Council) required to be paid in respect of the exchange or transfer but will not impose any other charge. Notwithstanding the foregoing, for so long as the Bonds are held under the Book-Entry System, transfers of beneficial ownership will be effected pursuant to rules and procedures established by the Securities Depository.

***Section 2.07. Mutilated, Lost, Stolen, or Destroyed Bonds.*** If any Bond is mutilated, lost, stolen, or destroyed, the Trustee will authenticate a new Bond of the same series and denomination, *provided*, that any such mutilated Bond shall first be surrendered to the Trustee, and, *provided, further*, that in the case of any lost, stolen, or destroyed Bond, there shall first be furnished to the Trustee, evidence of such loss, theft, or destruction, together with an indemnity satisfactory to the Trustee and the Council to save each of them, harmless from all risks related thereto, however remote. If the Bond has matured, instead of issuing a duplicate Bond, the Trustee may with the consent of the Council pay the Bond without requiring surrender of the Bond and make such requirements as the Trustee deems fit for its protection, including a lost instrument bond. The Council and the Trustee may charge their reasonable fees and expenses in this connection.

***Section 2.08. Cancellation of Bonds.*** Whenever a Bond is delivered to the Trustee for cancellation (upon payment, redemption, or otherwise), or for transfer, exchange, or replacement pursuant to either Section 2.06 or 2.07, the Trustee will promptly cancel the Bond and deliver the cancelled Bond or a certificate of destruction, as appropriate, to the Council at its request.

***Section 2.09. Temporary Bonds.*** Until definitive Bonds are ready for delivery, the Council may execute and the Trustee shall authenticate temporary Bonds substantially in the form of the definitive Bonds, with appropriate variations. The Council will, without unreasonable delay, prepare and the Trustee will authenticate definitive Bonds in exchange for the temporary Bonds. Such exchange shall be made by the Trustee without charge. Exchanges and transfers shall be made without charge to the Bondholders; *provided* that in each case the Trustee, shall require the payment by the Bondholder requesting exchange or transfer of any tax

or other governmental charge (other than as imposed by the Council) required to be paid with respect thereto.

**Section 2.10. Conditions Precedent to Authentication and Delivery of Series 2010 Bonds.** The Council shall execute and deliver the Series 2010 Bonds to the Trustee; and the Trustee shall, upon receipt by the Trustee of those items specified below in this Section, authenticate the Series 2010 Bonds. Prior to and as a condition precedent to the authentication and delivery of the Series 2010 Bonds there shall be filed with and delivered to the Trustee:

A. A copy, duly certified by the Secretary of the Board of Directors, of the Bond Resolution adopted by the Board of Directors in accordance with the Act authorizing the execution and delivery of this Indenture and the issuance of the Series 2010 Bonds;

B. Original duly executed and delivered counterparts of this Indenture and the Tax Certificate;

C. An opinion of Bond Counsel to the effect that Series 2010 Bonds executed, authenticated, and delivered as provided in this Indenture will be duly and validly issued and will constitute valid and binding obligations of the Council; and

D. An opinion of Bond Counsel that the Series 2010A Bonds are Tax-Exempt as of the date of their issuance.

**Section 2.11. Certain Book-Entry System Provisions; Initial Form.** For Bonds held in Book-Entry System, the following provisions shall generally apply to such Bonds:

A. The Series 2010 Bonds shall not be initially issued pursuant to a Book-Entry System. As set forth in any Supplemental Indenture, subsequent series' of Bonds may be initially issued pursuant to a Book-Entry System administered by the Securities Depository with no physical distribution of Bond certificates to be made except as provided in this Section 2.11. Any provision of this Indenture or the Bonds requiring physical delivery of the Bonds shall, with respect to any Bonds held under the Book-Entry System, be deemed to be satisfied by a notation on the registration books maintained by the Trustee that such Bonds are subject to the Book-Entry System.

B. So long as a Book-Entry System is being used, one Bond, in the aggregate principal amount of the Bonds of such Series and Stated Maturity, as applicable, and registered in the name of the Securities Depository Nominee will be issued and deposited with the Securities Depository to be held in its custody. The Book-Entry System will be maintained by the Securities Depository and the Participants and Indirect Participants and will evidence beneficial ownership of the Bonds in Authorized Denominations, with transfers of ownership effected on the records of the Securities Depository, the Participants, and the Indirect Participants pursuant to rules and procedures established by the Securities Depository, the Participants and the Indirect Participants. The principal or purchase price of and any premium on each Bond shall be payable to the Securities

Depository Nominee or any other person appearing on the registration books maintained by the Trustee as the registered owner of such Bond or his or her registered assigns or legal representative at the principal corporate trust office of the Trustee. So long as the Book-Entry System is in effect, the Securities Depository will be recognized as the Bondholder for all purposes. Transfers of principal, purchase price, interest, and any premium payments or notices to Participants and Indirect Participants will be the responsibility of the Securities Depository; and transfers of principal, purchase price, interest, and any premium payments or notices to Beneficial Owners will be the responsibility of the Participants and the Indirect Participants. No other party will be responsible or liable for such transfers of payments or notices or for maintaining, supervising, or reviewing such records maintained by the Securities Depository, the Participants, or the Indirect Participants. While the Securities Depository Nominee or the Securities Depository, as the case may be, is the Bondholder, and notwithstanding any other provisions set forth herein, payments of principal or purchase price of, redemption premium, if any, and interest on the Bonds shall be made to the Securities Depository Nominee or the Securities Depository, as the case may be, by wire transfer in immediately available funds to such account as may be designated. Without notice to or the consent of the Beneficial Owners, the Trustee, with the consent of the Council, and the Securities Depository may agree in writing to make payments of principal, redemption price, or purchase price and interest in a manner different from that set out herein. In such event, the Trustee shall make payments with respect to the Bonds in such manner as if set forth herein.

C. The Council or Participants holding more than 50% of the Bonds may at any time elect (1) to provide for the replacement of any Securities Depository as the depository for the Bonds with another qualified Securities Depository or (2) to discontinue the maintenance of the Bonds under a Book-Entry System. In such event, the Trustee shall give the requisite number of days' prior notice of such election to the Securities Depository (or such fewer number of days as shall be acceptable to such Securities Depository).

D. Upon the discontinuance of the maintenance of the Bonds under a Book-Entry System, the Council will cause Bonds to be issued directly to the Beneficial Owners of Bonds, or their designees, as further described below. In such event, the Trustee shall make provisions to notify Participants and the Beneficial Owners of the Bonds, by mailing an appropriate notice to the Securities Depository, or by other means deemed appropriate by the Trustee in its discretion, that Bonds will be directly issued to the Beneficial Owners of Bonds as of a date set forth in such notice, which shall be a date at least 10 days after the date of mailing of such notice (or such fewer number of days as shall be acceptable to the Securities Depository).

E. In the event that Bonds are to be issued to the Beneficial Owners of the Bonds, or their designees, the Council shall promptly have prepared Bonds in certificated form registered in the names of the Beneficial Owners of Bonds shown on the records of the Participants provided to the Trustee, as of the date set forth in the notice described

above. Bonds issued to the Beneficial Owners, or their designees, shall be in fully registered form substantially in the form set forth in *Exhibit A*.

F. If any Securities Depository is replaced as the depository for the Bonds with another qualified Securities Depository, the Council will issue to the replacement Securities Depository Bonds substantially in the form set forth in *Exhibit A*, registered in the name of such replacement Securities Depository.

G. The Council and the Trustee shall have no liability for the failure of any Securities Depository to perform its obligation to any Participant, any Indirect Participant, or any Beneficial Owner of any Bonds; and the Council or the Trustee shall not be liable for the failure of any Participant, Indirect Participant, or other nominee of any Beneficial Owner of any Bonds to perform any obligation that such Participant, Indirect Participant, or other nominee may incur to any Beneficial Owner of the Bonds.

H. In accordance with the current requirements of the Securities Depository, on or prior to the date of issuance of the Bonds, the Council or the Trustee, or both, as applicable, shall have executed and delivered to the initial Securities Depository a Letter of Representations or a “Blanket” Letter of Representations governing various matters relating to the Securities Depository and its activities pertaining to the Bonds. The terms and provisions of such Letter of Representations are incorporated herein by reference and, in the event there shall exist any inconsistency between the substantive provisions of the said Letter of Representations and any provisions of this Indenture, then, for as long as the initial Securities Depository shall serve with respect to the Bonds, the terms of the Letter of Representations shall govern.

I. The Council and the Trustee may rely conclusively upon (i) a certificate of the Securities Depository as to the identity of the Participants in the Book-Entry System; (ii) a certificate of any Participant as to the identity of any Indirect Participant and (iii) a certificate of any Participant or Indirect Participant as to the identity of, and the respective principal amount of Bonds beneficially owned by, the Beneficial Owners.

***Section 2.12. Application of Proceeds of the Series 2010 Bonds.*** The proceeds of the Series 2010 Bonds shall be used as follows:

A. \$59,603,266.75 shall be deposited into the Series 2010A Construction Sub-Account (as defined in Section 5.01 hereof) and be used for the Project;

B. \$8,336,776.99 shall be deposited into the Series 2010B Construction Sub-Account (as defined in Section 5.01 hereof) and be used for the Project;

C. \$19,464,762.19 shall be deposited into the Series 2010C Construction Sub-Account (as defined in Section 5.01 hereof) and be used for the Project;

D. \$6,194,424.22 shall be deposited into the Reserve Fund;

E. \$406,332.82 shall be deposited into the Series 2010A Costs of Issuance Sub-Account and be used to pay the costs of issuing the Series 2010A Bonds;

F. \$57,444.54 shall be deposited into the Series 2010B Costs of Issuance Sub-Account and be used to pay the costs of issuing the Series 2010B Bonds; and

G. \$134,121.89 shall be deposited into the Series 2010C Costs of Issuance Sub-Account and be used to pay the costs of issuing the Series 2010C Bonds.

**Section 2.13. Credit Facility.** The Council may, in its sole discretion, and from time to time, elect to provide security for the payment of principal of and interest on the Series 2010 Bonds in the form of a Credit Facility delivered to the Trustee. At the option of the Council, any such Credit Facility may also secure the payment of premium, if any, on the Series 2010 Bonds.

**Section 2.14. Alternative Evidencing of Bonds.** The Council reserves the right and option, in the issuance of any series of Bonds, to cause such series to be issued in any alternative form, including, but not by way of limitation, Discount Bonds, capital appreciation bonds, variable rate demand obligations, optional and mandatory tender bonds, commercial paper, tax credit bonds, and bonds secured or not secured by credit facilities, liquidity facilities, letters and liens of credit, guarantees and bond insurance agreements, all as may be provided in the Supplemental Indenture authorizing any such series of Bonds. The Council further reserves the right and option, to the extent permitted by law, to enter into interest rate exchange agreements or swap agreements or other derivative contract or product approved by the Council in connection with the issuance of any series of Bonds, with prior approval by the Council. In the event any such bonds or other obligations are by their terms payable as to principal and/or interest on other than a semiannual basis, the provisions of 2.03 of this Indenture shall be deemed to require payment of such principal and interest on the dates stipulated in such bonds or other obligations and the Council covenants that such payments will be timely made when due.

### ARTICLE III

#### REDEMPTION OF SERIES 2010 BONDS

**Section 3.01. Optional and Mandatory Redemption.** The Series 2010 Bonds shall be subject to optional and mandatory redemption as follows:

(a) *Optional.* The Bonds due on and after April 15, 2021, shall be subject to redemption prior to maturity at the option of the Council from any legally available funds, in whole or in part on any date on and after April 15, 2020, and if in part, from such maturity or maturities as the Council may determine, and if less than an entire maturity, in accordance with Section 3.04 of this Indenture, at the redemption prices of the principal amount to be redeemed.



(b) *Extraordinary Optional Redemption.* The Series 2010B Bonds and the Series 2010C Bonds are subject to redemption prior to maturity at the option of the Council, in whole or in part and if in part in such principal amounts and from such maturities as determined by the Council (and pro-rata pass through distribution of principal within a maturity in accordance with DTC procedures, or if DTC procedures do not allow for pro-rata pass through distribution of principal, by lot), on any date on or before April 15, 2020, upon the occurrence of an Extraordinary Event, at the “Extraordinary Optional Redemption Price,” which is the greater of: (i) one hundred percent (100%) of the principal amount of the Series 2010B Bonds or Series 2010C Bonds to be redeemed, and (ii) the sum of the present value of the remaining scheduled payments of principal and interest to the Stated Maturity of the Series 2010B Bonds or Series 2010C Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the Series 2010B Bonds or Series 2010C Bonds are to be redeemed, discounted to the date on which the Series 2010B Bonds or Series 2010C Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at a rate which is equal to the adjusted Treasury Rate plus 100 basis points, plus, in each case, accrued and unpaid interest on the Series 2010B Bonds or Series 2010C Bonds to be redeemed on the redemption date. The Trustee shall confirm and transmit the Extraordinary Optional Redemption Price on such dates and to such parties as shall be necessary to effectuate such extraordinary optional redemption.

