

Agenda # **6-3**
October 12, 2020 Meeting
Web Attachment 2 (C)

COLLATERAL ACCOUNTS AND SECURITY AGREEMENT

Dated as of [___], 2020

by and among

MONTEREY-SALINAS TRANSIT DISTRICT

as the Borrower

UNITED STATES DEPARTMENT OF TRANSPORTATION,
an agency of the United States of America acting by and through the Executive Director of
the Build America Bureau

as the TIFIA Lender

and

U.S. BANK NATIONAL ASSOCIATION

as the Collateral Agent and the Securities Intermediary

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COLLATERAL ACCOUNTS AND SECURITY AGREEMENT

This COLLATERAL ACCOUNTS AND SECURITY AGREEMENT (including any supplements and amendments hereafter, this "**Agreement**"), dated as of [___], 2020 is made by and among the Monterey-Salinas Transit District, a special purpose district created under the laws of the State of California (the "**Borrower**"), the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau, in its capacity as lender under the TIFIA Loan Agreement (defined below) (including its successors and assigns, the "**TIFIA Lender**"), U.S. Bank National Association, a national banking association, in its capacity as collateral agent on behalf of itself and the other Secured Parties (in such capacity (including its successors and assigns), the "**Collateral Agent**"), U.S. Bank National Association, a national banking association, in its capacity as Securities Intermediary (as defined herein) and each other Secured Party that accedes to this Agreement in accordance with Article IX hereto. All capitalized terms used herein that are defined in the UCC (as defined in Exhibit A hereto) are used herein as defined therein; all other capitalized terms used herein but not otherwise defined herein shall have the respective meanings given to such terms in Exhibit A hereto. The rules of interpretation set forth in Exhibit A hereto shall apply to this Agreement.

RECITALS

A. The Borrower deems it necessary and appropriate to provide for the financing of a new operations and maintenance facility for transit vehicles that primarily serve southern Monterey County, California that is to be constructed and owned by the Borrower and located in King City, California (the "**Project**").

B. Pursuant to that certain TIFIA Loan Agreement, dated as of the date hereof (the "**TIFIA Loan Agreement**"), between the Borrower and the TIFIA Lender, the TIFIA Lender has agreed to make a loan (the "**TIFIA Loan**") to the Borrower on the terms and subject to the conditions set forth therein, the proceeds of which will be used to finance a portion of the costs of the Project.

C. The TIFIA Lender wishes to appoint U.S. Bank National Association, a national banking association, as Collateral Agent and Securities Intermediary under this Agreement, and the Collateral Agent wishes to set forth the terms on which it shall accept such appointment and shall undertake to perform certain duties on behalf of all Secured Parties with respect thereto.

D. In consideration of the extensions of credit under the TIFIA Loan Agreement, and other accommodations of the TIFIA Lender under the TIFIA Loan Agreement, respectively, the Borrower has agreed to secure its obligations under the Finance Documents as set forth herein.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I GRANT OF LIEN ON COLLATERAL

Section 1.01 Grant of Lien. In order to secure the prompt, irrevocable and indefeasible payment and performance in full when due of the Secured Obligations (whether now existing or hereafter arising and howsoever evidenced, and whether at stated maturity, upon acceleration, on any optional or mandatory prepayment date, redemption date or otherwise), (a) the Borrower hereby pledges and grants to

the Collateral Agent, for the benefit of the Secured Parties, a first priority and continuing Lien on and security interest in all right, title and interest of the Borrower, whether now owned or hereafter acquired or arising, in and to all LTF Funds allocated to the Borrower, whether now allocated or hereafter acquired and (b) the Borrower hereby grants to the Collateral Agent, for the benefit of the Secured Parties as provided herein, a first priority and continuing Lien on and security interest in all right, title and interest of the Borrower, whether now owned or hereafter acquired or arising, in and to the Project Accounts, all security entitlements carried therein, and all cash, cash equivalents, Permitted Investments, instruments, Securities and other funds or amounts on deposit in the Project Accounts.

Section 1.02 Priority of Liens. The Lien and security interests granted pursuant to Section 1.01 shall be prior in right to any other pledge, Lien or security interest created by the Borrower in any Collateral and shall have priority over any other claims against the Collateral.

Section 1.03 Preservation of Liens. The Borrower shall promptly take any and all steps that may be necessary, or that the Collateral Agent may reasonably request (acting on the written instructions of the Secured Parties) to maintain the validity, perfection and first priority position of the Lien on the Collateral to enable the Collateral Agent to exercise and enforce its rights, remedies, powers and privileges under this Agreement with respect to such Liens.

Section 1.04 Preservation of Collateral. The Borrower shall defend the right, title and interest of the Borrower in and to the Collateral against the claims of any other Person.

ARTICLE II COLLATERAL AGENT

Section 2.01 Appointment. U.S. Bank National Association is hereby appointed as collateral agent for the benefit of the Secured Parties with respect to the Liens in the Collateral and the rights and remedies granted pursuant to the Security Documents. The Collateral Agent hereby accepts such appointment and agrees to act as Collateral Agent in the manner contemplated herein and in the Security Documents. The Collateral Agent is hereby authorized and directed to act in strict accordance with the terms of this Agreement (notwithstanding any contrary provision in any other Security Document) with respect to Enforcement Actions or the application of any Collateral or the Proceeds thereof. The Collateral Agent hereby accepts and agrees to, and the Borrower hereby acknowledges and consents to, the foregoing authorization and direction. Any party that shall become a Secured Party after the date hereof pursuant to the terms hereof shall be deemed to have so acknowledged and consented to such appointment, authorization and direction of the Collateral Agent by the Secured Parties set forth in this Section 2.01.

Section 2.02 Duties and Responsibilities.

(a) Subject to the terms hereof, the Collateral Agent agrees, for the benefit of the Secured Parties, to administer and enforce this Agreement and any other Security Documents to which it is a party as Collateral Agent, and, among other remedies, to foreclose upon, collect and dispose of the Collateral and to apply the Proceeds therefrom, for the benefit of the Secured Parties, as provided herein, and otherwise to perform its duties and obligations as the Collateral Agent hereunder and thereunder in accordance with the terms hereof and thereof; provided, however, that the Collateral Agent shall have no duties or responsibilities except those expressly set forth herein or in any other Security Documents to which it is a party, and no implied covenants or obligations, fiduciary or otherwise, shall be read into this Agreement or any such other Security Documents against the Collateral Agent.

(b) Notwithstanding anything contained herein to the contrary, the Collateral Agent shall not be required to exercise any discretion or take any discretionary action but shall only be required to act or refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the written instructions of the Required Creditors, and such instructions shall be binding upon the Collateral Agent and each of the Secured Parties; provided, however, that the written instructions of all of the Secured Parties shall be required where expressly provided for herein; provided, further, that the Collateral Agent shall not be required to take any action which is contrary to any provision hereof or of the other Finance Documents to which the Collateral Agent is a party or applicable Law.

(c) Notwithstanding any other provision of the Security Documents, in no event shall the Collateral Agent be required to foreclose on, or take possession of, any Collateral, if, in the reasonable judgment of the Collateral Agent, such action would be in violation of any applicable Law, rule or regulation pertaining thereto, or if the Collateral Agent reasonably believes that such action would result in the incurrence of liability by the Collateral Agent for which it is not fully indemnified by the Borrower pursuant to Sections 2.10 and 7.02 hereof.

(d) The Collateral Agent shall not be responsible to the other Secured Parties for (i) any recitals, statements, representations or warranties by the Borrower or any of the Secured Parties (other than its own) contained in this Agreement or the other Finance Documents, or any certificate or other document delivered by the Borrower or any of the other Secured Parties thereunder, (ii) the value, validity, effectiveness, genuineness, enforceability (other than as to the Collateral Agent with respect to such documents to which the Collateral Agent is a party) or sufficiency of this Agreement or any other document referred to or provided for herein or therein or of the Collateral held by the Collateral Agent under the Security Documents, (iii) the performance or observance by the Borrower or any of the Secured Parties (other than as to itself) of any of their respective agreements contained herein or therein, nor shall the Collateral Agent be liable to the other Secured Parties because of the invalidity or unenforceability of any provisions of this Agreement (other than as to itself) or (iv) the validity, perfection, priority or enforceability of the Liens on any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder (except to the extent such action or omission constitutes gross negligence, bad faith or willful misconduct on the part of the Collateral Agent), the validity of the title of the Borrower to the Collateral owned by the Borrower, insuring the Collateral or the payment of Taxes, charges, assessments on the Collateral or otherwise as to the maintenance of the Collateral.

(e) Except when a mandatory action is required by the Collateral Agent under the Security Documents, the Collateral Agent may at any time request written instructions from the Required Creditors as to a course of action to be taken by it hereunder and under any of the Security Documents or in connection herewith and therewith or any other matters relating hereto and thereto. The Required Creditors shall promptly reply to any such request and the Collateral Agent shall be fully justified in failing or refusing to take any such action if it shall not have received such written instruction of the Required Creditors. This provision is intended solely for the benefit of the Collateral Agent and its successors and permitted assigns and is not intended to and will not entitle the other parties hereto to any defense, claim or counterclaim, or confer any rights or benefits on any other party hereto.

(f) None of the Collateral Agent, the Securities Intermediary or any of their directors, officers, employees or agents shall be liable or responsible to the other Secured Parties for any action taken or omitted to be taken by it or them hereunder or in connection herewith, except for its or their own gross negligence, bad faith or willful misconduct.