(c) *Mandatory.* The Series 2010A Bonds due on April 15, 2025, are subject to mandatory redemption, in accordance with Section 3.04 of this Indenture, at a redemption price of par plus accrued interest to the redemption date, on April 15, 2024 in the principal amount of \$3,550,000.

The Series 2010A Bonds due on April 15, 2030 and bearing interest at the rate of 4.25% per annum, are subject to mandatory redemption, in accordance with Section 3.04 of this Indenture, at a redemption price of par plus accrued interest to the redemption date, on April 15 of the years and in the principal amounts as follows:

YEAR OF MANDATORY REDEMPTION	PRINCIPAL AMOUNT TO BE REDEEMED
2026	\$2,120,000
2027	2,215,000
2028	2,320,000
2029	2,425,000

The Series 2010A Bonds due on April 15, 2030 and bearing interest at the rate of 5.00% per annum, are subject to mandatory redemption, in accordance with Section 3.04 of this Indenture, at a redemption price of par plus accrued interest to the redemption date, on April 15 of the years and in the principal amounts as follows:

YEAR OF MANDATORY REDEMPTION	PRINCIPAL AMOUNT TO BE REDEEMED
2026	\$1,825,000
2027	1,910,000
2028	1,995,000
2029	2,090,000

The Series 2010B Bonds are subject to mandatory redemption, in accordance with Section 3.04 of this Indenture, at a redemption price of par plus accrued interest to the redemption date, on April 15, 2031 in the principal amount of \$4,930,000.

The Series 2010C Bonds are subject to mandatory redemption, in accordance with Section 3.04 of this Indenture, at a redemption price of par plus accrued interest to the redemption date, on April 15 of the years and in the principal amounts as follows:

YEAR OF MANDATORY REDEMPTION	PRINCIPAL AMOUNT TO BE REDEEMED
2032	\$1,045,000
2033	5,390,000
2034	5,605,000
2035	5,825,000

The principal amounts of Series 2010 Bonds to be mandatorily redeemed in each year may be reduced through the earlier optional redemption thereof, with any partial optional redemptions of such Series 2010 Bonds credited against future mandatory redemption requirements in such order of the mandatory redemption dates as the Council may determine. In addition, on or prior to the 60th day preceding any mandatory redemption date, the Trustee may, and if directed by the Council shall, purchase Series 2010 Bonds at a price (not in excess of par) required to be retired on such mandatory redemption date. Any such Series 2010 Bonds so purchased shall be cancelled and the principal amount thereof shall be credited against the mandatory redemption required on such next mandatory redemption date.

**Section 3.02. Notice of Redemption.** Notice of redemption shall be given as follows.

A. The Council shall, at least forty-five (45) days prior to any optional redemption date (unless a shorter time period shall be acceptable to the transferee) notify the Trustee of such redemption date and of the series and the principal amount and maturity or maturities of Bonds to be redeemed.

B. The Trustee shall cause notice of redemption to be sent by first class mail, postage prepaid, to the Council, and the Bondholder of each Series 2010 Bond, to be redeemed. Such notice shall be given not less than 30 days prior to the date of redemption for Series 2010 Bonds. In addition, if the Bonds are not then held under a

Book-Entry System, such notice shall also be given, not less than two Business Days before the redemption notice described in the preceding sentence), by registered, certified, or overnight mail or by facsimile transmission, promptly confirmed in writing, to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds. Neither the failure to give any such notice nor any defect in any notice so mailed shall affect the sufficiency or the validity of any proceedings for the redemption of the Bonds.

C. The redemption notice shall identify the Bonds or portions thereof to be redeemed and shall state (i) the date of the notice and the redemption date; (ii) the redemption price; (iii) the original date of execution and delivery of the Bonds to be redeemed; (iv) the rate of interest borne by the Bonds to be redeemed; (v) the date of Stated Maturity of the Bonds; (vi) the numbers and CUSIP numbers of the Bonds to be redeemed; (vii) that the redemption price of any Bond is payable only upon the surrender of the Bond to the Trustee at its principal corporate trust office; (viii) the address at which the Bonds must be surrendered; (ix) that interest on the Bonds called for redemption ceases to accrue on the redemption date provided that on such date moneys are on deposit in the Bond Fund sufficient to pay the redemption price of the Bonds in full; and (x) such additional descriptive information identifying the Bonds to be redeemed as may be deemed appropriate by the Trustee to effect the redemption.

D. Any notice of optional redemption may also state (and shall state, if the Council shall so direct) that the redemption is conditioned on receipt of moneys for such redemption by the Trustee on or prior to the redemption date; if such moneys are not received, the redemption of the Bonds for which notice was given shall not be made.

***Section 3.03. Effect of Deposit of Redemption Moneys.*** If on any redemption date moneys sufficient to pay in full the redemption price of the Bonds called for redemption have been deposited with the Trustee and shall be available to be utilized to pay the redemption price of such Bonds, such Bonds shall no longer be secured by or be deemed to be Outstanding under the provisions of this Indenture. Interest shall not continue to accrue on such Bonds after the redemption date. If sufficient moneys shall not be on deposit on the redemption date, such Bonds or portions thereof shall continue to bear interest.

***Section 3.04. Partial Redemption.*** Certain provisions of the procedures for partial redemption of the Bonds are as follows.

A. Any partial redemption of Bonds shall be made only in Authorized Denominations. Except as provided in paragraph (D) of this Section, if fewer than all of the Bonds shall be called for redemption, the portion of Bonds to be redeemed shall be selected by lot by the Trustee from among all Outstanding Bonds. Each Bond shall be considered separate Bonds in the minimum Authorized Denominations for purposes of selecting the Bonds to be redeemed. Subject to the provisions of the Bonds with respect to the Book-Entry System, if any Bond shall be called for redemption only in part, then the Bondholder, upon surrender of such Bond to the Trustee for payment, shall be entitled

to receive a new Bond or Bonds in the aggregate principal amount of the unredeemed balance of the principal amount of such Bond, without charge therefor.

B. If the Bondholder of any Bond which is called for redemption only in part shall fail to present such Bond to the Trustee for payment and exchange as aforesaid, such part of the Bond shall, nevertheless, become due and payable on the date fixed for redemption, and to such extent such Bond shall no longer be deemed to be Outstanding for purposes of this Indenture.

C. Notwithstanding the foregoing, if the Bonds are held under a Book-Entry System at the time of a partial redemption of the Bonds, beneficial ownership interests in the Bonds shall be selected for redemption in accordance with the rules and procedures established by the Securities Depository.

D. While any bonds issued by the Purchaser to purchase the Series 2010B Bonds and Series 2010C Bonds are registered in Book Entry Form and so long as DTC or a successor securities depository is the sole registered owner of the Purchaser's bonds, if less than all of the Series 2010B Bonds or Series 2010C Bonds of a single maturity are to be redeemed prior to maturity, the particular Series 2010B Bonds or Series 2010C Bonds or portions thereof to be redeemed will be selected on a pro-rata pass through distribution of principal basis in accordance with DTC procedures, *provided* that, so long as the Purchaser's bonds are registered in Book Entry Form, the selection for redemption of such Series 2010B Bonds or Series 2010C Bonds will be made in accordance with the operational arrangements of DTC then in effect and, if the DTC operational arrangements do not allow for redemption on a pro-rata pass-through distribution of principal basis, the Series 2010B Bonds or Series 2010C Bonds subject to redemption will be selected for redemption in accordance with DTC procedures, by lot.

## ARTICLE IV

### GENERAL PROVISIONS

***Section 4.01. Authorization for Indenture; Indenture and Bond Resolution to Constitute Contract.*** This Indenture is entered into pursuant to the Act. In consideration of the purchase of the Bonds by the Bondholders, the provisions of this Indenture and the Bond Resolution shall be part of the contract of the Council with the Bondholders and shall be deemed to be and shall constitute a contract among the Council, the Trustee, and the Bondholders. The provisions hereof are covenants and agreements with such Bondholders, which the Council hereby determines to be necessary and desirable for the security and payment of the Bonds.

***Section 4.02. Payment of Principal, Premium, and Interest; Security.*** The Council covenants that it will duly and punctually pay or cause to be paid the principal of, premium, if any, and interest on the Bonds issued under this Indenture at the place, on the dates, and in the manner provided herein and therein according to the true intent and meaning hereof and thereof. The Bonds are payable solely from the Flood Prevention District Revenues and, with respect to the Series 2010B Bonds only, any Build America Payments and, with respect to the

Series 2010C Bonds only, any Recovery Zone Payments, and for the purpose of providing funds required to pay the principal and interest on the Outstanding Bonds promptly when and as the same falls due, the Council covenants and agrees with the purchasers and the owners of the Outstanding Bonds that the Outstanding Bonds shall have a first and prior claim on and a security interest in all Flood Prevention District Revenues, the Project Fund and all accounts of the Council Sales Tax Fund. The Flood Prevention District Revenues are appropriated pursuant to the Bond Resolution for the purpose of paying the principal of and interest on the Outstanding Bonds when and as the same come due.

**Section 4.03. Performance of Covenants; Legal Authorization.** The Council covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Indenture, in any and every Bond executed, authenticated, and delivered hereunder, and in all proceedings of its members pertaining thereto. The Council represents that it is duly authorized under the Constitution and laws of the State to issue the Bonds authorized hereby and to execute this Indenture and to pledge the amounts hereby pledged in the manner and to the extent herein set forth; that all action on its part necessary for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken; and that the Bonds in the hands of the Bondholders are and will be valid and enforceable obligations of the Council according to the import thereof.

**Section 4.04. Instruments of Further Assurance.** The Council covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such indentures supplemental hereto and such further acts, instruments, and transfers as the Trustee may reasonably require for the better assuring, transferring, conveying, pledging, assigning, and confirming unto the Trustee amounts pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds.

**Section 4.05. Recordation of Indenture and Other Security Instruments.** The Council, if necessary, shall cause this Indenture and all supplements thereto as well as such other security instruments, financing statements, and all supplements thereto, and other instruments as may be required from time to time to be kept recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the lien hereof and the security of the holders and owners of the Bonds and the rights of the Trustee hereunder.

**Section 4.06. Rights under Certain Agreements.** This Indenture, the documents executed by the Council in connection herewith and therewith (including, but not limited to, the Tax Certificate), and any Credit Facility, duly executed counterparts or originals of which have been filed with the Trustee, set forth the covenants and the obligations of the Council, the Credit Facility provider, and the Trustee. Reference is hereby made to such documents for detailed statements of the covenants and obligations set forth therein.

**Section 4.07. Legal Existence of Council.** The Council covenants that it will at all times maintain its legal existence and will duly procure any necessary renewals and extensions thereof; will use its best efforts to maintain, preserve, and renew all the rights, powers, privileges, and franchises owned by it; and will comply with all valid acts, rules, regulations, and orders of any

legislative, executive, judicial, or administrative body applicable to the Council in connection with the Bonds.

**Section 4.08. Tax-Exempt, Build America and Recovery Zone Status of Series 2010 Bonds.** The Council and the Trustee each covenant to commit or suffer no act within its control that would, to its actual knowledge, alter the status or character of the Series 2010 Bonds as Tax-exempt Bonds, Build America Bonds or Recovery Zone Bonds.

**Section 4.09. Diminution of or Encumbrance on Trust Estate.** The Council covenants not to sell, transfer, assign, pledge, release, encumber, or otherwise diminish or dispose of, directly or indirectly, by merger or otherwise, or cause or suffer the same to occur, or create or allow to be created or to exist any lien upon, all or any part of its interests in the Trust Estate, except as expressly permitted by this Indenture.

**Section 4.10. Books, Records, and Accounts.** The Trustee agrees to keep proper books for the registration of, and transfer of ownership of, each Bond, and proper books, records, and accounts in which complete and correct entries shall be made of all transactions relating to the receipt, disbursement, investment, allocation, and application of the proceeds received from the sale of the Bonds, the documents executed by the Council in connection therewith, the Funds and accounts created pursuant to this Indenture, and all other moneys held by the Trustee hereunder. The Trustee shall, during regular business hours and upon reasonable prior notice, make such books, records, and accounts available for inspection by the Council.