Section 2.03 Authorization. The Collateral Agent is hereby authorized to (a) execute, deliver, and perform in such capacity under this Agreement and each other Finance Document to which

the Collateral Agent is or is intended to be a party, (b) exercise and enforce any and all rights, powers and remedies provided to the Collateral Agent under this Agreement, any other Finance Document to which the Collateral Agent is a party or is a third party beneficiary, any applicable Law, or any other document, instrument, or agreement to which the Collateral Agent is a party or a third party beneficiary, in each case in accordance with the terms thereof, and (c) take any other action under and in accordance with this Agreement and any other Finance Document to which the Collateral Agent is a party reasonably incidental to the foregoing or in order to facilitate the issuance of new Secured Obligations permitted under, and in accordance with, each of the Finance Documents, including executing documents to which it is intended to be a party, and amendments, modifications and supplements to the Finance Documents to which it is a party, in each case, that do not adversely affect the rights of the existing Secured Creditors or the Liens on the Collateral held for the benefit of the existing Secured Creditors. Notwithstanding the foregoing, the Collateral Agent shall not commence an Enforcement Action except in accordance with written instructions given by the Required Creditors (acting in accordance with the terms of this Agreement; provided, that if the Collateral Agent is prohibited by any court order or applicable Law from commencing any Enforcement Action due to a lack of consent or direction of or from the Required Creditors, the Collateral Agent shall seek the requisite authority from, or joinder of, the Required Creditors to commence such Enforcement Action but shall not be obligated to commence such Enforcement Action until such authority is obtained. All decisions with respect to the type of Enforcement Action which is to be commenced shall be made by, and all actions with respect to prosecution and settlement of such Enforcement Action shall require the written consent of, the Required Creditors (acting in accordance with the terms of this Agreement), and the Collateral Agent shall not be required to take any Enforcement Action in the absence of any such written consent. The Collateral Agent shall pursue, and use all commercially reasonable efforts in connection with, the prosecution of any Enforcement Action that the Collateral Agent is so authorized or directed to initiate pursuant to this Agreement, subject to the terms of this Agreement. The Collateral Agent shall deliver copies of all notices it receives on behalf of any of the Secured Parties or in connection with the Finance Documents or the Project to each Secured Creditor promptly upon receipt.

Section 2.04 Administrative Actions. The Collateral Agent shall take such action as it deems necessary or advisable to perfect or continue the perfection of the Liens on the Collateral held for the benefit of the other Secured Parties, subject to the limitations set forth herein, as instructed by the Secured Parties. The Collateral Agent shall not release any of the Collateral held by the Collateral Agent for the benefit of such Secured Parties, except: (a) upon payment in full in cash of all of the Secured Obligations; or (b) with respect to amounts on deposit in any sub-account of the Senior Debt Service Account or the Senior Debt Service Reserve Account, upon the written direction of the Secured Party for which such sub-account has been established. Upon the written request by the Collateral Agent or the Borrower at any time, the Required Creditors (acting in accordance with the terms of this Agreement) will confirm in writing the Collateral Agent's authority to release particular types or items of Collateral pursuant to clause (a) of this Section. At the Borrower's reasonable expense, the Collateral Agent will take all actions necessary, including executing documents to which it is intended to be a party, and amendments, modifications and supplements to such documents to which it is a party, in each case, to preserve, protect and accept additional Collateral for the benefit of the Secured Parties.

Section 2.05 Determination of Amounts of Secured Obligations. Upon the written request of the Collateral Agent or the Borrower, the Secured Creditors shall promptly deliver to the Collateral Agent (with a copy to each other Secured Party that is a party hereto and the Borrower) a certificate, dated the date of delivery thereof and signed by each such Secured Creditor, as to (a) the identity and address of any Secured Creditor (or representative thereof), (b) the principal amount of the Secured Obligations then outstanding held by such Secured Creditor (provided, with respect to the TIFIA Lender, such amount shall be equal to the aggregate principal amount of the then-outstanding TIFIA Loan), (c) in the case of any such certificate being delivered in contemplation of the application of amounts received by the

Collateral Agent in respect of the Collateral pursuant to Article VI hereof, the amount of interest on the Secured Obligations owing and any other amounts in respect of the Secured Obligations owing to such Secured Party, as the case may be (in the case of any such other amounts, accompanied by appropriate evidence thereof), and/or (d) in the event that any of the Secured Obligations shall have become or been declared to be due and payable (whether at stated maturity, by required prepayment, redemption, declaration, acceleration, demand or otherwise), the principal amount of such Secured Obligations then due and payable to such Secured Party, as the case may be (to the extent that such information is different from that provided in clause (b) above); provided that each such Secured Party shall have not less than fifteen (15) days from receipt of such copy of such certificate to review any such certificate and provide any objections with respect thereto to the Collateral Agent. Absent receipt of notice of such objections from a Secured Party, the Collateral Agent shall be entitled to rely on certifications received by it in accordance with the above for the purposes of determining the amount of the Secured Obligations then outstanding held by such Secured Party; provided, that in the absence of the Collateral Agent's receipt of any certification requested by it pursuant to this sentence, the Collateral Agent shall be entitled (but not obligated) to take such action if the Collateral Agent shall have sufficient knowledge (acting reasonably) to make any determination required to be made in connection with such action.

Section 2.06 Employment of Agents. The Collateral Agent may, at the Borrower's reasonable cost and expense, employ or retain such counsel, accountants, appraisers or other experts or advisers as it may reasonably require for the purpose of determining and discharging its rights and duties hereunder and, in the absence of the Collateral Agent's gross negligence, bad faith or willful misconduct in employing or retaining, or relying on, any such counsel, accountants, appraisers, experts or advisors, may act and rely and shall be fully protected in acting and relying in good faith on the opinion or advice of or information obtained from any counsel, accountant, appraiser or other expert or advisor, whether retained or employed by the Borrower or by the Collateral Agent, in relation to any matter arising in the administration hereof or in the determination or discharging of its rights and duties hereunder, and shall not be responsible to Borrower for any act or omission on the part of any of them or for acting or relying in good faith on the opinion, advice or information obtained from such expert or advisor; provided, however, that except in connection with actions taken by the Collateral Agent in connection with the exercise of its rights under Section 10.09(b) or in the case of an actual or asserted Event of Default under the Finance Documents that has occurred and is continuing, the Collateral Agent shall not be entitled to incur any costs or expenses of the scope contemplated in this Section 2.06 in excess of \$2,000 without the prior approval of the Borrower. In addition, the Collateral Agent shall not be liable to Borrower for any acts or omissions of its nominees, correspondents, designees, agents, subagents or subcustodians as it may reasonably require for the purpose of discharging its ministerial duties hereunder, and the Collateral Agent shall not be liable to Borrower hereunder in excess of its recourse under contract or law with regards to such third party nominees, correspondents, designees, agents, subagents or subcustodians for any acts or omissions of such persons except to the extent of its gross negligence, bad faith or willful misconduct in nominating, appointing, directing or instructing such Persons and so long as such Persons are permitted to act hereunder.

Section 2.07 Reliance of Collateral Agent. In connection with the performance of its duties hereunder, the Collateral Agent shall be entitled to rely conclusively upon, and shall be fully protected in acting or refraining from acting in accordance with, any written certification, notice, instrument, opinion, request, consent, order, approval, direction or other written communication (including any thereof by facsimile or electronic communication) of or from the Required Creditors (including, but not limited to, instructions under Section 2.02) or of or from any other Secured Party that is a party hereto (to the extent not in violation of the terms hereof or of the other Finance Documents), which the Collateral Agent in good faith reasonably believes to be genuine and to have been signed or sent by or on behalf of the proper Person or Persons, and it shall be entitled to rely conclusively upon the due execution, validity and effectiveness, and the truth, correctness and acceptability of, any provisions contained therein. The

Collateral Agent shall not have any responsibility hereunder to make any investigation into the facts or matters stated in any notice, certificate, instrument, demand, request, direction, instruction, or other communication furnished to it. Whenever this Agreement (or any other Finance Document) specifies that any instruction, direction or consent by the Required Creditors is to be given in accordance with the terms of this Agreement, the Collateral Agent shall be entitled to rely upon any such instruction, direction or consent by the Required Creditors (which instruction, direction or consent need not state that it is given in accordance with the terms of this Agreement), and the Collateral Agent may presume without investigation that any such instruction, direction or consent by the Required Creditors has been given in accordance with the terms of this Agreement and the other applicable Finance Documents. The Required Creditors shall give any instruction, direction or consent required to be given by it to the Collateral Agent in accordance with the terms of this Agreement.

Section 2.08 Non-Reliance on Collateral Agent. Each Secured Party that is a party hereto hereby expressly acknowledges that neither the Collateral Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by the Collateral Agent (other than any explicit written representation or warranty made by the Collateral Agent) hereafter taken shall be deemed to constitute any representation or warranty by the Collateral Agent to such Secured Party or the Borrower. Except for any notices, reports and other documents expressly required to be maintained by the Collateral Agent or furnished to the other Secured Parties by the Collateral Agent hereunder, the Collateral Agent shall not have any duty or responsibility to provide any other Secured Party with any credit or other information concerning the business, operations, property, condition (financial or other), prospects or creditworthiness of the Borrower. Except to the extent it has made or renewed any Secured Obligations as permitted under Section 2.09, U.S. Bank National Association is entering into this Agreement and any other Security Documents solely in its capacity as Collateral Agent and as Securities Intermediary and not in its individual capacity and in no case shall U.S. Bank National Association (or any Person acting as successor Collateral Agent under this Agreement) be personally liable for or on account of any of the statements, representations, warranties, covenants or obligations of the Borrower (as applicable) hereunder or thereunder, all such liability, if any, being expressly waived by the parties hereto and any Person claiming by, through or under such party. This Section 2.08 shall survive the payment of all Secured Obligations. Except as provided in Section 2.12(c) hereof, the Collateral Agent shall have no obligation and shall incur no obligation for its failure to monitor or verify the filing of financing statements (or amendments or continuations thereto) and the information contained therein.

Section 2.09 Collateral Agent in Individual Capacity. The Collateral Agent and its Affiliates may make loans to, issue letters of credit in favor of, accept deposits from and generally engage in any kind of business with the Borrower and its Affiliates as though the Collateral Agent were not the Collateral Agent hereunder and under any Security Documents. With respect to Secured Obligations made or renewed by it and any Pari Passu Debt or Notes issued to it, if any, the Collateral Agent shall have the same rights and powers under this Agreement and the Finance Documents as any other Secured Party and may exercise the same as though it were not the Collateral Agent, and the term "Secured Party" shall include the Collateral Agent in its individual capacity.

Section 2.10 Collateral Agent Under No Obligation. None of the provisions of this Agreement or any other Security Documents shall be construed to require the Collateral Agent to expend or risk its own funds or otherwise to incur any personal liability, financial or otherwise, in the performance of any of its duties hereunder or thereunder. The Collateral Agent shall be under no obligation to exercise any of the rights or powers vested in it by the Security Documents unless the Collateral Agent shall have been offered and accepted security or indemnity from the Borrower reasonably satisfactory to it against the costs, expenses and liabilities which might be incurred by it in exercising such rights or powers (including interest thereon from the time incurred until reimbursed);

provided, however, that for purposes of this Section 2.10, the indemnification provided to the Collateral Agent by the Borrower pursuant to Section 7.02 is hereby acknowledged as acceptable.

Section 2.11 Resignation and Removal; Successor Collateral Agent; Individual Collateral Agent.

(a) Subject to the appointment and acceptance of a successor Collateral Agent as provided below, the Collateral Agent may resign at any time by giving at least thirty (30) days' prior written notice thereof to the other Secured Parties that are parties hereto and the Borrower, and the Collateral Agent may be removed at any time with or without cause by the Required Creditors (acting in accordance with the terms of this Agreement and the other applicable Finance Documents) upon thirty (30) days' written notice thereof to the Collateral Agent, the other Secured Parties that are parties and the Borrower unless a shorter period of notice is required by the Secured Parties. Upon any such resignation or removal, the Required Creditors (acting in accordance with the terms of this Agreement) shall have the right to appoint a successor Collateral Agent which, so long as no Event of Default has occurred and is continuing, shall be reasonably acceptable to the Borrower.

(b) If no successor Collateral Agent shall have been so appointed by the Required Creditors within thirty (30) days after the retiring Collateral Agent's giving of notice of resignation or the removal of the retiring Collateral Agent by the Required Creditors in accordance with clause (a) above, then the retiring Collateral Agent may, on behalf of the Secured Parties, apply, at the reasonable expense of the Borrower, to a court of competent jurisdiction (with notice to each Secured Creditor and the Borrower) for the appointment of a successor Collateral Agent. In all such cases, the successor Collateral Agent shall (i) be a bank organized under the laws of the United States of America or any state thereof that has an office in the State of [New York] and which agrees to administer the Collateral in accordance with the terms hereof and of any other Security Documents and the unsecured long-term debt of which shall be rated no lower than 'A', 'A2' or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such bank's unsecured long-term debt, (ii) have a total capital stock and unimpaired surplus of not less than \$500,000,000, and (iii) so long as no Event of Default has occurred and is continuing, be reasonably acceptable to the Borrower. If at any time the Collateral Agent shall fail to meet such requirements and qualifications set forth in the sentence above, the Collateral Agent shall promptly provide notice of such failure to the Borrower and the other Secured Parties. U.S. Bank National Association hereby represents and confirms that it meets the qualifications provided in the second sentence of this clause (b). Upon the acceptance of any appointment as Collateral Agent hereunder by a successor Collateral Agent, such successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges, obligations and duties of the retiring Collateral Agent, and the retiring Collateral Agent shall be discharged from its duties and responsibilities hereunder arising thereafter. After any retiring Collateral Agent's resignation or removal hereunder as Collateral Agent, the provisions of this Agreement (including Sections 2.14, 7.01 and 7.02) shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as the Collateral Agent. For the avoidance of doubt, no resignation or removal pursuant to this Section 2.11 shall be effective until (i) a successor for the Collateral Agent has been appointed in accordance with (and subject to) the provisions of this Section 2.11, (ii) the resigning or removed Collateral Agent has transferred to its successor all of its rights and obligations in its capacity as the Collateral Agent under this Agreement and the other Finance Documents, (iii) the resigning or removed Collateral Agent has assigned, transferred or delivered, as applicable, all Collateral held by it to the successor Collateral Agent, together with all records, instruments and other documents necessary or appropriate to execute such assignment, transfer or delivery to the successor Collateral Agent, (iv) the resigning or removed Collateral Agent has executed and delivered to the successor Collateral Agent the amendments to the applicable financing statements, and has taken other actions as may be necessary or appropriate, in connection with the assignment, transfer or delivery to the successor Collateral Agent of the Liens created under the Security Documents,

and (v) the successor Collateral Agent has executed and delivered an agreement to be bound by the terms of this Agreement and to perform all duties required of the Collateral Agent hereunder and thereunder.

(c) If at any time the Collateral Agent shall reasonably determine that it shall be necessary or appropriate under applicable Law or in order to permit action to be taken hereunder, the Collateral Agent and the Borrower (with written notice to the other Secured Parties that are parties hereto) shall execute and deliver all instruments necessary to appoint any Person as a Co-Collateral Agent ("**Co-Collateral Agent**"), with respect to all or any portion of the Collateral, in any case with such powers, rights, duties, obligations and immunities conferred upon the Collateral Agent hereunder as may be specified therein (but not in excess of or different from those set forth herein for the Collateral Agent). If the Borrower shall refuse to join in the execution of any such instrument within ten (10) Business Days of any written request therefor by the Collateral Agent or if any Event of Default shall have occurred and is continuing, the Collateral Agent may act under the foregoing provisions without the concurrence of the Borrower; and the Borrower hereby irrevocably makes, constitutes and appoints the Collateral Agent as the agent and attorney-in-fact for the same to act for it under the provisions of (and in accordance with) this paragraph.

Each Co-Collateral Agent shall, to the extent permitted by Law, be appointed and act subject to the following provisions and conditions:

(i) all rights and powers, conferred or imposed upon the Collateral Agent may be conferred or imposed upon and may be exercised or performed by such Co-Collateral Agent as specified in the instrument appointing such Co-Collateral Agent; and

(ii) no Collateral Agent shall be personally liable by reason of any act or omission of any other Collateral Agent or Co-Collateral Agent hereunder.

A Co-Collateral Agent shall not be required to meet the conditions of eligibility under Section 2.11(b) if such Co-Collateral Agent holds only an insubstantial amount of the Collateral, as determined by the Required Creditors (acting in accordance with the terms of this Agreement and the other applicable Finance Documents).

Section 2.12 Books and Records; Reports.

(a) The Collateral Agent and, if appointed, a Co-Collateral Agent, shall at all times keep, or cause to be kept, proper books of record and accounts in which complete and accurate entries shall be made of all transactions relating to the Secured Obligations, Revenues and all Project Accounts established pursuant to this Agreement. Such books of record and accounts shall be available for inspection by the Secured Parties that are parties hereto, or their respective agents or representatives duly authorized in writing, at reasonable hours and under reasonable circumstances and upon reasonable prior written request.

(b) Within fifteen (15) days after the end of each month, the Collateral Agent shall furnish to the other Secured Parties that are parties hereto or relevant representatives thereof and the Borrower, a report (which may be in the form of the customary account statements of the Collateral Agent) that shall set forth in reasonable detail the account balances, receipts, disbursements, transfers, investment transactions, and accruals for each of the Project Accounts during such month. If available from the Collateral Agent, the Collateral Agent shall provide electronic statements upon request of the Borrower.

(c) Within sixty (60) days after the end of each calendar year, the Collateral Agent shall furnish to the other Secured Parties that are parties hereto or relevant representatives thereof and the Borrower, a report (which may be in the form of the customary account statements of the Collateral Agent) setting forth in reasonable detail the account balances, receipts, disbursements, transfers, investment transactions, and accruals for each of the Project Accounts during the preceding year. The Collateral Agent shall provide electronic statements upon request of the Borrower.

(d) The Collateral Agent shall maintain records of all receipts, disbursements, and investments of funds with respect to the Project Accounts until the fifth (5th) anniversary of the date on which all of the Secured Obligations shall have been paid in full.

(e) On or prior to the date that is six (6) months prior to the expiration date of any UCC financing statement that has been filed with respect to the Collateral for which Collateral Agent is secured party and is known to the Collateral Agent, the Collateral Agent shall provide the other Secured Parties that are parties hereto or relevant representatives thereof and the Borrower notice of the impending expiration date. The Borrower shall provide the Collateral Agent and the other Secured Parties that are parties hereto or relevant representatives thereof evidence that the required continuation statement has been properly and timely filed promptly following such filing. This clause (e) is not intended to modify the responsibility of, the liability of, or provide a defense to, the Borrower under any Finance Document with respect to the filing of continuation statements or the maintenance of the Collateral Agent's perfected security interest in the Collateral with the priority contemplated by the Finance Documents.

Section 2.13 No Consequential Damages. In no event shall the Collateral Agent or the Securities Intermediary be liable to Borrower or the other Secured Parties under or in connection with the Finance Documents for indirect, special, incidental, punitive or consequential losses or damages of any kind whatsoever, including but not limited to lost profits, whether or not foreseeable, even if the Collateral Agent and/or Securities Intermediary has been advised of the possibility thereof and regardless of the form of action in which such damages are sought.

Section 2.14 Authorization of Collateral Agent to Recover Compensation, Fees and Expenses. To the extent that the Borrower fails to pay any amount required to be paid by it to the Collateral Agent pursuant to Sections 7.01 and 7.02 hereof and after the delivery of written notice of such failure to the Borrower, the Collateral Agent is hereby authorized to transfer funds to reimburse itself for such amounts out of the Revenue Account. The provisions of this Section 2.14 shall survive the termination of the Finance Documents and the resignation or removal of the Collateral Agent until the amounts required to be paid to the applicable Collateral Agent pursuant to Sections 7.01 and 7.02 hereof are paid in full.