**Section 4.11. Notices to Rating Agencies.** The Trustee shall provide the Rating Agencies with prompt written notice following the effective date of (i) the appointment of any successor Trustee; (ii) any supplement to or amendment of, this Indenture or the Bond Resolution; (iii) the delivery of a Credit Facility; (iv) the payment in full of all of the Bonds; (v) the giving of a notice of mandatory redemption of the Bonds; or (vi) the provision for payment of all or a portion of the Bonds in accordance with Article VI hereof. Each notice to the Rating Agencies hereunder shall be directed to the respective addresses provided by the Rating Agencies.

## ARTICLE V

### FUNDS, ACCOUNTS AND RELATED COVENANTS; ADDITIONAL BONDS

**Section 5.01. Project Fund.** The Project Fund is hereby created and established as a trust fund to be held by the Trustee. There are hereby created within the Project Fund two accounts designated as the "Costs of Issuance Account" and the "Construction Account." Principal proceeds and any premium received on the delivery of the Series 2010 Bonds in the amounts set forth in Section 2.12 are hereby ordered deposited into each Sub-Account of the Costs of Issuance Account and the Construction Account.

(a) **Costs of Issuance Account.** There are hereby created within the Costs of Issuance Account three sub-accounts designated as the "Series 2010A Costs of Issuance Sub-Account," the "Series 2010B Costs of Issuance Sub-Account" and the "Series 2010C Costs of Issuance

Sub-Account.” Additional sub-accounts of the Costs of Issuance Account shall be created upon the issuance of Additional Bonds or Subordinate Bonds pursuant to a Supplemental Indenture.

(b) *Construction Account.* There are hereby created within the Construction Account three sub-accounts, designated as the “Series 2010A Construction Sub-Account,” the “Series 2010B Construction Sub-Account” and the “Series 2010C Construction Sub-Account.” Additional sub-accounts of the Construction Account shall be created upon the issuance of Additional Bonds or Subordinate Bonds pursuant to a Supplemental Indenture.

(c) *Administration of Project Fund.* Any moneys received by any District or the Council from any source and designated as being for the purpose of paying costs of the Project shall be transferred to the Trustee and deposited in the Construction Account. The moneys in the Construction Account shall be held in trust by the Trustee, shall be applied to the payment of the costs of the Project and, pending such application, shall be held as trust funds under this Indenture until paid out or transferred as provided in this Section 5.01. The Bonds are secured by a pledge of all of the moneys on deposit in the Project Fund, and such pledge is irrevocable until the obligations of the Council are discharged under this Indenture. The Trustee may, in its discretion, establish such other accounts within the Project Fund, and sub-accounts within any of such accounts, as the Trustee may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from the Project Fund and its accounts, or, if directed by the Council, for the purpose of complying with the requirements of the Code, but the establishment of any such account or sub-account shall not alter or modify any of the requirements of this Indenture with respect to the deposit or use of money or result in commingling of funds not permitted hereunder. In establishing such accounts or sub-accounts, the Trustee may at any time request, receive and rely with full acquittance upon an opinion of Bond Counsel, addressed to the Trustee, that the establishment of such accounts or sub-accounts will not adversely affect any exemption from federal income taxation to which interest on the Bonds would otherwise be entitled. Moneys deposited into the Project Fund shall be held in the Project Fund and disbursed as hereinafter provided. The Trustee shall administer the Project Fund as follows:

1. *Withdrawals for Costs of Issuance.* Amounts on deposit in each sub-account shall be used and disbursed by the Trustee to pay the costs of issuance of the related series of Series 2010 Bonds upon written request of a Designated Representative. Amounts remaining on deposit in the Costs of Issuance Account shall be transferred by the Trustee to the Construction Account upon the written direction of a Designated Representative at such time as all costs of issuance have been paid.

2. *Withdrawals for Project Costs.* Except for withdrawals made in accordance with the Tax Certificate, moneys deposited into the Construction Account shall be paid out from time to time by the Trustee in order to pay, or to reimburse the Council for payment made, for the costs of the Project (including any expense of planning, construction, renovation, equipping, improving, design, financing or other services constituting a cost of the Project), in each case only upon receipt by the Trustee of the Written Statement of the Chief Supervisor of Construction of the Council or any other official so designated by the Board of Directors (the “*Written Request*”):

(i) stating the item number of such Written Request, the name of the person, firm or corporation to whom each such payment is due, each amount to be paid or reimbursed, the general classification of the costs for which each obligation to be paid was incurred, and that such costs were incurred for or in connection with the Project;

(ii) stating that such costs have been incurred by the Council and are currently due and payable or owing or have been paid by the Council and are reimbursable hereunder, and each item thereof is a proper charge against the Project Fund;

(iii) stating that no part of such costs was included in any other Written Request previously filed with the Trustee under the provisions hereof;

(iv) stating that there are no liens or rights to any such liens (including mechanic’s liens) affecting the right of any Person, firm or corporation to receive payment of the respective amount stated in such Written Request and all work the performance of which could give rise to any such liens (including mechanic’s liens) has been paid for or will be paid with funds obtained pursuant to this Written Request;

3. *Disposition of Project Fund Moneys After Completion.* Upon receipt of a Written Request directing that any balance of moneys in the Series 2010A Construction Sub-Account shall be transferred to the Series 2010A Sub-Account of the Bond Fund, the Trustee shall make such transfer; *provided* that there be delivered to the Trustee an opinion of Bond Counsel to the effect that such application will not adversely affect the validity of the Series 2010A Bonds or any exemption from federal income taxation to which the interest on the Series 2010A Bonds would otherwise be entitled. All proceeds of the Series 2010B Bonds and the Series 2010C Bonds, including investment earnings, shall be retained in the Series 2010B Construction Account and the Series 2010C Construction Account and be used for the Project or other capital expenditures of the Council.

4. *Investment of Project Fund Moneys.* Pending disbursement, money in the Project Fund may be invested in lawful investments and such investment earnings shall be retained in the account of the Project Fund from which the investment was made and used for purposes of the Project Fund. The Trustee shall be entitled to rely upon a



schedule of anticipated payments of construction and equipment costs approved by the Council, in scheduling such investments. The Trustee shall not be obligated to invest any moneys held by it hereunder except as directed by the Council, but shall as soon as practicable inform the Council of any amounts that remain uninvested but are eligible for investment. Notwithstanding any other provisions of this Article, all investment earnings shall be subject to the provisions of the Tax Certificate.

**Section 5.02. Council Sales Tax Fund.** The Council Sales Tax Fund is hereby established as a trust fund to be held by the Trustee. Each of the three Counties has heretofore established and has held a County Flood Prevention Occupation Tax Fund. Pursuant to each Council/County Intergovernmental Agreement each County has directed the Comptroller of the State of Illinois to, for the period during which any of the Bonds are Outstanding, pay the respective County's Flood Prevention District Sales Taxes directly to the Trustee rather than to the respective County. Upon receipt by the Trustee of Flood Prevention District Sales Taxes, the Trustee shall deposit such taxes directly to the Council Sales Tax Fund. All other Flood Prevention District Revenues legally available to pay debt service on the Bonds shall also be deposited to the Council Sales Tax Fund as and when received. There are hereby established within the Council Sales Tax Fund sub-funds designated as the "Bond Fund," the "Reserve Fund," the "Subordinate Lien Bond Fund," the "Rebate Fund," the "Council Administrative Fund" and the "Surplus Fund."

Upon immediate receipt of any Flood Prevention District Revenues, the Trustee shall deposit such receipts into the Council Sales Tax Fund. Commencing with the first month following the date of issuance of the Bonds, the Trustee shall deposit the money in the Council Sales Tax Fund into the following accounts in the order and at the times as follows:

A. immediately upon receipt, (i) all Build America Payments into the Series 2010B Bond Fund Account, and (ii) all Recovery Zone Payments into the Series 2010C Bond Fund Account;

B. immediately upon receipt, Flood Prevention District Sales Taxes and other Flood Prevention District Revenues, (i) into the Series 2010A Bond Fund Account an amount equal to one-sixth of the interest becoming due on the next succeeding interest payment date on all Outstanding Series 2010A Bonds and one-twelfth of the principal becoming due on the next succeeding principal maturity or mandatory redemption date of all Outstanding Series 2010A Bonds, plus an amount necessary to make up for any existing deficiencies in the Series 2010A Bond Fund Account caused by prior deposits that did not fully meet the requirements of this provision; (ii) into the Series 2010B Bond Fund Account an amount equal to one-sixth of the interest becoming due on the next succeeding interest payment date on all Outstanding Series 2010B Bonds and one-twelfth of the principal becoming due on the next succeeding principal maturity or mandatory redemption date of all Outstanding Series 2010B Bonds, plus an amount necessary to make up for any existing deficiencies in the Series 2010B Bond Fund Account caused by prior deposits that did not fully meet the requirements of this provision; (iii) into the Series 2010C Bond Fund Account an amount equal to one-sixth of the interest becoming due on the next succeeding interest payment date on all Outstanding Series 2010C Bonds

and one-twelfth of the principal becoming due on the next succeeding principal maturity or mandatory redemption date of all Outstanding Series 2010C Bonds, plus an amount necessary to make up for any existing deficiencies in the Series 2010C Bond Fund Account caused by prior deposits that did not fully meet the requirements of this provision. If there are insufficient funds to make such deposits in any month the Trustee shall make deposits to each Bond Fund Account so that each Bond Fund Account receives an equal percentage of the amount otherwise required to be deposited thereto pursuant to this subsection. For purposes of this subsection (b), the phrase “next succeeding interest payment date” means the next interest payment date occurring more than 15 days after the date of such deposit, and the phrase “next succeeding principal maturity or mandatory redemption date” means the next principal maturity date or mandatory redemption date occurring more than 15 days after the date of such deposit. Any moneys deposited into the Council Sales Tax Fund during the month in which the Bonds are issued shall be treated as received on the first Business Day of the first month following the date of issuance of the Bonds. During the period from the date of issuance of the Bonds until the first interest payment date, the amount “one-sixth” shall mean a fraction the numerator of which is one (1) and the denominator of which is the number of whole months between the Closing Date and the first Interest Payment Date, and the amount “one-twelfth” shall mean a fraction the numerator of which is one (1) and the denominator of which is the number of whole months between the Closing Date and the first principal maturity or mandatory redemption date.

C. on the last Business Day of the month, money in the Council Sales Tax Fund, into the Reserve Fund an amount which, together with the moneys then on deposit in the Reserve Fund (taking into account the principal amount of any Reserve Fund Credit Instrument) equals the Reserve Requirement or an amount necessary to reimburse the provider of any Reserve Fund Credit Instrument;

D. on the last Business Day of the month, money in the Council Sales Tax Fund, into the Subordinate Lien Bond Fund as set forth in a Supplemental Indenture.

E. on the last Business Day of the month, money in the Council Sales Tax Fund, into any other accounts created pursuant to a supplemental indenture for the security of Subordinate Bonds;

F. on the last Business Day of the month, money in the Council Sales Tax Fund, into the Rebate Fund such amount as is required to be deposited therein pursuant to the Tax Certificate or any tax certificate or agreement executed and delivered relating to Additional Bonds or Subordinate Bonds;

G. on the last Business Day of the month, money in the Council Sales Tax Fund, into the Council Administrative Fund the amount necessary to provide for all expenses of the Council as set forth in the approved Council budget, as such budget may be amended, for such Fiscal Year; and

H. on the last Business Day of the month, money in the Council Sales Tax Fund, into the Surplus Fund.

**Section 5.03. Bond Fund.** The Bond Fund is hereby established as a trust fund to be held by the Trustee in trust for the benefit of the holders of the Bonds. There are hereby created within the Bond Fund three accounts designated as the "Series 2010A Bond Fund Account," the "Series 2010B Bond Fund Account" and the "Series 2010C Bond Fund Account." Commencing with the first month following the date of issuance of the Bonds, the Trustee shall deposit into the three Bond Fund Accounts, immediately upon receipt, the amounts set forth and described in Section 5.02.A and 5.02.B.

The Trustee shall also deposit in each Bond Fund Account in any month an amount necessary to make up for any existing deficiencies in the Bond Fund Account caused by prior deposits that did not fully meet the requirements of this Section.