Section 2.15 Force Majeure. In no event shall the Collateral Agent be responsible or liable to the Borrower or the other Secured Parties for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, epidemics, pandemics, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services not within the Collateral Agent's control, the unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility; it being understood that the Collateral Agent shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 2.16 Additional Protections. The rights, privileges, protections and benefits given to the Collateral Agent or the Securities Intermediary, as the case may be, including its rights to be

indemnified, are extended to, and shall be enforceable by, each agent, custodian and other Person employed to act hereunder by the Collateral Agent or the Securities Intermediary, as the case may be, including any Co-Collateral Agent, to the extent permitted to be so employed in accordance with the terms hereof; provided, however, that all such rights, privileges, protections and benefits are subject to the same limits and conditions imposed upon the Collateral Agent or the Securities Intermediary, as the case may be.

Section 2.17 [Reserved].

Section 2.18 Merger of the Collateral Agent. Any corporation or company into which the Collateral Agent shall be merged, or with which it shall be consolidated, or any corporation or company resulting from any merger or consolidation to which the Collateral Agent shall be a party, shall be the Collateral Agent under this Agreement, without the execution or filing of any paper or any further act on the part of the parties hereto, provided, that such resulting corporation or company shall meet the requirements of Section 2.11(b). Upon the occurrence of any such event the Collateral Agent shall promptly provide written notice thereof to the other Secured Parties that are parties hereto or relevant representatives thereof and the Borrower.

Section 2.19 Transfer to an Affiliate. In addition to any rights it may have under Section 2.18 hereof or under any other provision of this Agreement or any other Security Document, each of the Collateral Agent and the Securities Intermediary may assign or transfer its rights under this Agreement and any other Security Documents to any Affiliate that meets the requirements of Section 2.11(b) subject to the prior written consent of the Borrower (so long as no Event of Default has occurred and is continuing) and the Required Creditors.

**ARTICLE III
BORROWER REMAINS LIABLE**

Anything herein to the contrary notwithstanding, (a) the Borrower shall remain liable under its contracts and agreements (including the Finance Documents to which it is a party) to its respective counterparties to the extent set forth therein to perform all of its duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by the Collateral Agent of any of the rights hereunder shall not release the Borrower from any of its duties or obligations to its respective counterparties under its contracts and agreements, and (c) neither the Collateral Agent nor any of the other Secured Parties shall have any obligation or liability to the respective counterparties under the contracts and agreements of the Borrower to which the Collateral Agent or any of the other Secured Parties is not a party solely by reason of this Agreement, nor shall the Collateral Agent be obligated to perform any of the obligations or duties of the Borrower thereunder or to take any action to collect or enforce any claim for payment assigned thereunder. Notwithstanding the foregoing, if the Borrower fails to perform any agreement or obligation of the Borrower contained herein relating to the perfection or preservation of the Collateral, the Collateral Agent may (but shall not be obligated to) itself perform, or cause performance of, such agreement or obligation, and the reasonable and documented expenses of the Collateral Agent incurred in connection therewith shall be payable by the Borrower under Article VII hereof.

**ARTICLE IV
REASONABLE CARE**

The powers conferred on the Collateral Agent hereunder are being conferred solely to protect its interest in the Collateral for the benefit of the Secured Parties and shall not impose any duty upon it to exercise any such powers unless otherwise expressly provided. Except for the safe custody and preservation of the

Collateral in its possession, the accounting for monies actually received, transferred or disbursed by it hereunder, the Collateral Agent shall have no other duty as to the Collateral, whether or not the Collateral Agent or any of the other Secured Parties has or is deemed to have knowledge of any matters, or as to the taking of any necessary steps to preserve rights against any parties or any other rights pertaining to the Collateral. The Collateral Agent hereby agrees to exercise reasonable care in respect of the custody and preservation of the Collateral. The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Collateral Agent accords property that it customarily holds in the capacity of collateral agent.

ARTICLE V THE PROJECT ACCOUNTS

Section 5.01 Establishment of Project Accounts and Other Accounts.

(a) As of the date hereof, the Borrower has established and created the accounts identified below with the Securities Intermediary, each in the name of the Borrower (collectively, each such account and any Pari Passu Debt Proceeds Account, including, in each case, any sub-accounts established and created from time to time, the "**Securities Accounts**"; and the Securities Accounts also constitute Project Accounts):

(i) account number 250747000 (the "**Revenue Account**");

(ii) the "**Senior Debt Service Account**", and within the Senior Debt Service Account, the following sub-account: account number 250747001 (the "**TIFIA Debt Service Sub-Account**"), and within the TIFIA Debt Service Sub-Account, the following sub-accounts:

A. account number 250747002, the "**TIFIA Interest Account**"; and

B. account number 250747003, the "**TIFIA Principal Account**";

and

(iii) the "**Senior Debt Service Reserve Account**", and within the Senior Debt Service Reserve Account, the following sub-account: account number 250747004 (the "**TIFIA Debt Service Reserve Sub-Account**").

Notwithstanding anything herein to the contrary, upon the written instruction of the Borrower, the Securities Intermediary may from time to time hereafter establish and maintain additional sub-accounts within the Project Accounts. Each such sub-account shall be a separately identified account with a separate and distinct name and account number and, upon establishment, shall constitute a Project Account hereunder. Each such sub-account shall be for the purposes and the term specified in such instruction, and deposits and withdrawals shall be permitted in those circumstances expressly provided for in any such instruction, which instructions shall in each case conform to the requirements and limitations applicable to the Project Account (including those set forth herein) with respect to which any such sub-account has been established. The Securities Intermediary shall promptly, and in any event prior to establishing any such sub-account, provide written notice of any such request or instruction from the Borrower pursuant to this paragraph to the Secured Parties that are parties hereto or relevant representatives thereof.

(b) Pari Passu Debt Proceeds Accounts

(i) In connection with the incurrence of any Pari Passu Debt, upon the written instruction of the Borrower, the Securities Intermediary may hereafter establish and maintain from time to time in the Borrower's name one or more proceeds accounts (each, a "**Pari Passu Debt Proceeds Account**"). Each Pari Passu Debt Proceeds Account shall constitute a Project Account and a Securities Account.

(ii) All proceeds from the issuance of any Pari Passu Debt, net of any original issue discount, underwriting discount or similar fee in respect thereof, in each case, received by the Borrower pursuant to the terms of the applicable Pari Passu Loan Agreement and, thereafter, any Account Earnings with respect to such proceeds, shall be deposited in the applicable Pari Passu Debt Proceeds Account, if applicable.

(iii) All moneys in any Pari Passu Debt Proceeds Account shall be applied, at the instruction of the Borrower in accordance with a Funds Transfer Certificate pursuant to Section 5.09, solely to pay costs in compliance with the applicable Pari Passu Loan Agreement and the applicable provisions of the other Finance Documents (including the TIFIA Loan Agreement) relating to the incurrence of such Pari Passu Debt, and with respect to any future tax-exempt borrowings comprising Pari Passu Debt, in compliance with the Code.

(iv) With respect to any future tax-exempt borrowings comprising Pari Passu Debt, upon a date that is no earlier than five (5) years after the date of issuance of any such Pari Passu Debt, and no later than five (5) years and sixty (60) days after the date of issuance of such Pari Passu Debt, the remaining unspent proceeds of such Pari Passu Debt, in each case, rounded down to the nearest multiple of \$5,000, from any remaining unspent proceeds of such Pari Passu Debt on deposit in the applicable Pari Passu Debt Proceeds Account on such date (with respect to which, for the avoidance of doubt, no Secured Party shall have any right) shall be applied as follows, pursuant to one or more written directions of an Authorized Representative of the Borrower: (1) first, any applicable amount thereof shall be transferred to the applicable rebate fund for any such tax-exempt Pari Passu Debt, as applicable; and (2) second, any remaining amount shall be transferred to the applicable sub-account of the Mandatory Prepayment Account for redemption of such Pari Passu Debt in accordance with the applicable Pari Passu Loan Agreement; provided, that no such transfer to the applicable sub-account of the Mandatory Prepayment Account or redemption of the Pari Passu Debt will be required if the Borrower has obtained an opinion of bond counsel stating that the failure to redeem any such Pari Passu Debt will not adversely affect the exclusion of interest on such Pari Passu Debt from gross income for federal or State income tax purposes and that such redemption is not required by State law, in which case, any such remaining proceeds shall be transferred to the Revenue Account.

(v) With respect to any proceeds of Pari Passu Debt that do not constitute tax-exempt borrowings, any amounts on deposit in any related Pari Passu Debt Proceeds Account, after the completion of the work with respect to which such Pari Passu Debt was incurred (as certified in writing by the Borrower to the Collateral Agent), shall promptly be transferred to the applicable sub-account of the Mandatory Prepayment Account for redemption of such Pari Passu Debt.

(vi) As soon as practicable, following the date that all amounts on deposit in any Pari Passu Debt Proceeds Account are transferred out of such Pari Passu Debt Proceeds Account, the Collateral Agent shall close such Pari Passu Debt Proceeds Account.

(vii) Notwithstanding anything to the contrary herein and subject to Section 6.06(c) hereof, the Lien on any Pari Passu Debt Proceeds Account (and on all amounts deposited

thereto and Account Earnings with respect to amounts deposited thereto) shall solely secure the obligations of the Borrower under the applicable Pari Passu Loan Agreement (such exclusive Lien to continue upon and following the occurrence of a Bankruptcy Related Event) until such funds have been disbursed in accordance with this Section 5.01(b).