If there are insufficient funds to make such deposits in any month the Trustee shall make deposits to each Bond Fund Account so that each Bond Fund Account receives an equal percentage of the amount otherwise required to be deposited thereto pursuant to this Section.

Except during the month of April, payments to the Bond Fund Accounts may be suspended in any Bond Year at such time as there shall be a sufficient sum, held in cash and investments, in each said Account to meet principal and interest requirements in said Account for the balance of such Bond Year, but such credits shall again be resumed on April 1 of each year, or, if for any reason whatsoever, the amounts on deposit are at anytime insufficient to meet said principal and interest requirements.

The Council covenants and agrees with the purchasers and the owners of the Bonds that so long as the Bonds remain outstanding, the Council will take no action or fail to take any action which in any way would adversely affect the ability of each County to impose and apply the Flood Prevention District Sales Taxes or the ability of the Council to collect the Flood Prevention District Revenues to the payment of the Bonds. The Council and its officers will comply with all present and future applicable laws in order to assure that the Flood Prevention District Revenues will be available as provided herein and deposited in the Bond Fund.

**Section 5.04. Build America Payments and Recovery Zone Payments.** As additional security for the payment of the Series 2010B Bonds and the Series 2010C Bonds, the Council pledges pursuant to Section 13 of the Local Government Reform Act of the State of Illinois, the Build America Payments and Recovery Zone Payments to the Bonds. All Build America Payments and Recovery Zone Payments received by the Council shall promptly be transferred to the Trustee and deposited into the relative Bond Fund Account and be used to pay principal of and interest on the Series 2010B Bonds and the Series 2010C Bonds on the next interest payment date for the Bonds. Build America Payments shall be used to pay principal and interest on the Series 2010B Bonds and Recovery Zone Payments shall be used to pay principal and interest on the Series 2010C Bonds. All Build America Payments and Recovery Zone Payments received by the Council shall be fully spent to pay the principal and interest on the Series 2010B Bonds and Series 2010C Bonds prior to use of any Flood Prevention District Revenues.

The Trustee shall send Forms 8038-CP with Part III of the forms completed to the Council as least 100 days prior to each Interest Payment Date. The Trustee shall complete part III of the Forms 8038-CP based on the installment of interest due on the Series 2010B Bonds and Series 2010C Bonds, as appropriate, on the next subsequent Interest Payment Date. Part's I and II of the Forms 8038-CP shall be signed and filed with the IRS by the Council as soon as possible upon receipt by the Council of Forms 8038-CP, but in no event earlier than 90 days or later than 45 days prior to such Interest Payment Date. The Trustee shall not be responsible for the actual filing of Forms 8038-CP with the IRS or any payment from the United States Treasury in accordance with §§ 54AA and 6431 of the Code.

**Section 5.05. Reserve Fund.** The Reserve Fund is hereby established as a trust fund to be held by the Trustee as long as any of the Bonds remain outstanding. All amounts on deposit in the Reserve Fund shall be held in trust for the sole benefit of the holders of the Bonds and shall be applied and used solely for the payment of principal of the Bonds, at maturity or on any mandatory redemption date, and for payment of interest on the Bonds as it falls due whenever there are not sufficient funds to pay such principal and interest on the Bonds when due. There shall be credited to the Reserve Fund upon the issuance of the Bonds the amount equal to the Reserve Requirement. Thereafter, no additional funds need be credited to the Reserve Fund except (i) that when money to the credit of the Reserve Fund is disbursed, then the Council shall immediately cause deposits to be made to the Reserve Fund until the Reserve Fund has been restored to the Reserve Requirement and (ii) that when money to the credit of the Reserve Fund is determined to be deficient on any Valuation Date (defined below) as a result of a decline in market value of the securities therein, then the Council shall cause deposits to be made to the Reserve Fund so that such deficiency has been restored no later than the next succeeding Valuation Date, except in the case of a deficiency caused by a decline in the rating of a Reserve Fund Credit Instrument, then the Council shall cause proportional monthly deposits to be made to the Reserve Fund so that such deficiency has been restored within five years. The monies credited to the Reserve Fund shall be used to pay principal and interest or either of them of any of the Outstanding Bonds and Additional Bonds at any time when there are insufficient funds available and to the credit of the Bond Fund to pay such interest as the same becomes due and to redeem and pay the principal of and applicable premium as the same become due.

Investments in the Reserve Fund shall be valued on every principal payment date of the Bonds (the "*Valuation Date*"), at the market value thereof, inclusive of accrued interest and interest then on deposit in the Reserve Fund. Amounts to the credit of the Reserve Fund in excess of the Reserve Requirement shall be transferred to the Project Fund on each Valuation Date and be used for the Project or other capital expenditures of the Council.

All or any part of the Reserve Requirement may be met by deposit with the Trustee of a Reserve Fund Credit Instrument. A Reserve Fund Credit Instrument shall, for purposes of determining the value of the Reserve Fund, be valued at the Reserve Fund Credit Instrument Coverage for that Reserve Fund Credit Instrument, except as provided in the next two sentences. If a Reserve Fund Credit Instrument is to terminate (or is subject to termination) prior to the last principal payment date on any Outstanding Bond, then the Reserve Fund Credit Instrument Coverage of that Instrument shall be reduced by the amount provided in the next sentence. The amount of the reduction shall be the amount, if any, by which the value of the Reserve Fund, not

counting the value of Reserve Fund Credit Instrument Coverage of that Reserve Fund Credit Instrument, is less than the Reserve Requirement after the first date that the Reserve Fund Credit Instrument is so to terminate (or is subject to termination); *provided, however*, if by the terms of the Reserve Fund Credit Instrument, the Trustee has the right and duty to draw upon the Reserve Fund Credit Instrument prior to its termination for deposit in the Reserve Fund all or part of its Reserve Fund Credit Instrument Coverage then the reduction shall be only by that amount as the Trustee shall not have the right and duty so to make a draw. Any amounts in the Reserve Fund which are not required to be transferred to the Bond Fund pursuant to this Section may, from time to time, be used to pay costs of acquiring a Reserve Fund Credit Instrument or to make payments due under a reimbursement agreement or to reinstate coverage with respect to a Reserve Fund Credit Instrument, but only if, after such payment, the value of the Reserve Fund shall not be less than the Reserve Requirement. The Council may provide for the pledge and assignment and grant of a lien on or any security interest in the amounts on deposit in the Reserve Fund to any provider of a Reserve Fund Credit Instrument deposited in the Reserve Fund to secure the Council's obligation to make payments under a related reimbursement agreement; *provided, however*, that any such lien or security interest shall be junior in priority to the claim of the Trustee for the benefit of the holders of the Bonds.

If at any time the credit rating on a Reserve Fund Credit Instrument declines below one of the two highest credit ratings assigned by the Rating Agencies rating such series of Bonds, the insured value of such Reserve Fund Credit Instrument shall be deemed to have declined by 20% annually. The Council may at any time fully replace an impaired Reserve Fund Credit Instrument. At such time as a replacement Reserve Fund Credit Instrument or cash funded Reserve Fund is provided, the impaired Reserve Fund Credit Instrument shall be terminated.

The Council hereby assigns to the Trustee its rights to enforce each Reserve Fund Credit Instrument. The Trustee shall have the right to enforce each such Reserve Fund Credit Instrument at law or in equity with or without the further consent or participation of the Council. This assignment to the Trustee of the right to enforce each such Reserve Fund Credit Instrument shall not prevent the Council from enforcing any such Reserve Fund Credit Instrument on its own behalf to the extent that such enforcement by the Council will not adversely affect the rights of the holders of the Bonds and is not inconsistent with any action for enforcement brought by the Trustee.

The Trustee is authorized and directed to file a claim, give notice, or take such other appropriate actions as shall be required in order to effect payment under or make a draw upon any Reserve Fund Credit Instrument as those amounts are needed for use for paying principal of and interest on the Bonds, or for making a deposit in the Reserve Fund. The Trustee shall deposit all such amounts received by it in the Reserve Fund.

***Section 5.06. Subordinate Lien Bond Fund.*** The Subordinate Lien Bond Fund is hereby established as a trust fund to be held by the Trustee and shall be funded as set forth in a Supplemental Indenture relating to any series of Subordinate Bonds.

***Section 5.07. Rebate Fund.*** The Rebate Fund is hereby established and shall be held by the Trustee. The Council shall direct the Trustee to deposit such amounts as are required to be

deposited in the Rebate Fund pursuant to the Tax Certificate or any tax certificate or agreement executed and delivered relating to Additional Bonds or Subordinate Bonds. Moneys in the Rebate Fund shall not be considered moneys held for the benefit of the owners of the Bonds. Except as provided in the Tax Certificate, moneys in the Rebate Fund (including earnings and deposits therein) shall be held in trust for payment to the United States as required by the Code and by the Regulations and as contemplated under the provisions of this Indenture.

**Section 5.08. Council Administrative Expense Fund.** The Board of Directors and each County Board shall approve the Council's annual budget prior to the beginning of each Fiscal Year and supply it to the Trustee. The budget may be amended during any Fiscal Year. Any amended budget must be approved by each County Board. There shall be paid to the Council Administrative Fund and held by the Trustee an amount sufficient to provide for administrative expenses of the Council as set forth in the Council's approved annual budget. Upon written request by a Designated Representative of the Council, amounts on deposit in the Council Administrative Expense Fund shall be paid by the Trustee to the Council for the payment of expenses of the Council set forth in the Council's approved budget, as such budget may be amended. Deposits to the Council Administrative Expense Fund shall be suspended in any Fiscal Year at such time as there shall be a sufficient sum, held in cash and investments, in said Fund to meet the Council administrative expenses contained in the Council's approved budget, as such budget may be amended, for such Fiscal Year.

**Section 5.09. Surplus Fund.** At such time as all other Council Sales Tax Fund requirements have been fully satisfied in any month, the Trustee shall deposit Flood Prevention District Sales Taxes and Flood Prevention Revenues to the Surplus Fund. Funds to the credit of the Surplus Fund shall be used first by the Trustee to make up any deficiencies in any of the prior Accounts and then shall be distributed to the Counties for deposit to their respective County Flood Prevention Occupation Tax Fund unless, upon approval of the Counties, a Designated Representative of the Council notifies the Trustee to suspend or reduce such distribution and retain moneys in the Surplus Fund. In such event, funds to be credit of the Surplus Fund shall be used, at the discretion of the Council, upon the request of the Council and upon approval of the Counties for one or more of the following purposes without any priority among them:

- A. For the purpose of acquiring or constructing repairs, replacements, improvements or extensions to the Project; or
- B. For the purpose of calling and redeeming Outstanding Bonds payable from the Flood Prevention District Sales Taxes and Flood Prevention District Revenues which are callable at the time; or
- C. For the purpose of purchasing Outstanding Bonds payable from the Flood Prevention District Sales Taxes and Flood Prevention District Revenues, at a price not in excess of par;
- D. For the purpose of paying principal of and interest on any bonds or obligations issued by the Council, the Counties or the Districts for the purpose of

acquiring or constructing repairs, replacements, improvements or extensions to the Project and payable from the Flood Prevention District Sales Taxes; or

E. For any purpose enumerated in any future bond resolution of the Council;  
or

F. For any other lawful Council, County or District purpose.

Transfers to the Counties from the Surplus Fund shall be made monthly, on the last business day of the month. The amount that the Trustee shall transfer from the Surplus Fund to each County shall be determined by the Council, and informed by the Council to the Trustee, by multiplying the total amount to be transferred to the Counties by the percentage of Flood Prevention District Sales Taxes collected by each County in relation to the entire Flood Prevention District Sales Taxes collected in all three Counties during the immediately preceding calendar year ending more than ten months prior to the date of the transfer.

**Section 5.10. Investments.** Moneys to the credit of Council Sales Tax Fund and the Project Fund may be invested from time to time by the Trustee in investments authorized by the Public Funds Investment Act of the State of Illinois, as amended, for the investment of funds of the Districts. Investment earnings on moneys invested in the Bond Fund Accounts shall be retained in the Bond Fund Accounts, investment earnings on moneys invested in the Project Fund shall be retained in the Project Fund and investment earnings on moneys invested in any account of the Council Sales Tax Fund (except any Bond Fund Account) shall be deposited into the Council Sales Tax Fund. The Trustee shall not be obligated to invest any moneys held by it hereunder except as directed by the Council, but shall as soon as practicable inform the Council of any amounts that remain uninvested but are eligible for investment.