(c) The Securities Intermediary shall promptly, and in any event prior to establishing any account pursuant to clause (b) of this Section 5.01, provide written notice of any request or instruction from the Borrower to establish such account to the Secured Parties that are parties hereto or relevant representatives thereof. Upon creation of any account pursuant to clause (b) of this Section 5.01, the Securities Intermediary shall, by written notice, inform the other Secured Parties that are parties hereto or relevant representatives thereof of such account's purposes, terms and instructions. Any Pari Passu Debt Proceeds Accounts (each of which shall be a separately identified account with a separate and distinct name and account number) shall be identified in the manner set forth in Section 5.01(a).

(d) All of the Project Accounts shall be under the control of the Collateral Agent and, except as expressly provided herein, the Borrower shall not have any right to withdraw funds from any Project Account (including sub-accounts). The Borrower hereby irrevocably authorizes the Collateral Agent to credit funds to or deposit funds in, and to withdraw and transfer funds from, each Project Account in accordance with the terms of this Agreement.

Section 5.02 [Reserved.]

Section 5.03 Revenue Account.

(a) From and after the Initial LTF Funds Deposit Date, the Borrower shall deposit (or cause to be deposited) (i) immediately upon allocation from TAMC but no less frequently than on a monthly basis, all LTF Funds allocated to the Borrower and (ii) when and to the extent required by Section 5.03(f), any Other Revenues, in each case into the Revenue Account. The Borrower shall at all times maintain in effect the TAMC Irrevocable Instruction and use commercially reasonable efforts to ensure that TAMC maintains compliance with TAMC Irrevocable Instruction. If, notwithstanding the TAMC Irrevocable Instruction, the Borrower receives any LTF Funds (except for LTF Funds that have been released to the Borrower pursuant to this Agreement), the Borrower shall hold all such amounts coming into its possession in trust for the benefit of the Secured Parties and shall turn over such LTF Funds, in the form received, to the Collateral Agent for deposit to the Revenue Account.

(b) At the instruction of the Borrower in accordance with a Funds Transfer Certificate pursuant to Section 5.09, and subject to Section 6.06 hereof, the Collateral Agent shall make the following withdrawals, transfers and payments from the Revenue Account (and any sub-accounts thereof) as set forth in the applicable Funds Transfer Certificate, on each Transfer Date, and, with respect to funds deposited to the Revenue Account in accordance with Section 5.03(a)(ii), on any date on which such funds are deposited into the Revenue Account, in the following amounts and in the following order of priority (it being agreed that (i) no amount shall be withdrawn on any date pursuant to any clause below (A) until amounts sufficient as of that date (to the extent applicable) for all the purposes specified under the prior clauses shall have been withdrawn or set aside or (B) in respect of any items for which amounts have previously been transferred and (ii) each such transfer shall be made only to the extent there are sufficient amounts on deposit in the Revenue Account, on such date to make any such transfer):

First, on a pari passu basis, deposits to the TIFIA Debt Service Sub-Account and to each Pari Passu Debt Service Sub-Account, as applicable, until the following amounts have been fully funded:

(a) for the TIFIA Debt Service Sub-Account, (i) the interest due on the TIFIA Loan on the next Interest Payment Date, *plus* (ii) (A) for any Payment Period beginning on July 1, fifty percent (50%) of the principal due on the TIFIA Loan on the next Principal Payment Date or (B) for any Payment Period beginning on January 1, one hundred percent (100%) of the principal due on the TIFIA Loan on the next Principal Payment Date, *plus* (iii) any fees, costs, expenses and other amounts then due and payable under the TIFIA Loan Agreement; and

(b) for each Pari Passu Debt Service Sub-Account, (i) the interest due on the applicable Pari Passu Debt with respect to such sub-account on the next Interest Payment Date for the applicable Pari Passu Debt, *plus* (ii) (A) for any Payment Period beginning on a Principal Payment Date for the applicable Pari Passu Debt, fifty percent (50%) of the principal due on the applicable Pari Passu Debt with respect to such sub-account on the next Principal Payment Date for the applicable Pari Passu Debt or (B) for any Payment Period that does not begin on a Principal Payment Date for the applicable Pari Passu Debt, one hundred percent (100%) of the principal due on the applicable Pari Passu Debt with respect to such sub-account on the next Principal Payment Date for the applicable Pari Passu Debt; provided that if the principal on any Pari Passu Debt is payable on a semi-annual basis, clause (ii) shall read “the principal due on the applicable Pari Passu Debt with respect to such account on the next semi-annual principal payment date for such Pari Passu Debt”, *plus* (iii) any fees, costs, expenses and other amounts then due and payable under the applicable Pari Passu Loan Agreement with respect to such sub-account;

provided further, that on each Interest Payment Date, amounts on deposit in the TIFIA Debt Service Sub-Account and any Pari Passu Debt Service Sub-Account, as applicable, shall be transferred by the Collateral Agent in an amount required for the payment of interest then due and payable on the applicable Secured Obligations, on each Principal Payment Date, amounts on deposit in the TIFIA Debt Service Sub-Account and any Pari Passu Debt Service Sub-Account, as applicable, shall be transferred by the Collateral Agent in an amount required for the payment of principal then due and payable on the applicable Secured Obligation, and on each date when any other fees, costs, expenses and other amounts are then due and payable on any Secured Obligations, amounts on deposit in the TIFIA Debt Service Sub-Account and any Pari Passu Debt Service Sub-Account, as applicable, shall be transferred by the Collateral Agent in an amount required for the payment of such fees, costs, expenses and other amounts then due and payable on the applicable Secured Obligations;

Second, on a pari passu basis, deposits to the TIFIA Debt Service Reserve Sub-Account and to each Pari Passu Debt Service Reserve Sub-Account, as applicable, in an amount, if any:

(a) for the TIFIA Debt Service Reserve Sub-Account, such that amounts on deposit therein are at least equal to the TIFIA Debt Service Reserve Required Balance; provided that the TIFIA Debt Service Reserve Sub-Account shall initially be funded in an amount equal to the TIFIA Debt Service Reserve Required Balance by no later than [the first Business Day following the Initial LTF Funds Deposit Date]; and

(b) for each Pari Passu Debt Service Reserve Sub-Account, such that amounts on deposit therein are at least equal to the Pari Passu Debt Service Reserve Required Balance for such sub-account;

provided, that amounts on deposit in the TIFIA Debt Service Reserve Sub-Account and any Pari Passu Debt Service Reserve Sub-Account, as applicable, shall be transferred by the Collateral Agent in an amount and when required to ensure the timely payment of interest and principal on

the TIFIA Loan or the applicable Pari Passu Debt with respect to such Pari Passu Debt Service Reserve Sub-Account, as applicable, that is not otherwise paid by Revenues deposited to the Revenue Account;

Third, on any Transfer Date occurring in June or December, on a pari passu basis, deposits to the TIFIA Debt Service Sub-Account and any Pari Passu Debt Service Sub-Account, as applicable, until the amounts on deposit in such accounts (excluding any amounts on deposit therein that will be transferred out of such accounts by the Collateral Agent in accordance with clauses "First" and "Second" of Section 5.03(b) on the next Payment Date for the payment of interest, principal and any other fees, costs, expenses and other amounts then due and payable on the applicable Secured Obligations on such Payment Date) are sufficient to satisfy the Other Revenue Transfer Conditions set forth in clause (a) of the definition thereof for the next succeeding Payment Period after the current Payment Period.

Fourth, on any Transfer Date occurring in June or December, on a pari passu basis, deposits to the TIFIA Debt Service Reserve Sub-Account and any Pari Passu Debt Service Reserve Sub-Account, as applicable, until the amounts on deposit in such accounts (excluding any amounts on deposit therein that will be transferred out of such accounts by the Collateral Agent in accordance with clauses "First" and "Second" of Section 5.03(b) on the next Payment Date for the payment of interest and principal then due and payable on the applicable Secured Obligations on such Payment Date) are sufficient to satisfy the Other Revenue Transfer Conditions set forth in clause (b) of the definition thereof for the next succeeding Payment Period after the current Payment Period.

Fifth, if a mandatory prepayment or mandatory redemption under any Secured Obligation is then due and payable, to the Mandatory Prepayment Account to make payments in respect of mandatory prepayments and mandatory redemptions of the outstanding Secured Obligations solely to the extent not payable from amounts on deposit in another Project Account pursuant to the terms hereof (collectively, the "**Mandatory Payments**") in an amount equal to the total aggregate amount of such Mandatory Payments then due and payable in respect of such Secured Obligations;

Sixth, if any Permitted Subordinated Loans are outstanding, to any sub-account of the Revenue Account established for the payment of interest on Permitted Subordinated Loans (if any), an amount not to exceed (together with amounts then on deposit therein) the interest then due and payable on any outstanding Permitted Subordinated Loans plus any other amounts required to be deposited in accordance with the relevant financing documents; provided, that on each Interest Payment Date, amounts on deposit in such sub-account shall be transferred by the Collateral Agent for the payment of interest then due and payable on such Permitted Subordinated Loans; and

Seventh, if any Permitted Subordinated Loans are outstanding, to any sub-account of the Revenue Account established for the payment of principal on Permitted Subordinated Loans (if any), an amount not to exceed (together with amounts then on deposit therein) the principal then due and payable on any outstanding Permitted Subordinated Loans plus any other amounts required to be deposited in accordance with the relevant financing documents; provided, that on each Principal Payment Date, amounts on deposit in such sub-account shall be transferred by the Collateral Agent for the payment of the principal then due and payable on such Permitted Subordinated Loans.

(c) If, on the date of any withdrawal or transfer from the Revenue Account for payment pursuant to any of clauses "First" through "Seventh" of Section 5.03(b), the amount required to be withdrawn and transferred from the Revenue Account pursuant to such clause exceeds the amount then on deposit in or credited to the Revenue Account after the withdrawals and transfers made pursuant to all applicable preceding clauses are completed, the amount on deposit in or credited to the Revenue Account at the time of application pursuant to such clause shall be transferred *pro rata* to each of the Persons (or Project Accounts) specified in such clause based on the respective amounts owed to such Persons (or otherwise required to be transferred) pursuant to such clause (including, upon and following the occurrence of a Bankruptcy Related Event) based on outstanding principal, as of such date of withdrawal or transfer); provided that (i) the payments described in this paragraph shall be applied in accordance with the payment priorities set forth in Section 5.03(b) and (ii) the payments due at a particular level of the waterfall set forth in Section 5.03(b) shall be made in full before any payment is made at the next level.

(d) For the avoidance of doubt, after application of funds in the Revenue Account on any Transfer Date or any other specified date pursuant to Section 5.03(b), to the extent any funds remain in the Revenue Account, such funds shall be transferred by the Collateral Agent to the Borrower.

(e) To the extent that the balance of funds on deposit in any Project Account with a required minimum balance exceeds such required minimum balance as of any Transfer Date, such excess funds will be transferred to the Revenue Account for application as contemplated by this Section 5.03.

(f) If, as of the second day of any Payment Period, LTF Funds on deposit in the Senior Debt Service Account (or the applicable sub-accounts thereunder), the TIFIA Debt Service Reserve Sub-Account, or any Pari Passu Debt Service Reserve Sub-Account are not sufficient to satisfy each of the Other Revenue Transfer Conditions, the Borrower shall promptly (and in any case within five (5) Business Days after the second day of the applicable Payment Period) deposit (or cause to be deposited) Other Revenues to the Revenue Account in such amounts as needed to satisfy the Other Revenue Transfer Conditions and, if necessary, continue to deposit (or cause to be deposited) Other Revenues to the Revenue Account until the Other Revenue Transfer Conditions are satisfied.

Section 5.04 Senior Debt Service Account.

(a) The TIFIA Debt Service Sub-Account and any Pari Passu Debt Service Sub-Account shall be funded in accordance with and subject to clauses "First" and "Third" of Section 5.03(b), as applicable.

(b) Funds on deposit in the TIFIA Debt Service Sub-Account shall be applied to pay principal, accrued and unpaid interest, and any other fees, costs, expenses and other amounts due and payable on the TIFIA Loan.

(c) Funds on deposit in any Pari Passu Debt Service Sub-Account shall be applied to pay principal, accrued and unpaid interest, and any other fees, costs, expenses and other amounts due and payable on the applicable Pari Passu Debt related to such sub-account.

(d) Notwithstanding anything to the contrary herein and subject to Section 6.06(c) hereof, the Lien on (i) the TIFIA Debt Service Sub-Account (and on all amounts deposited thereto and Account Earnings with respect to amounts deposited thereto) shall solely secure the obligations of the Borrower under the TIFIA Loan Agreement (such exclusive Lien to continue upon and following the occurrence of a Bankruptcy Related Event), and shall be established solely for the benefit of the TIFIA Lender, and will be held by the Collateral Agent, and the lien thereon maintained, for the exclusive benefit of only the TIFIA Lender and (ii) any Pari Passu Debt Service Sub-Account (and on all amounts

deposited thereto and Account Earnings with respect to amounts deposited thereto) shall solely secure the obligations of the Borrower with respect to the applicable Pari Passu Debt related to such sub-account (such exclusive Lien to continue upon and following the occurrence of a Bankruptcy Related Event), and shall be established solely for the benefit of the applicable Secured Party, and will be held by the Collateral Agent, and the lien thereon maintained, for the exclusive benefit of only such Secured Party.

Section 5.05 Senior Debt Service Reserve Account.

(a) The TIFIA Debt Service Reserve Sub-Account and any Pari Passu Debt Service Reserve Sub-Account shall be funded in accordance with and subject to clauses "Second" and "Fourth" of Section 5.03(b), as applicable.

(b) Funds on deposit in the TIFIA Debt Service Reserve Sub-Account shall be applied when and in an amount required to pay principal and accrued and unpaid interest due and payable on the TIFIA Loan that is not otherwise paid by Revenues deposited to the Revenue Account.

(c) Funds on deposit in any Pari Passu Debt Service Reserve Sub-Account shall be applied when and in an amount required to pay principal and accrued and unpaid interest due and payable on the applicable Pari Passu Debt with respect to such sub-account that is not otherwise paid by Revenues deposited to the Revenue Account.

(d) Notwithstanding anything to the contrary herein and subject to Section 6.06(c) hereof, the Lien on (i) the TIFIA Debt Service Reserve Sub-Account (and on all amounts deposited thereto and Account Earnings with respect to amounts deposited thereto) shall solely secure the obligations of the Borrower under the TIFIA Loan Agreement (such exclusive Lien to continue upon and following the occurrence of a Bankruptcy Related Event), and shall be established solely for the benefit of the TIFIA Lender, and will be held by the Collateral Agent, and the lien thereon maintained, for the exclusive benefit of only the TIFIA Lender and (ii) any Pari Passu Debt Service Reserve Sub-Account (and on all amounts deposited thereto and Account Earnings with respect to amounts deposited thereto) shall solely secure the obligations of the Borrower with respect to the applicable Pari Passu Debt related to such sub-account (such exclusive Lien to continue upon and following the occurrence of a Bankruptcy Related Event), and shall be established solely for the benefit of the applicable Secured Party, and will be held by the Collateral Agent, and the lien thereon maintained, for the exclusive benefit of only such Secured Party.

Section 5.06 Mandatory Prepayment Account.

(a) On or before the date on which the Borrower enters into any Pari Passu Loan Agreement that provides for the mandatory prepayment or mandatory redemption of the applicable Secured Obligations, the Borrower shall deliver written instructions to the Securities Intermediary directing the Securities Intermediary to establish and maintain the Mandatory Prepayment Account (and any sub-accounts therein with respect to such Secured Obligations) in the Borrower's name in accordance with Section 5.01(a).

(b) The Mandatory Prepayment Account shall be funded as follows:

(i) from amounts transferred, if any, from the Revenue Account in accordance with clause "Fifth" of Section 5.03(b), to make Mandatory Payments in accordance with an Pari Passu Loan Agreement, as applicable; and

(ii) from amounts transferred from any Pari Passu Debt Proceeds Accounts in accordance with Section 5.01(b)(iv) and Section 5.01(b)(v).

(c) Funds deposited into the Mandatory Prepayment Account will be transferred into any sub-account of the Mandatory Prepayment Account established for any Secured Obligations in accordance with the provisions of this Section 5.06 for prepayment and redemption of any Secured Obligations to the extent required to be repaid thereby (and solely to the extent expressly required, on a *pro rata* basis based on the then outstanding principal amounts of such Secured Obligations) in accordance with the terms of the Finance Documents and the other provisions of this Agreement at such redemption prices and required prepayment amounts as and to the extent contemplated herein and therein; provided, that amounts on deposit in any sub-account established for any Secured Obligations shall be transferred by the Collateral Agent to the applicable debt service account for the applicable Secured Party for the mandatory redemption and/or mandatory prepayment of the related Secured Obligations at the instruction of the Borrower in accordance with a Funds Transfer Certificate pursuant to Section 5.09.

(d) Notwithstanding anything to the contrary herein and subject to Section 6.06(c) hereof, any sub-account under the Mandatory Prepayment Account established for any Secured Obligations shall be pledged solely as collateral to secure the related Secured Obligations and shall be established solely for the benefit of the related Secured Parties, and will be held by the Collateral Agent, and the lien thereon maintained, for the exclusive benefit of only such related Secured Parties.

Section 5.07 Funds as Collateral. Any deposit made into the Project Accounts hereunder (except through clerical or other manifest error or in a manner that is otherwise inconsistent with this Agreement) shall be irrevocable and all cash, cash equivalents, Permitted Investments, instruments, and other Securities on deposit in the Project Accounts are subject to a Lien in favor of the Collateral Agent (on behalf of the Secured Parties) pursuant to Section 1.01 and shall be held by the Collateral Agent as Collateral for the benefit of the Secured Parties as provided herein.

Section 5.08 Investment.

(a) Funds in the Senior Debt Service Reserve Account (and sub-accounts thereunder) may be invested and reinvested only in Permitted Investments (at the risk and expense of the Borrower) in accordance with written instructions given to the Collateral Agent by the Borrower (prior to the occurrence of an Event of Default and, thereafter (so long as such Event of Default shall be continuing), as directed by the Required Creditors and in accordance with the written instructions of the Required Creditors) and, unless an Event of Default has occurred and is continuing, the Borrower is entitled to instruct the Collateral Agent to liquidate Permitted Investments for purposes of effecting any such investment or reinvestment, upon permitted withdrawals from the respective accounts or for any other purpose permitted hereunder; provided, that absent such instruction, such amounts held in the Senior Debt Service Reserve Account shall be invested and reinvested in Permitted Investments as selected by the Borrower in advance (which may be in the form of a standing instruction). The Collateral Agent shall not be required to take any action with respect to investing the funds in the Senior Debt Service Reserve Account in the absence of written instructions by the Borrower or the Required Creditors (to the extent provided in accordance with the terms hereof). The Collateral Agent shall not be liable for any loss resulting from any Permitted Investment or the sale or redemption thereof made in accordance with the terms hereof. The Collateral Agent may conclusively rely upon investment instructions provided to it that such investments are Permitted Investments. If and when cash is required for disbursement in accordance with this Article V or Section 6.06 hereof, the Collateral Agent is authorized, without instructions from the Borrower, in the event the Borrower fails to direct the Collateral Agent to do so in a timely manner and to the extent necessary to make payments required pursuant to this Article V or Section 6.06 hereof, to cause Permitted Investments to be sold or otherwise liquidated into cash (without regard to maturity) in

such manner as the Collateral Agent shall deem reasonable and prudent under the circumstances. The Borrower acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Borrower the right to receive brokerage confirmations of security transactions as they occur, the Borrower specifically waives receipt of such confirmations to the extent permitted by law. The Collateral Agent will provide the Borrower periodic cash transaction statements which shall include detail for all investment transactions made by the Collateral Agent hereunder.