**Section 5.11. Moneys Held in Trust.** All moneys required to be deposited with or paid to the Trustee for the account of any fund or account under any provisions of this Indenture shall be held by the Trustee in trust under the terms hereof and shall not be subject to lien or attachment of any creditor of the Council. Such moneys shall be held in trust and applied in accordance with the provisions of this Indenture.

**Section 5.12. Repayment to Council from Indenture Funds.** Any amounts remaining in any fund or account created under this Indenture, after payment or provision for payment in full of the Bonds, Additional Bonds and Subordinate Bonds in accordance with Article VI hereof, the fees, charges, and expenses of the Trustee and any co-trustee appointed hereunder, and after and to the extent that the Council shall determine that the payment of such remaining amounts may be made without violation of the provisions of the Tax Certificate, shall be paid, upon the expiration of, or upon the sooner termination of, the terms of this Indenture, to the Council.

**Section 5.13. Tax Covenants.** The Council affirms and incorporates the covenants made with respect to the Tax-exempt Bond, Build America Bond and Recovery Zone Bond status of the Bonds as set forth in the Tax Certificate.

**Section 5.14. Additional Bonds.** As long as there are any Outstanding Bonds, the Council shall not incur any indebtedness which is payable from the Flood Protection District Revenues except upon compliance with any one of the following:

A. Additional Bonds may be issued for the purposes set forth in the Act or for refunding Outstanding Bonds upon compliance with any of the following conditions:

1. The amounts required to be credited monthly to the Bond Fund have been credited in full up to the date of the delivery of such Additional Bonds.

2. The Reserve Fund is fully funded.

3. The Flood Protection District Revenues for the 12 months prior to the issuance of the Additional Bonds must equal at least 1.50 times Maximum Annual Debt Service computed immediately after the issuance of the proposed Additional Bonds, but only for those Bond Years in which the Outstanding Bonds immediately prior to such issuance and the Additional Bonds will continue to be outstanding as provided herein.

B. Additional Bonds may be issued to refund Outstanding Bonds if the principal and interest payments due on such Additional Bonds in each Bond Year are less than those of the Outstanding Bonds to be refunded.

C. Additional Bonds may be issued to refund Outstanding Bonds in order to avoid default in the payment of principal of or interest on Outstanding Bonds; *provided*, they are issued to avoid such default within three months of the date of the anticipated default. Other than such refunding Additional Bonds issued pursuant to this paragraph (c), Additional Bonds shall not be issued if an event of default under Section 7.01 has occurred and is continuing hereunder.

D. Subordinate Bonds may be issued by the Council for the Project or to refund Bonds, Additional Bonds or Subordinate Bonds. Acceleration will not be a permissible remedy upon an event of default under the documents authorizing Subordinate Bonds.

All Additional Bonds issued under this Section shall mature as to principal on April 15 and as to interest on April 15 and/or October 15 and all subordinate bonds issued under this Section shall mature at such times as the issuer thereof may determine.



## ARTICLE VI

### DISCHARGE OF INDENTURE; PROVISION FOR PAYMENT OF A BOND

**Section 6.01. Discharge.** The following provisions shall apply to discharge and payment.

A. If the Council shall pay or cause to be paid or there shall be otherwise paid or provision shall be made for the payment of, the principal, premium, if any, and interest due or to become due on Bonds at the times and in the manner stipulated therein; and if the Council shall not then be in default under any of the other covenants and promises in such Bonds and this Indenture to be kept, performed, and observed by it or on its part; and if the Council shall pay or cause to be paid to the Trustee all sums of money due or to become due according to the provisions hereof or of the Bonds; then, except for the rights of the Trustee under Section 7.02 hereof, these presents and the interests in the Trust Estate and rights hereby granted shall cease, determine, and be void; and the Trustee shall take such actions, at the request of the Council, as may be necessary to evidence the cancellation and discharge of the lien of this Indenture.

B. A Bond shall be deemed to be paid within the meaning of this Article VI and for all purposes of this Indenture when (i) payment of the principal of and the applicable redemption premium, if any, on such Bond plus interest thereon to Maturity shall have been provided to the Trustee by irrevocably depositing with the Council and the Trustee, in trust, and the Trustee shall have irrevocably set aside exclusively for such payment, any combination of (1) funds sufficient to make such payment, and/or (2) Government Obligations (except for those obligations described in clause (iii) of the definition thereof) not subject to redemption or prepayment and maturing as to principal and interest in such amounts and at such times as will, in the opinion of an independent certified public accountant delivered to the Council and the Trustee, provide sufficient moneys, without reinvestment of any matured amounts, to make such payment without reinvestment; (ii) the Trustee shall have been given irrevocable written instructions to call all outstanding Bonds for redemption on a date certain, if such Bonds are to be called for redemption prior to Stated Maturity; (iii) the Trustee shall have received a Favorable Bond Counsel Opinion as to the effect of such deposit (and the payment of the Bonds therefrom); and (iv) all necessary and proper fees, compensation, and expenses of the Trustee pertaining to the Bonds shall have been paid or the payment thereof provided for to the satisfaction of the Trustee.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

**Section 7.01. Events of Default.** Subject to the provisions of Section 7.10 hereof, each of the following events is hereby defined as, and declared to constitute, an "Event of Default" under this Indenture:

A. A default in the payment when due of interest on any Bond.

B. A default in the payment of principal of, or premium, if any, on any Bond when due, whether at maturity, redemption, or otherwise.

C. The Council fails to perform any of its agreements in this Indenture or the Series 2010 Bonds (except a failure that results in an Event of Default under clause (A) or (B) above), the performance of which, in the opinion of the Trustee, is material to the Bondholders, and which failure continues after the giving of the notice of default and the expiration of the grace period specified in Section 7.11.

D. The Council shall (i) commence a voluntary case under the Federal bankruptcy laws, as now or hereafter constituted, or any other applicable Federal or state bankruptcy, insolvency or other similar law, (ii) make an assignment for the benefit of its creditors, (iii) consent to the appointment of a receiver of itself or of the whole or any substantial part of its property, or (iv) be adjudicated a bankrupt or any petition for relief shall be filed in respect of an involuntary case under the Federal bankruptcy laws, as now or hereafter constituted, or any other applicable Federal or state bankruptcy, insolvency or other similar law and such order continue in effect for a period of 60 days without stay or vacation.

E. A court of competent jurisdiction shall enter an order, judgment or decree appointing a receiver of the Council, or of the whole or any substantial part of its property, or approving a petition seeking reorganization of the Council under the Federal bankruptcy laws or any other applicable Federal or state law or statute and such order, judgment or decree shall not be vacated or set aside or stayed within 60 days from the date of the entry thereof.

F. Under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Council or of the whole or any substantial part of its property, and such custody or control shall not be terminated or stayed within 60 days from the date of assumption of such custody or control.

**Section 7.02. Remedies; Rights of Bondholders.** Upon the occurrence of any Event of Default, the Trustee may pursue any available remedy by suit at law or in equity to enforce the payment of the principal or purchase price of, premium, if any, and interest on the Bonds then Outstanding, and the performance by the Council of its obligations hereunder, including, without limitation, the following:

A. by mandamus, or other suit, action, or proceeding at law or in equity, to enforce all rights of the Bondholders, and require the Council to carry out its obligations under this Indenture and the Act;

B. bring suit upon the Bonds;

C. by action, suit, or proceeding at law or in equity require the Council to account for any moneys received by the Council as if it were the trustee of an express trust for the Bondholders; and

D. by action, suit, or proceeding at law or in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders.

Subject to the prior rights of the Bondholders, the Council shall be entitled to reimbursement for any of its expenses in connection with such proceeding from any available funds in the Trust Estate. If an Event of Default shall have occurred, and if requested to do so by the Bondholders of not less than 50% in aggregate principal amount of the Bonds then Outstanding, and if indemnified as provided in Section 8.01.L. hereof, the Trustee shall be obligated to exercise one or more of the rights and powers conferred by this Section as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondholders. No remedy conferred upon or reserved to the Trustee or the Bondholders by the terms of this Indenture is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or the Bondholders hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or an acquiescence therein; and every such right and power may be exercised from time to time as often as may be deemed expedient. No waiver of any default or Event of Default hereunder, whether by the Trustee or the Bondholders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any right or remedy consequent thereon.

**Section 7.03. Right of Bondholders to Direct Proceedings.** Anything in this Indenture to the contrary notwithstanding, upon the occurrence of an Event of Default, the Bondholders of a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or for any other proceedings hereunder, other than for the payment of the principal or purchase price of, premium, if any, and interest on the Bonds, or any part thereof; *provided, however*, that direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

**Section 7.04. Appointment of Receiver.** Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and the Bondholders under this Indenture, the Trustee shall be entitled, as a matter of right, to request the appointment of a receiver or receivers of the Trust Estate and of the revenues, issues, earnings, income, products, and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

**Section 7.05. Waiver of Certain Laws.** Upon the occurrence of an Event of Default, to the extent that such rights may then lawfully be waived neither the Council, nor anyone claiming through or under it, shall claim or seek to take advantage of any appraisal, valuation, stay, extension, or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement of this Indenture. The Council, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws.

**Section 7.06. Application of Moneys.** Subject to the provisions of the Tax Certificate, all moneys relating to the Bonds received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall (after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees and expenses, liabilities, and advances of the Trustee, it being understood that payment of such costs and expenses shall not be made from any moneys already held for the payment of principal of, premium, if any, interest on and/or purchase price for Bonds that were not presented for payment when due in accordance with the terms of this Indenture) be deposited into the Bond Fund and all moneys in the Bond Fund shall be applied as follows:

A. First, to the payment of all reasonable costs and expenses of collection, fees, and other amounts due to the Trustee hereunder; and thereafter,

B. All such monies shall be applied as follows:

1. FIRST, to the payment to the persons entitled thereto of all installments of interest on Outstanding Bonds then due, in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference;

2. SECOND, to the payment to the persons entitled thereto of the unpaid principal of any of the Outstanding Bonds which shall have become due (other than Bonds called for redemption for the payment of which monies are held pursuant to the provisions of this Indenture), in the order of their due dates, with interest upon such Outstanding Bonds from the respective dates upon which they became due, and, if the amount available shall not be sufficient to pay in full Outstanding Bonds due on any particular date, together with such interest, then to the payment first of such interest, ratably according to the amount of such interest due on such date, and then to the payment of such principal ratably according to the amount of such principal due on such date, to the persons entitled thereto without any discrimination or preference; and

3. THIRD, to the payment of the redemption premium, if any, on and the principal of any Outstanding Bonds called for redemption pursuant to the provisions of this Indenture.

4. FOURTH, to fund the Council Administrative Expense fund as set forth in Section 5.08 hereof.

Whenever the Trustee shall apply such funds it shall fix the date of application, which shall be an Interest Payment Date unless it shall deem, in the reasonable exercise of its discretion, another date more suitable. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date.

**Section 7.07. Remedies Vested in Trustee.** All rights of action (including the right to file proofs of claim) under this Indenture and under the Bonds or any Bond may be enforced by the Trustee without the possession of any Bond or the production thereof in any trial or proceedings related thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiff or defendant the Bondholder.

**Section 7.08. Rights and Remedies of Bondholders.** No Bondholder shall have any right to institute any suit, action, or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless:

A. an Event of Default has occurred of which the Trustee has been notified as provided in Section 7.01 hereof, or of which by Section 8.01(H) the Trustee is deemed to have notice;

B. the Bondholders of not less than 50% in aggregate principal amount of the Bonds then Outstanding shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in the name or names of such Bondholders, and shall have offered to the Trustee indemnity as provided in Section 8.01.L hereof; and

C. the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name, within 60 days;

and such notification, request, and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder. No one or more Bondholders shall have any right in any manner whatsoever to affect, disturb, or prejudice the lien of this Indenture by such Bondholders' action, and all proceedings at law or in equity shall be instituted, had, and maintained in the manner herein provided and (except as herein otherwise provided) for the equal and ratable benefit of the Bondholders of Bonds then Outstanding. Nothing in this Indenture, however, shall affect or impair the right of any Bondholder to enforce the payment of the principal of, premium, if any, and interest on any Bond owned by such Bondholder at and after Maturity thereof, or the obligation of the Council to pay the purchase price, principal of, premium, if any, and interest on any Bond at the time and place, from the source, and in the manner expressed in such Bond. Nothing contained herein shall be construed as permitting or affording any Bondholder a right or cause of action against the Trustee or in respect of the Bonds where a default has been waived under Section 7.10 hereof or cured under Section 7.11 hereof.