(b) The Collateral Agent shall have no obligation to invest or reinvest the funds if all or a portion of the funds is deposited with (or instructions with respect to the same are given to) the Collateral Agent after 11 a.m. (E.S.T. or E.D.T., as applicable) on the day of deposit. Instructions to invest or reinvest that are received after 11 a.m. (E.S.T. or E.D.T., as applicable) will be treated as if received on the following Business Day.

(c) In the event the Collateral Agent does not receive investment instructions, the amounts held by the Collateral Agent pursuant to the provisions of this Agreement shall not be invested and the Collateral Agent shall not incur any liability for interest or income thereon.

(d) The parties hereto each acknowledge that non-deposit investment products are not obligations of or guaranteed by U.S. Bank National Association nor any of its affiliates, are not FDIC insured, and are subject to investment risks, including the possible loss of principal amount invested in one or more of the money market funds made available by the Collateral Agent and initially selected by the Borrower.

(e) Any investment direction contained herein may be executed through an affiliated broker or dealer of the Collateral Agent and any such affiliated broker or dealer shall be entitled to such broker's or dealer's usual and customary fees for such execution as agreed to by the Borrower. It is agreed and understood that the Collateral Agent may earn fees associated with the investments outlined above to the extent previously agreed with the Borrower. Neither the Collateral Agent nor its affiliates shall have a duty to monitor the investment ratings of any Permitted Investments.

(f) Investments may be held by the Collateral Agent directly or through any clearing agency or depository (collectively, the "**Clearing Agency**") including the federal reserve/treasury book-entry system for United States and federal agency securities, and The Depository Trust Company. The Collateral Agent shall not have any responsibility or liability for the actions or omissions to act on the part of any Clearing Agency.

Section 5.09 Withdrawal and Application of Funds; Priority of Transfers from Project Accounts; Event of Default.

(a) Except as expressly provided herein, each withdrawal or transfer of funds from the Project Accounts by the Collateral Agent on behalf of the Borrower will be made pursuant to an executed Funds Transfer Certificate, which certificate will be provided and prepared by the Borrower and will contain a certification by the Borrower, as applicable, that such withdrawal or transfer complies with the requirements of this Agreement.

(b) Unless a shorter period is acceptable to the Collateral Agent, such Funds Transfer Certificate relating to each applicable Project Account will be delivered to the Collateral Agent no later than two (2) Business Days prior to each date on which funds are proposed to be withdrawn or transferred. In the event that a Funds Transfer Certificate does not comply with the requirements of this Agreement and the other Finance Documents, the Collateral Agent has the right to reject such certificate

and the Borrower will not be entitled to cause the proposed withdrawal or transfer until it has submitted a revised and compliant certificate.

(c) Notwithstanding anything to the contrary contained in this Agreement, upon receipt of a notice of an Event of Default, the Required Creditors may (i) in connection with or following the taking of an Enforcement Action, without consent of the Borrower, instruct the Collateral Agent in writing to apply proceeds of the Project Accounts to the payment of Secured Obligations, in accordance with the terms of this Agreement and in the order set forth in Section 6.06, so long as such payments are on account of amounts due under the Finance Documents in respect of such Secured Obligations and (ii) at any time prior to the taking of an Enforcement Action, instruct the Collateral Agent to apply the proceeds of the Project Accounts in the order set forth in Section 5.03(b); provided, that in the case of this clause (ii), amounts on deposit in any Pari Passu Debt Proceeds Account may only be applied in accordance with the provisions of Section 5.01(b).

Section 5.10 Termination of Project Accounts. Upon the payment in full in cash of the Secured Obligations, this Agreement will terminate, and the Collateral Agent will, within thirty (30) days of receipt of a request from the Borrower, countersigned by the Secured Creditors, and at the expense of the Borrower, close the Project Accounts and/or liquidate any investments credited thereto and/or transfer the funds deposited therein or credited thereto, as directed by the Borrower. Thereafter, the Collateral Agent will be released from any further obligation to (a) comply with Entitlement Orders originated by the Collateral Agent to the extent that any of the Project Accounts is a "securities account" under the applicable provision of the UCC or (b) comply with instructions originated by the Required Creditors, to the extent that any of the Project Accounts is a "deposit account" under the applicable provision of the UCC or (c) comply with any obligation under any Finance Document except as specifically provided herein or therein, in each case as contemplated herein or therein. Nothing contained in this Section 5.10 will be construed to modify or otherwise affect the Collateral Agent's Lien in the Project Accounts and the funds therein, prior to such closure and liquidation and/or transfer in accordance with the terms hereof.

Section 5.11 Securities Intermediary.

(a) The Securities Accounts shall be established and maintained as securities accounts (within the meaning of Section 8-501(a) of the UCC) with a securities intermediary. Each of the parties to this Agreement, including U.S. Bank National Association, hereby agrees that U.S. Bank National Association (or any successor thereto) shall act as the securities intermediary (within the meaning of Section 8-102(a)(14) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) (in such capacity (including its successors and assigns), the "**Securities Intermediary**") under and for the purposes of this Agreement and for so long as U.S. Bank National Association (or any successor thereto) is also acting in the capacity as the Collateral Agent.

(b) The Securities Intermediary hereby accepts and agrees to act as such under this Agreement and represents and warrants that it is as of the date hereof, and shall be for so long as it is the Securities Intermediary hereunder, a banking corporation or a national bank that in the ordinary course of its business maintains securities accounts for others, meets the requirements and qualifications set forth in the first sentence of Section 5.11(e) and is acting in that capacity hereunder. The Securities Intermediary agrees with the parties hereto that each of the Securities Accounts shall be an account to which Financial Assets may be credited and undertakes to treat the Collateral Agent as entitled to exercise the rights that comprise such Financial Assets. The Securities Intermediary agrees with the parties hereto that each item of property credited to each Securities Account shall be treated as a Financial Asset. Each of the Collateral Agent and the Securities Intermediary represents and warrants that it has not entered into any agreement or taken any other action that gives any Person other than the Collateral Agent control over

any of the Securities Accounts or that is otherwise inconsistent with this Agreement. Each of the Collateral Agent and the Securities Intermediary agrees that it shall not become a party to any agreement or take any action that gives any Person other than the Collateral Agent control over any of the Securities Accounts or that is otherwise inconsistent with this Agreement. The Securities Intermediary agrees that any Financial Assets credited to such Securities Accounts, or any "securities entitlement" (as defined in Section 8-102(a)(17) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) with respect thereto, shall not be subject to any Lien or right of set-off in favor of the Securities Intermediary or anyone claiming through the Securities Intermediary (other than the Collateral Agent). The Securities Intermediary hereby represents that, except for the claims and interests of the Collateral Agent and the Borrower in the Securities Accounts, the Securities Intermediary has no knowledge of, and has received no notice of, any claim to, or interest in, any Securities Account. If any Person asserts any lien (including any writ, garnishment, judgment, warrant of attachment, execution or similar process) against any Securities Account, the Securities Intermediary, upon obtaining written notice thereof, will promptly notify the Collateral Agent, the other Secured Parties that are parties hereto or relevant representatives thereof and the Borrower thereof.

(c) It is the intent of the Collateral Agent and the Borrower that the Collateral Agent (for the benefit of the Secured Parties) be the Entitlement Holder with respect to the Securities Accounts. In any event, the Securities Intermediary hereby agrees that it will comply with Entitlement Orders with respect to any and/or all of the Securities Accounts originated by the Collateral Agent without further consent by the Borrower or any other Person. The Securities Intermediary covenants that it will not agree with any Person other than the Collateral Agent to comply with Entitlement Orders with respect to the Securities Accounts originated by any Person or entity other than the Collateral Agent. The Collateral Agent authorizes the Securities Intermediary to follow Entitlement Orders issued by the Borrower unless and until the Securities Intermediary receives an Entitlement Order from the Collateral Agent. Without limiting the Securities Intermediary's obligation or ability to comply with Entitlement Orders originated by the Collateral Agent, the Collateral Agent covenants with the Borrower that it shall not provide any such Entitlement Order unless an Event of Default shall have occurred and be continuing.

(d) The Securities Intermediary shall not change the name or account number of any Securities Account without the prior written consent of the Collateral Agent and, for so long as no Event of Default has occurred and is continuing, the Borrower and at least five (5) Business Days' prior notice to the Secured Parties that are parties hereto or relevant representatives thereof, and shall not change the Entitlement Holder. The Securities Intermediary shall at all times act as a "securities intermediary" (within the meaning of Section 8-102(a)(14) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) in maintaining the Securities Accounts and shall credit to each Securities Account each Financial Asset to be held in or credited to each Securities Account pursuant to this Agreement. To the extent, if any, that the Collateral Agent is deemed to hold directly, as opposed to having a security entitlement in, any Financial Asset held by the Securities Intermediary for the Collateral Agent, the Securities Intermediary hereby agrees that it is holding such Financial Asset as the agent of the Collateral Agent and hereby expressly acknowledges and agrees that it has received notification of the Collateral Agent's security interest in such Financial Asset and that it is holding possession of such Financial Asset for the benefit of the Collateral Agent.

(e) Each Securities Account shall remain held at all times by a "securities intermediary" (within the meaning of Section 8-102(a)(14) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) that is a bank organized under the laws of the United States of America or any state thereof that has offices in the State of [New York] with unsecured long-term debt which shall be rated no lower than 'A', 'A2' or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such bank's unsecured long-term debt and that has a total capital stock and unimpaired surplus of not less than \$500,000,000. The Securities

Intermediary shall give notice to the Collateral Agent and the Borrower of the location of the Securities Accounts and of any change thereof prior to the use or change thereof. If at any time the Securities Intermediary shall fail to meet such requirements and qualifications set forth in the first sentence above, the Borrower shall replace the Securities Intermediary as soon as practicable with a qualifying Securities Intermediary.