**Section 7.09. Termination of Proceedings.** In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then, and, in every such case, the Council, the Trustee and

the Bondholders shall be restored to their former positions and rights hereunder; and all rights, remedies, and powers of the Trustee shall continue as if no such proceedings had been taken.

**Section 7.10. *Waivers of Events of Default.*** The Trustee may in its discretion waive any Event of Default hereunder and its consequences and shall do so upon the written request of the Bondholders of a majority in aggregate principal amount of the Series 2010 Bonds then Outstanding; *provided, however*, that the Trustee may not waive an Event of Default described in subparagraph A. or B. of Section 7.01 hereof without the written consent of the Bondholders of all Bonds then Outstanding.

**Section 7.11. *Notice of Default; Opportunity to Cure Defaults.*** Anything herein to the contrary notwithstanding, no default under Section 7.01.C. hereof shall constitute an Event of Default until actual notice of such default by registered or certified mail shall be given to the Council by the Trustee or by the Bondholders of not less than 50% in aggregate principal amount of all Bonds Outstanding and the Council shall have had 60 days after receipt of such notice at its option to correct said default or to cause said default to be corrected and shall not have corrected said default or caused said default to be corrected within the applicable period; *provided, however*, that if said default be such that it cannot be corrected within the applicable period but can be corrected within a reasonable period of time agreed to by the Trustee, it shall not constitute an Event of Default if corrective action is instituted by the Council within the applicable period and diligently pursued until the default is corrected.

## ARTICLE VIII

### THE TRUSTEE

**Section 8.01. *Acceptance of Trusts.*** The Trustee hereby accepts the trusts imposed upon it by this Indenture and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

A. The Trustee, prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are expressly set forth in this Indenture and shall 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 an ordinarily prudent trustee under a corporate indenture would exercise or use under the circumstances. If any Event of Default under this Indenture shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care as a prudent person would exercise or use in the circumstances in the conduct of such prudent person's own affairs.

B. The Trustee may execute any of the trusts hereof, exercise any powers hereunder and perform any of its duties hereunder by or through attorneys, agents or receivers, but shall not be answerable for the conduct of the same if appointed in accordance with the standard specified above. The Trustee shall be entitled to the advice of counsel (which may be an employee or affiliate of the Trustee) concerning all matters

of trust hereof and its duties hereunder, and in all cases may pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trust hereof. The Trustee may act upon the opinion or advice of any attorneys approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action or non-action exercised in good faith in reliance upon such opinion or advice.

C. The Trustee shall not be responsible for any recital herein or in the Bonds (other than the certificate of authentication thereon); the legality, sufficiency, or validity of this Indenture; the Tax Certificate; the Bonds or any document or instrument relating hereto or thereto; the recording or filing of any instrument required by this Indenture to secure the Bonds, insuring the Project, or collecting any insurance proceeds; the validity of the execution by the Council of this Indenture or of any supplement hereto or amendment hereof or of any instrument of further assurance; or the validity, priority, perfection, or sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or otherwise as to the maintenance of the security hereof.

D. The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder. The Trustee may in good faith buy, sell, own, and hold any of the Bonds (or beneficial interests therein) in its own name and may join in any action which any Bondholder may be entitled to take with like effect as if the Trustee was not a party to this Indenture. The Trustee may also engage in or be interested in any financial or other transaction with the Council; *provided, however*, that if the Trustee determines that any such relationship is in conflict with its duties under this Indenture, it shall eliminate the conflict or resign as Trustee. To the extent permitted by law, the Trustee may also purchase Bonds (or beneficial interests therein) with like effect as if it were not the Trustee.

E. The Trustee shall be protected in acting upon and may conclusively rely upon any notice, certificate, opinion, request, or other paper or document reasonably believed by it to be genuine and correct and reasonably believed by it to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request, authority, or consent of any person, who at the time of making such request or giving such authority or consent is the Bondholder of any Bond, shall be conclusive and binding upon all future Bondholders of the same Bond and any Bond issued in replacement therefor.

F. As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper, or proceeding, the Trustee shall be entitled to rely upon a certificate signed by a duly authorized representative of the Council as sufficient evidence of the facts therein contained; and prior to the occurrence of a default of which the Trustee has been notified as provided in subsection H. of this Section 8.01, or of which by said subsection H. it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction, or action is necessary or expedient. The Trustee may, at its discretion, secure such further evidence (including, but not limited to, legal opinions) deemed necessary or

advisable by it, but shall in no case be bound to secure the same. The Trustee may accept a certificate of the officer of the Council charged with the maintenance of its books and records over the seal of the Council to the effect that a resolution or ordinance in the form therein set forth has been adopted and is in full force and effect.

G. The right of the Trustee to perform any discretionary act enumerated in this Indenture shall not be construed as a duty. The Trustee shall not be answerable for other than its negligence or willful misconduct in the performance of its powers and duties under this Indenture.

H. The Trustee shall not be required to take notice or be deemed to have notice of any default or Event of Default hereunder or in any other document or instrument executed in connection with the execution and delivery of the Series 2010 Bonds, except (i) an Event of Default under Section 7.01.A. or 7.01.B., hereof, (ii) failure by the Council to cause to be made any of the payments to the Trustee required to be made by Article V hereof, or (iii) any other Event of Default of which the Trustee has actual knowledge; unless the Trustee shall be specifically notified in writing of such default or Event of Default by the Council or the Bondholders of at least 25% in aggregate principal amount of the Bonds then Outstanding. All notices or other instruments required by this Indenture to be delivered to the Trustee shall be delivered at the principal corporate trust office of the Trustee; and, in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid.

I. At any and all reasonable times, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants, and representatives shall have the right to inspect fully all books, papers, and records of the Council pertaining to this Indenture, the Tax Certificate, and the Bonds, and to make such photocopies thereof and memoranda therefrom and in regard thereto as may be desired.

J. The Trustee shall not be required to give any bond or surety in respect of the execution of the trust created hereby or the powers granted hereunder.

K. Notwithstanding anything contained elsewhere in this Indenture to the contrary, the Trustee shall have the right, but not the obligation, to demand, in respect of the withdrawal of any cash, the release of any property, or the taking of any action whatsoever within the purview of this Indenture, any showing, certificate, opinion, appraisal, or other information, or corporate action or evidence thereof, in addition to that required by the terms hereof as a condition of such action by the Trustee, as deemed desirable for the purposes of establishing the right of the Council to the withdrawal of any cash, the release of any property, or the taking of any other action by the Trustee.

L. Before taking any action referred to in Article VII or Section 8.03 hereof (except with respect to the payment of the Bonds (whether upon maturity, redemption or otherwise) from moneys on deposit with it in accordance with Section 5.03 hereof), the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses which it may incur and to protect it against all liability,



except liability which is adjudicated to have resulted from its negligence or willful misconduct, by reason of any action so taken.

M. All moneys received by the Trustee shall, until used, applied, or invested as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds, except to the extent required by law, this Indenture or the Tax Certificate. The Trustee shall be under no liability for interest on any moneys received by it hereunder.

**Section 8.02. Annual Fees, Charges, and Expenses of Trustee.** The Trustee shall be entitled to reasonable compensation for all services rendered by them under this Indenture. In addition, the Trustee shall be entitled to reimbursement for their charges and expenses (including reasonable counsel fees and expenses) incurred in connection with such services. Such compensation and reimbursement shall be paid by the Council and except as otherwise provided for herein, the Trustee shall not have any right, title, interest in or lien on any moneys held under or pursuant to this Indenture for the benefit of the Bondholders (including moneys deposited in the Bond Fund).

**Section 8.03. Notice to Bondholders of Default.** If a default occurs of which the Trustee is required by Section 8.01.H. hereof to take notice or of which notice of default is given as provided in Section 8.01.H. hereof, then the Trustee shall promptly give written notice thereof by certified mail, postage prepaid, to each Bondholder of Bonds then Outstanding. The Trustee shall promptly give written notice to the Council by certified mail of any such notice of default sent to any Bondholder as provided hereunder.

**Section 8.04. Intervention by Trustee.** In any judicial proceeding to which the Council is a party, and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of the Bondholders, the Trustee may intervene on behalf of the Bondholders and shall do so if requested in writing by the Bondholders of at least 50% in aggregate principal amount of the Bonds then Outstanding and when provided with sufficient indemnity pursuant to Section 8.01.L. hereof.

**Section 8.05. Successor Trustee by Merger or Otherwise.** Any corporation or association into which the Trustee may be converted or merged, with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation, or transfer to which it is a party, *ipso facto*, shall (if it is qualified to be Trustee hereunder) be and become the Trustee hereunder vested with all of the title to the Trust Estate and all the trusts, powers, discretions, immunities, privileges, responsibilities, obligations, and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed, or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding; *provided, however*, that such successor Trustee meets the requirements of Section 8.11. hereof.

**Section 8.06. Resignation by Trustee.** Except during the pendency of an Event of Default, the Trustee may resign from the trusts created hereby and by related documents by

giving written notice to the Council and the Bondholders of the Bonds then Outstanding, and shall so resign whenever it ceases to be qualified to act as Trustee hereunder. Such notice shall be sent by certified mail, postage prepaid, to the Bondholders. Such resignation shall take effect upon the appointment of a successor Trustee. If no successor Trustee is appointed pursuant to Section 8.08 hereof within 30 days after the delivery of such notice, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice, if any, as it deems proper and prescribes, appoint a successor Trustee. All costs, fees, and expenses relating to such petition shall be paid by the Council. Such resignation shall not take effect until a successor or temporary Trustee is appointed.

***Section 8.07. Removal of Trustee.*** Provided that no Event of Default shall have occurred and be continuing, the Council may remove the Trustee and appoint a successor Trustee at any time by an instrument or concurrent instruments in writing delivered to the Trustee. The Trustee may be removed at any time by an instrument or substantially concurrent instruments in writing delivered to the Trustee and the Council, and signed by the Bondholders of a majority in aggregate principal amount of Bonds then Outstanding. Such removal shall not take effect, however, unless a successor Trustee has been appointed in accordance with this Article VIII.

***Section 8.08. Appointment of Successor Trustee; Temporary Trustee.*** In case the Trustee shall resign, be removed, be dissolved, be in the course of dissolution or liquidation, or otherwise become incapable of acting or not be qualified to act hereunder, or in case the Trustee shall be taken under the control of any public officer or officers or a receiver appointed by a court, a successor may be appointed by the Bondholders of a majority in aggregate principal amount of Bonds then Outstanding by filing with the Council an instrument or concurrent instruments in writing signed by such Bondholders, or by their attorneys in fact duly authorized; *provided, nevertheless*, that in case of such vacancy the Council by an instrument executed and signed by its President and attested by its Secretary, under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by the Bondholders in the manner above provided. After any appointment by the Council as provided herein, the Council shall cause notice of such appointment to be given to the Rating Agencies and to be given by certified mail, postage prepaid, to all Bondholders. The foregoing notwithstanding, any such temporary Trustee so appointed by the Council shall immediately and without further act be superseded by any successor Trustee so appointed by such Bondholders.

***Section 8.09. Successor Trustee.*** Every successor Trustee (including any temporary trustee appointed by the Council pursuant to Section 8.06 hereof) appointed hereunder shall execute, acknowledge, and deliver to its predecessor and the Council an instrument in writing accepting such appointment hereunder; and, thereupon, such successor, without any further act, deed, or conveyance, shall become fully vested with the title to the Trust Estate and all of the trust powers, discretions, immunities, privileges, responsibilities, obligations, and all other matters of its predecessor; but such predecessor shall, nevertheless, on the written request of the Council, or of its successor Trustee, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers, and trusts of such predecessor hereunder and under related documents. Should any instrument in writing from the Council be required by any successor Trustee for more fully and certainly vesting in such successor the

estates, rights, powers, and duties hereby vested or intended to be vested in the predecessor any and all such instruments in writing shall, on request, be executed, acknowledged, and delivered by the Council. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed and/or recorded by the successor Trustee in each recording office where this Indenture shall have been filed and/or recorded. No appointment of a successor Trustee hereunder shall become effective unless such successor meets the requirements of Section 8.11. hereof.

**Section 8.10. Appointment of Separate or Co-Trustee.** It is the intent of the parties to this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the rights of banking corporations or associations to transact business as a trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture and in particular in the case of the enforcement of this Indenture on default, or in 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 8.10 are adapted to these ends. If the Trustee appoints an additional individual or institution as a separate trustee or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, duty, obligation, title, interest, and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to the Trustee with respect thereto shall be exercisable by, vested in, and conveyed to such separate trustee or co-trustee, but only to the extent necessary to enable such separate trustee or co-trustee to exercise such powers, rights, and remedies; and every covenant and obligation necessary for the exercise thereby by such separate trustee or co-trustee shall run to and be enforceable by either of them. Should any instrument in writing from the Council be required by the separate trustee or co-trustee so appointed by the Trustee for more fully vesting in and confirming to them 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 Council. If any separate trustee or co-trustee, or a successor to either, shall die, become incapable of acting, or not be qualified to act, 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 successor to such separate trustee or co-trustee.

**Section 8.11. Qualifications.** Each successor to the Trustee and each institutional co-trustee (if any) shall at all times be a commercial bank or trust company organized and doing business under the laws of the United States or any state or the District of Columbia qualified to serve as the Trustee under the laws of the State, which (i) is authorized under such laws to exercise corporate trust powers; (ii) is subject to supervision or examination by the United States or State authority; (iii) has combined capital and surplus (as set forth in its most recent published report of condition) of at least \$100,000,000; (iv) shall not have become incapable of acting or have been adjudged a bankrupt or an insolvent nor have had a receiver appointed for itself or for any of its property, nor have had a public officer take charge or control of it or its property or

affairs for the purpose of rehabilitation, conservation, or liquidation; and (E) shall have a credit rating of its debt of at least "A-3" or "P-2" by Moody's (or Moody's shall have provided written evidence that such successor or co-trustee is otherwise acceptable to Moody's), if the Bonds are then rated by Moody's; and at least "A-" or "A-2" by S&P (or S&P shall have provided written evidence that such successor or co-trustee is otherwise acceptable to S&P), if the Bonds are then rated by S&P. Should any successor to the Trustee or any institutional co-trustee at any time cease to be eligible, pursuant to this Section, to act as successor Trustee or co-trustee (as the case may be), it shall resign immediately in the manner provided in Section 8.06 hereof. No resignation or removal of the Trustee and no appointment of a successor Trustee shall become effective until the successor Trustee has accepted its appointment under Section 8.08 hereof.

## ARTICLE IX

### SUPPLEMENTAL INDENTURES; SUPPLEMENTAL OR AMENDATORY BOND RESOLUTION

***Section 9.01. Supplemental Indentures Not Requiring Consent of Bondholders.*** The Council and the Trustee may enter into an indenture or indentures supplemental to this Indenture upon the terms set forth as follows.

Subject to the terms and provisions of Sections 9.03 and 9.04 of this Indenture, the Council and the Trustee may, without the consent of or notice to any of the Bondholders, enter into an indenture or indentures supplemental to this Indenture, not inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

- A. to implement the issuance of Additional Bonds or Subordinate Bonds as provided by Section 5.14 of this Indenture;
- B. to amend the flow of funds described in Article V hereof to add funds and accounts or to revise funding of funds and accounts in any manner which does not, in the opinion of the Trustee, have a material adverse effect upon the interests of the Bondholders;
- C. to add provisions providing for Discount Bonds, capital appreciation bonds, variable rate demand obligations, optional and mandatory tender bonds, commercial paper, tax credit bonds, and bonds secured or not secured by credit facilities, liquidity facilities, letters and liens of credit, guarantees and bond insurance agreements;
- D. to cure an ambiguity, formal defect, or omission in this Indenture;
- E. to grant to or confer upon the Trustee, for the benefit of the Bondholders, any additional rights, remedies, powers, or authorities that may lawfully be granted to or conferred upon the Bondholders or the Trustee;
- F. to subject to this Indenture additional revenues, properties, or collateral;

G. to modify, amend, or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, or to permit the qualification of the Bonds for sale under the securities laws of the United States of America or any of the states of the United States; and if the Council so determines, to add to this Indenture or any indenture supplemental hereto such other terms, conditions, and provisions as may be permitted by the Trust Indenture Act of 1939, as amended, or any similar federal statute;

H. to add to the covenants and agreements of the Council contained in this Indenture other covenants and agreements thereafter to be observed for the protection of the Bondholders or to surrender or limit any right, power, or authority herein reserved to or conferred upon the Council;

I. to provide that all or a portion of the Bonds may be secured by a Credit Facility or other additional security not otherwise provided for in the Indenture;

J. to modify, amend, or supplement this Indenture or any indenture supplemental hereto in such manner as the Trustee deems necessary in order to comply with any statute, regulation, judicial decision, or other law relating to secondary market disclosure requirements with respect to obligations of the type that includes the Bonds;

K. to provide for the appointment of a successor securities depository;

L. to provide for the availability of certificated Bonds; and

M. to make any other change which does not, in the opinion of the Trustee, have a material adverse effect upon the interests of the Bondholders.

***Section 9.02. Supplemental Indentures Requiring Consent of Bondholders.*** Exclusive of supplemental indentures permitted by Section 9.01 hereof, this Indenture may be amended or supplemented only as provided in this Section. Subject to the terms and provisions contained in Sections 9.03 and 9.04 of this Indenture, the Bondholders of not less than a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, to approve the execution by the Council and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Council for the purposes of modifying, altering, amending, adding to, or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture. If at any time the Council shall request the Trustee to enter into any such supplemental indenture for any of the purposes of this Section, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed by certified mail to the Bondholders. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Bondholders. If, within 60 days, or such longer period as shall be prescribed by the Council, following the mailing of such notice, the Bondholders of the requisite percentage in aggregate principal amount of the Bonds Outstanding

at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no Bondholder shall have any right to object to any of the terms and provisions contained therein or the operation thereof or in any manner to question the propriety of the execution thereof or to enjoin or restrain the Trustee or the Council (subject to Section 9.04) from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section and Section 9.04 permitted and provided, this Indenture shall be deemed to be modified and amended in accordance therewith. At any time during which the Underwriter owns Bonds, the Underwriter may be considered to be a Bondholder for purposes of this Section 9.02.

***Section 9.03. Limitation upon Amendments and Supplements; Delivery of Bond Counsel Opinion.*** Nothing contained in Sections 9.01.A. and 9.02 hereof shall permit or be construed as permitting, without the consent and approval of the Bondholders of all of the Bonds then Outstanding, (i) an extension of the maturity of the principal of or the time for payment of any redemption premium or interest on any Bond, or a reduction in the principal amount of any Bond, or the rate of interest or redemption premium thereon, or a reduction in the amount of or extension of the time of any payment required by any Bond; (ii) a privilege or priority of any Bond over any other Bond (except as herein provided); (iii) a reduction in the aggregate principal amount of the Bonds required for consent to such a supplemental indenture; (iv) the deprivation of the Bondholder of any Bond then Outstanding of the lien created by this Indenture; or (v) the amendment of this Section 9.03. No amendment or supplement to this Indenture may be entered into without the Trustee and the Council first receiving a Favorable Bond Counsel Opinion.

***Section 9.04. Supplemental or Amendatory Bond Resolutions.*** The Bond Resolution may not be amended or supplemented except as follows: (i) to authorize or give effect to the amendments or supplements to the Indenture as permitted by this Article, (ii) to take any of the actions with respect to the Bond Resolution as may be permitted in this Article with respect to the Indenture but only upon the same conditions as may relate to such actions with respect to the Indenture. If notice is not otherwise required by reference to the conditions hereinabove stated, the Council will provide to the Trustee not less than 14 days' written notice of an intent to amend the Bond Resolution and the text of such amendment and notice not less than 7 days after such amendment is actually adopted and certified copy of the amendatory ordinance.

## ARTICLE X

### MISCELLANEOUS

***Section 10.01. Consents of Bondholders.*** Any consent, request, direction, approval, objection, or other instrument required by this Indenture to be signed and executed by a Bondholder may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholder in person or by such Bondholder's agent appointed in writing. The fact and date of the execution by any person of any such consent, request, direction, approval, objection, or other instrument, or of the writing appointing any such agent, and of the ownership of a Bond, may be proved in any jurisdiction by the certificate of any officer who by law has the power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him or her the execution thereof, or by an affidavit of any witness to such

execution, and if made in such manner shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken by it under such request or other instrument.

**Section 10.02. Limitation of Rights.** With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any person other than the parties hereto and the Bondholders, any legal or equitable right, remedy or claim under or with respect to this Indenture or any covenants, conditions, and provisions herein contained. This Indenture and all of the covenants, conditions and provisions hereof are intended to be and are for the sole and exclusive benefit of the parties hereto and the Bondholders as herein provided.

**Section 10.03. Severability.** If any provisions of this Indenture shall be held or deemed to be or shall, in fact, be invalid, inoperative, or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative, or unenforceable to any extent whatever.

**Section 10.04. Notices.** Except as otherwise provided in this Indenture, all notices, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when personally delivered or mailed by certified mail, postage prepaid, or when sent by telecopy (receipt confirmed by telephone) or telegram, addressed as follows:

If to the Council:

Southwestern Illinois Flood Prevention  
District Council  
104 United Drive  
Collinsville, Illinois 62234

Attention: Chief/Supervisor of Construction  
Telephone: (618) 343-9120  
Telecopier: (618) 343-9132

If to the Trustee:

UMB Bank, N.A.  
2 South Broadway, Suite 435  
St. Louis, Missouri 63102

Attention: Corporate Trust  
Telephone: (314) 612-8044  
Telecopier: (314) 612-8498

If to the Rating Agencies:

Moody's Investors Service  
99 Church Street  
New York, New York 10007

Attention: Public Finance Department —  
Rating Desk  
Telephone: (212) 553-0300  
Telecopier: (212) 553-4570

Standard & Poor's Ratings Services  
55 Water Street  
New York, New York 10041

Attention: Municipal Structured Finance Group  
Telephone: (212) 438-2000  
Telecopier: (212) 438-2157

Fitch, Inc.  
1 State Street Plaza  
New York, New York 10004

Attention: Municipal Structured Finance Group  
Telephone: (212) 908-0500  
Telecopier: (212) 480-4421

Unless a specific provision hereunder applies, a duplicate copy of each notice given hereunder by either party hereto shall be given to the Trustee. Any person or entity listed above may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 10.05. Holidays.** If any date for the payment of an amount hereunder, or the taking of any other action required or permitted to be taken hereunder is not a Business Day, then such payment shall be due or such action shall or may be taken, as the case may be, on the first Business Day thereafter with the same force and effect as if done on the nominal date provided in this Indenture.

**Section 10.06. Execution of 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 10.07. Applicable Law.** This Indenture shall be governed by and construed in accordance with the internal laws of the State.

**Section 10.08. Disqualified Bonds.** In determining whether the Bondholders of the requisite aggregate principal amount of Bonds have concurred with any demand, request,

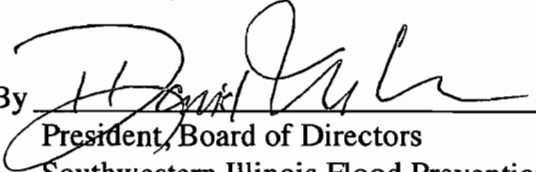


direction, consent, or waiver under this Indenture, Bonds which are owned or held by or for the account of the Council, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Council shall be disregarded and deemed not to be Outstanding for purposes of any such determination.

***Section 10.09. Immunity of Officers, Employees, Elected and Appointed Officials of Council.*** No recourse shall be had for the payment of the principal of or premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant, or agreement contained in this Indenture or any agreement supplemental hereto, against any past, present, or future president, commissioner, or other officer, director, member, employee, attorney, or agent of the Council, or any incorporator, officer, director, member, trustee, employee, or agent of any successor corporation or body politic, as such, either directly or through the Council or any successor corporation or body politic, under any rule of law or equity, statute, or constitution, or by the enforcement of any assessment or penalty or otherwise; and all such liability of any such Person is hereby expressly waived and released as a condition of and consideration for the execution of this Indenture and the issuance of any of the Bonds.

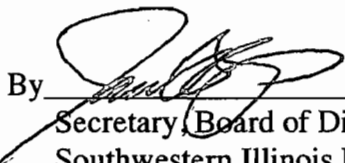
IN WITNESS WHEREOF, the SOUTHWESTERN ILLINOIS FLOOD PREVENTION DISTRICT COUNCIL, MADISON, ST. CLAIR AND MONROE COUNTIES, ILLINOIS has caused these presents to be signed in its name and on its behalf by the President of its Board of Directors and attested by its Secretary and to evidence its acceptance of the trusts hereby created UMB BANK, N.A., ST. LOUIS, MISSOURI, has caused these presents to be signed in its name and on its behalf by one of its Vice Presidents, its official seal to be hereunto affixed and the same to be attested by its Vice Presidents, all as of the day and year first above written.

SOUTHWESTERN ILLINOIS FLOOD  
PREVENTION DISTRICT COUNCIL,  
MADISON, ST. CLAIR AND MONROE  
COUNTIES, ILLINOIS

By   
President, Board of Directors  
Southwestern Illinois Flood Prevention  
District Council, Madison, St. Clair and  
Monroe Counties, Illinois

[SEAL]

Attest:

By   
Secretary, Board of Directors,  
Southwestern Illinois Flood Prevention  
District Council, Madison, St. Clair and  
Monroe Counties, Illinois

UMB BANK, N.A., St. Louis, Missouri,  
as Trustee

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

[SEAL]

Attest:

By \_\_\_\_\_  
Assistant Secretary

IN WITNESS WHEREOF, the SOUTHWESTERN ILLINOIS FLOOD PREVENTION DISTRICT COUNCIL, MADISON, ST. CLAIR AND MONROE COUNTIES, ILLINOIS has caused these presents to be signed in its name and on its behalf by the President of its Board of Directors and attested by its Secretary and to evidence its acceptance of the trusts hereby created UMB BANK, N.A., ST. LOUIS, MISSOURI, has caused these presents to be signed in its name and on its behalf by one of its Vice Presidents, its official seal to be hereunto affixed and the same to be attested by its Vice Presidents, all as of the day and year first above written.

SOUTHWESTERN ILLINOIS FLOOD  
PREVENTION DISTRICT COUNCIL,  
MADISON, ST. CLAIR AND MONROE  
COUNTIES, ILLINOIS

By \_\_\_\_\_  
President, Board of Directors  
Southwestern Illinois Flood Prevention  
District Council, Madison, St. Clair and  
Monroe Counties, Illinois

[SEAL]

Attest:

By \_\_\_\_\_  
Secretary, Board of Directors,  
Southwestern Illinois Flood Prevention  
District Council, Madison, St. Clair and  
Monroe Counties, Illinois

UMB BANK, N.A., St. Louis, Missouri,  
as Trustee

By   
Senior Vice President

[SEAL]

Attest:

By   
Assistant Secretary

**EXHIBIT A**

[FORM OF BOND - FRONT SIDE]

REGISTERED  
NO. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF ILLINOIS  
COUNTIES OF MADISON, ST. CLAIR AND MONROE  
SOUTHWESTERN ILLINOIS FLOOD PREVENTION DISTRICT COUNCIL

[TAXABLE] FLOOD PREVENTION DISTRICT COUNCIL SALES TAX  
REVENUE BOND, SERIES 2010[\_]  
[BUILD AMERICA BOND]  
[RECOVERY ZONE ECONOMIC DEVELOPMENT BOND]

See Reverse Side for  
Additional Provisions

Interest  
Rate: \_\_\_\_\_%

Maturity  
Date: April 15, 20\_\_

Dated  
Date: \_\_\_\_\_, 2010

Registered Owner:

Principal Amount:

KNOW ALL PERSONS BY THESE PRESENTS, that Southwestern Illinois Flood Prevention District Council, Madison, St. Clair and Monroe Counties, Illinois (the "*Council*"), hereby acknowledges itself to owe and for value received promises to pay solely from the sources hereinafter described, to the Registered Owner identified above, or registered assigns as hereinafter provided, on the Maturity Date identified above, the Principal Amount identified above and to pay interest (computed on the basis of a 360-day year of twelve 30-day months) on such Principal Amount from the date of this Bond or from the most recent interest payment date to which interest has been paid at the Interest Rate per annum set forth above on April 15 and October 15 of each year, commencing April 15, 2011, until said Principal Amount is paid. Principal and premium, if any, on this Bond are payable in lawful money of the United States of America at the corporate trust office of UMB Bank, N.A., St. Louis, Missouri, as bond registrar, paying agent and trustee (the "*Trustee*"). Payment of the installments of interest shall be made to the Registered Owner hereof as shown on the registration books of the District maintained by the Trustee at the close of business on the 15th day of the month next preceding each interest payment date and shall be paid by check or draft of the Trustee, payable upon presentation in lawful money of the United States of America, mailed to the address of such Registered Owner as it appears on such registration books or at such other address furnished in writing by such Registered Owner to the Trustee.

Reference is hereby made to the further provisions of this Bond set forth on the reverse hereof and such further provisions shall for all purposes have the same effect as if set forth at this place.

It is hereby certified and recited that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this Bond did exist, have happened, been done and performed in regular and due form and time as required by law; and that the indebtedness of the District, including the issue of this Bond, does not exceed any limitation imposed by law.

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

IN WITNESS WHEREOF, said Southwestern Illinois Flood Prevention District Council, Madison, St. Clair and Monroe Counties, Illinois, has caused this Bond to be signed by the President and Secretary of the Board of Directors, [and its corporate seal to be impressed or imprinted hereon] all as of the Dated Date identified above.

\_\_\_\_\_  
President, Board of Directors

\_\_\_\_\_  
Secretary, Board of Directors

[(SEAL)]

Date of Authentication: \_\_\_\_\_, 20\_\_

CERTIFICATE  
OF  
AUTHENTICATION

Bond Registrar, Paying Agent and Trustee:  
UMB Bank, N.A.,  
St. Louis, Missouri

This Bond is one of the Bonds described in the within mentioned Resolution and is one of the [Taxable] Flood Prevention District Council Sales Tax Revenue Bonds, Series 2010[\_] [Build America Bond] [Recovery Zone Economic Development Bond], of the Southwestern Illinois Flood Prevention District Council, Madison, St. Clair and Monroe Counties, Illinois.

UMB BANK, N.A.,  
as Bond Registrar

By \_\_\_\_\_  
Authorized Officer

[FORM OF BOND - REVERSE SIDE]

SOUTHWESTERN ILLINOIS FLOOD PREVENTION DISTRICT COUNCIL,  
MADISON, ST. CLAIR AND MONROE COUNTIES, ILLINOIS

[TAXABLE] FLOOD PREVENTION DISTRICT COUNCIL SALES TAX  
REVENUE BOND, SERIES 2010[\_]  
[BUILD AMERICA BOND]  
[ECONOMIC DEVELOPMENT RECOVERY ZONE BOND]

This Bond and the series of which it is a part are part of an authorized issue of \$\_\_\_\_\_ of like dated date and tenor except as to maturity, rate of interest and privilege of redemption. The Bonds have been issued by the Council pursuant to the Flood Prevention District Act of the State of Illinois (the "Act"), and all laws amendatory thereof and supplementary thereto, for the purpose of performing emergency levee repair and flood prevention within or outside of the Council's corporate limits, and is authorized by a resolution adopted by the Board of Directors of the Council (the "Board of Directors"), on the 21st day of October, 2010 (the "Bond Resolution") and pursuant to an Indenture of Trust by and between the Council and UMB Bank, N.A., St. Louis, Missouri, as Trustee, dated as of November 23, 2010 (the "Indenture"), to which reference is hereby expressly made for further definitions and terms and to all the provisions of which the holder by the acceptance of this Bond assents.

The Bonds are all issued under and entitled to the benefit and security of the Indenture. Pursuant to the Indenture, the Council has pledged and assigned to the Trustee the Trust Estate referred to therein as security for its obligation to pay the principal of, premium, if any, and interest on the Bonds. Reference is made to the Indenture for a description of the Trust Estate and for the provisions thereof with respect to the nature and extent of the security granted by the Council to the Trustee thereunder, the rights, duties, and obligations of the Council and the Trustee, the rights of the registered owners of the Bonds, the terms on which the Bonds are issued and secured, to all of which provisions, and to all other provisions of the Indenture, the Registered Owner hereof by the acceptance of this Bond assents.

The Indenture authorizes the issuance from time to time of additional bonds (the "Additional Bonds") ranking on a parity with the Bonds under the restrictions and conditions set forth in the Bond Resolution. The Bonds and any Additional Bonds are sometimes herein referred to as the "Outstanding Bonds". For a more complete statement of the basis upon which the Bonds have been issued and Additional Bonds may be hereafter issued and outstanding and a statement of the rights, duties and obligations of the Council and the rights of the owners of the Outstanding Bonds, reference is made to the Indenture.

The Outstanding Bonds are payable solely from the Flood Prevention District Retailers' Occupation Tax and the Flood Prevention District Service Occupation Tax, distributed to the Counties of Madison, St. Clair and Monroe, Illinois, pursuant to the Flood Prevention District Act of the State of Illinois, as amended, and any substitute therefor as provided by the State of Illinois in the future and any other revenue source of the District (the "Flood Prevention District Revenues"). [As additional security for the payment of the Bonds, the District has pledged the

[Build America Payments] [Recovery Zone Payments] (as defined in the Indenture) to the Bonds.]

Under the Bond Resolution and pursuant to the Indenture, the Flood Prevention District Revenues shall be deposited in such amounts as required in the Indenture into the "Southwestern Illinois Flood Prevention District Council Revenue Bonds Principal and Interest Fund," which shall be used only and is pledged for the payment of the principal of and interest on the Outstanding Bonds. Outstanding Bonds issued in accordance with the provisions of the Bond Resolution are co-equal as to the lien on the Flood Prevention District Revenues for their payment and share ratably, without any preference, priority, or distinction, the one over the other, as to the source or method of payment and security of the Outstanding Bonds.

Without notice to or the consent of any owners of Outstanding Bonds, the District shall have the right to supplement the Indenture modifying or amending any of the terms or provisions contained in the Indenture for one or more of the purposes set forth in the Indenture. Except as so provided in the Indenture, the rights and obligations of the Council and of the owners of Outstanding Bonds may not be modified or amended except by a supplemental indenture with the written consent of the owners of not less than a majority of the principal amount of all Outstanding Bonds (excluding any of said bonds owned by or under the control of the Council); *provided, however*, that no such modification or amendment shall extend or change the maturity of or date of redemption prior to maturity, or reduce the interest rate on, or permit the creation of a preference or priority of any Outstanding Bond or Outstanding Bonds over any other Outstanding Bond or Outstanding Bonds, or otherwise alter or impair the obligation of the Council to pay the principal of and interest on any of the Outstanding Bonds at the time, place, rate, and in the currency provided therein, or alter or impair the obligations of the Council with respect to registration, transfer, exchange or notice of redemption of Outstanding Bonds, without the express consent of the owners of all the Outstanding Bonds affected; nor shall any such modification or amendment reduce the percentage of the owners of Outstanding Bonds required for the written consent of such modification or amendment without the consent of the owners of all of the Outstanding Bonds.

The Bonds are subject to optional, extraordinary optional and mandatory redemption as set forth in the Indenture.

Notice of any such redemption shall be sent by registered or certified mail not less than thirty (30) days nor more than sixty (60) days prior to the date fixed for redemption to the registered owner of each Bond at the address shown on the registration books of the Council maintained by the Trustee or at such other address as is furnished in writing by such registered owner to the Trustee. When so called for redemption, this Bond or portion thereof will cease to bear interest on the specified redemption date, provided funds for redemption are on deposit at the place of payment at that time, and shall not be deemed to be Outstanding.

This Bond is transferable by the Registered Owner hereof in person or by his or her attorney duly authorized in writing at the corporate trust office of the Trustee in St. Louis, Missouri, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer

a new Bond or Bonds of authorized denominations for the same aggregate principal amount will be issued to the transferee in exchange therefor.

The Bonds are issued in fully registered form in denominations of \$5,000 each and authorized integral multiples thereof (but no single Bond shall represent installments of principal maturing on more than one date). This Bond may be exchanged at the principal corporate trust office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations upon the terms set forth in the Indenture. The Trustee shall not be required to transfer or exchange any Bond during the period beginning at the close of business on the 15th day of the month next preceding any interest payment date on such Bond and ending at the opening of business on such interest payment date nor to transfer or exchange any Bond after notice calling such Bond for redemption has been mailed, nor during a period of fifteen (15) days next preceding mailing of a notice of redemption of any Bonds.

The Council and the Trustee may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and interest and premium, if any, due hereon and for all other purposes and neither the Council nor the Trustee shall be affected by any notice to the contrary.

[ASSIGNMENT]

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto \_\_\_\_\_

\_\_\_\_\_  
(Please print or typewrite name and address of transferee)

\_\_\_\_\_  
the within Bond and all rights thereunder, and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

\_\_\_\_\_  
Signature Guaranteed:

\_\_\_\_\_  
NOTICE: The signature(s) to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.