(f) Any income received by the Collateral Agent with respect to the balance from time to time on deposit in each Securities Account, including any interest or capital gains on investments in overnight securities made with amounts on deposit in each Securities Account, shall be credited to the applicable Securities Account. All right, title and interest in and to the cash amounts on deposit from time to time in each Securities Account together with any investments in overnight securities from time to time made pursuant to this Section 5.11 shall constitute part of the Collateral for the Secured Obligations and shall be held for the benefit of the Secured Parties and the Borrower as their interests shall appear hereunder and shall not constitute payment of the Secured Obligations (or any other obligations to which such funds are provided hereunder to be applied) until applied thereto as provided in this Agreement.

(g) In the event that, notwithstanding the last sentence of clause (b) above, the Securities Intermediary has or subsequently obtains by agreement, operation of Law or otherwise a Lien in any of the Securities Accounts, or any Financial Asset credited thereto, or any "securities entitlement" (as defined in Section 8-102(a)(17) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) with respect thereto, the Securities Intermediary hereby agrees that such Lien shall be subordinate to the Lien of the Collateral Agent.

(h) The "securities intermediary's jurisdiction" of the Securities Intermediary for purposes of the UCC (or the Uniform Commercial Code of any other jurisdiction to the extent applicable) is the State of New York.

(i) Terms used in Section 5.10 and this Section 5.11 that are defined in the UCC shall have the meaning set forth in the UCC. Without limiting the foregoing, the term "securities intermediary" shall, with respect to book-entry securities, have the meanings given to it, as applicable to the types of security under: 31 C.F.R. Part 357 (sale and issue of marketable book-entry Treasury bills, notes and Senior Loan); 12 C.F.R. Part 615 (book-entry securities of the Farm Credit Administration and related conditions); 12 C.F.R. 987 (book-entry securities of the Financial Federal Housing Board), 12 C.F.R. Part 1511 (book-entry securities of the Resolution Funding Corporation); 24 C.F.R. Part 81 (book-entry securities of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation); 31 C.F.R. Part 354 (book-entry securities of the Student Loan Marketing Association); 18 C.F.R. Part 1314 (book-entry securities of Tennessee Valley Authority); and 24 C.F.R. Part 350 (book-entry securities of Government National Mortgage Association).

(j) To the extent that any Project Account is not considered a "securities account" (within the meaning of Section 8-501(a) of the UCC), such Project Account shall be deemed to be a "deposit account" (as defined in Section 9-102(a)(29) of the UCC), which the Collateral Agent shall maintain with the Securities Intermediary acting not as a securities intermediary but as a "bank" (within the meaning of Section 9-102(a)(8) of the UCC) and, in such circumstances, the "bank's jurisdiction" of the Securities Intermediary for purposes of the UCC (or the Uniform Commercial Code of any other jurisdiction to the extent applicable) is the State of New York. The Securities Intermediary hereby agrees to comply with any and all instructions originated by the Collateral Agent directing disposition of funds in any and/or all of the Project Accounts without any further consent of the Borrower or any other Person. The Collateral Agent authorizes the Securities Intermediary to comply with any instructions with respect to any such deposit accounts from the Borrower unless and until the Securities Intermediary receives instructions with respect to any such deposit accounts from the Collateral Agent. Without limiting the

Securities Intermediary's obligation or ability to comply with any instructions with respect to any such deposit accounts from the Collateral Agent, the Collateral Agent covenants with the Borrower that it shall not provide any such instructions unless an Event of Default shall have occurred and be continuing.

Section 5.12 Inadequately Identified Amounts. In the event that the Collateral Agent receives any amount which is inadequately or incorrectly identified as to the Project Account into which such amount is to be credited, the Collateral Agent shall notify the Borrower (with a copy of such notice to the other Secured Parties that are parties hereto or relevant representatives thereof) of such event and shall request instructions as to the Project Account into which such amount should be credited. With respect to any such amount, the Collateral Agent shall credit such amount to the Revenue Account, in each case until such time as the Collateral Agent receives instructions from the Borrower in accordance herewith stating that such amount should be credited to another Project Account in accordance with the Finance Documents, in which case the Collateral Agent shall credit such amount to the Project Account designated by the Borrower.

Section 5.13 Tax Reporting. All Account Earnings relating to the Project Accounts shall be reported to the Internal Revenue Service and, to the extent applicable, all state and local taxing authorities under the name and taxpayer identification number of the Borrower. The Borrower shall prepare or cause to be prepared any tax returns or other forms or information required to be filed in connection with any such earnings. The Collateral Agent does not have any interest in the Collateral deposited hereunder but is serving as collateral agent only and having only possession thereof. The Borrower shall pay or reimburse the Collateral Agent upon request for any transfer taxes or other Taxes relating to the Collateral incurred in connection herewith and shall indemnify and hold harmless the Collateral Agent from any amounts that it is obligated to pay in the way of such Taxes to the extent paid by the Collateral Agent in respect of the Collateral. The Borrower will provide the Collateral Agent with appropriate W-9 forms for taxpayer identification numbers, number certifications, or W-8 forms for non-resident alien certifications. This paragraph shall survive notwithstanding any termination of this Agreement or the resignation or removal of the Collateral Agent.

ARTICLE VI COLLATERAL AND REMEDIES

Section 6.01 Administration of Collateral. The Project Accounts and the amounts on deposit therein shall be held by the Collateral Agent for the benefit of the Secured Parties pursuant to the terms hereof and any other Security Documents and shall be administered by the Collateral Agent in the manner contemplated hereby and thereby.

Section 6.02 Knowledge of Event of Default. Notwithstanding anything to the contrary contained in this Agreement or any document executed in connection with any of the Secured Obligations, the Collateral Agent, unless a responsible officer of the Collateral Agent shall have actual knowledge thereof, shall not be deemed to have any knowledge of any Event of Default unless and until it shall have received written notice from the Borrower or any other Secured Party describing such Event of Default in reasonable detail. If the Collateral Agent receives any such notice, the Collateral Agent shall deliver a copy thereof to the other Secured Parties that are parties hereto (or representatives thereof); provided that if the Collateral Agent receives any such notice from a Person other than the Borrower, the Collateral Agent also shall deliver a copy thereof to the Borrower.

Section 6.03 Enforcement of Remedies. Upon the occurrence of any Event of Default, the Collateral Agent shall, subject to the other provisions of this Agreement, take such Enforcement Action with respect to such Event of Default as shall be directed by the Required Creditors, acting in accordance with the terms of this Agreement and the other applicable Finance Documents (a "**Direction Notice**"),

subject to the requirements of Section 5.09(c) with respect to application of proceeds of the Project Accounts; provided that, in the absence of a Direction Notice, the Collateral Agent may (but shall not be obligated to) take such action (with written notice thereof to the other Secured Parties that are parties hereto or the representatives thereof) or refrain from taking such action with respect to such Event of Default as it shall deem in the best interests of the Secured Parties and solely to the extent permitted hereunder or pursuant to any other Security Documents. Upon receipt by the Collateral Agent of a Direction Notice, the Collateral Agent shall seek to enforce the Security Documents (with prior notice thereof to the Borrower, to the extent not in violation of Law or court order) and to realize upon the Collateral in accordance with such Direction Notice and otherwise in accordance with the terms hereof and of any other Security Documents; provided, however, that the Collateral Agent shall not be obligated to follow any Direction Notice if the Collateral Agent reasonably determines that such Direction Notice is in conflict with any provisions of any applicable law or any Security Document, and the Collateral Agent shall not, under any circumstances except in the event of the Collateral Agent's gross negligence, fraud, bad faith or willful misconduct, be liable to any Secured Party, the Borrower or any other Person for following a Direction Notice.

Section 6.04 Remedies of the Secured Parties. Unless otherwise consented to in writing by the Required Creditors (acting in accordance with the terms of this Agreement), no Secured Party, individually or together with any other Secured Parties (other than the Collateral Agent, in such capacity), shall have the right, nor shall it (i) exercise or enforce any of the rights, powers or remedies which the Collateral Agent is authorized to exercise or enforce under this Agreement or under any other Security Documents, (ii) sue for or institute any creditor's process (including an injunction garnishment, execution or levy, whether before or after judgment) in respect of any Secured Obligation (whether or not for the payment of money) owing to it under or in respect of any Finance Document, (iii) take any step for the winding-up, administration of or dissolution of, or any insolvency proceeding in relation to, the Borrower, or for a voluntary arrangement, scheme of arrangement or other analogous step in relation to the Borrower, or (iv) apply for any order for an injunction or specific performance in respect of the Borrower in relation to any of the Finance Documents. Notwithstanding the foregoing, the Secured Parties hereby expressly acknowledge the TIFIA Lender's rights to take the actions described in clauses (b) through (f) of Section 19 of the TIFIA Loan Agreement, without the consent of the Required Creditors.

Section 6.05 Secured Party Information. In the event that the Collateral Agent proceeds to foreclose upon, collect, sell or otherwise dispose of or take any other action with respect to any or all of the Collateral or to enforce any provisions of the Security Documents or takes any other action pursuant to this Agreement or any provision of any other Security Documents or requests directions from the Required Creditors as provided herein, upon the request of the Collateral Agent, each of the other Secured Parties (or any agent of or representative for such Secured Party) shall promptly deliver a written notice to the Collateral Agent and each of the other Secured Parties that are parties hereto setting forth (a) the aggregate amount of Secured Obligations owing to such Secured Party under the applicable Finance Documents as of the date specified by the Collateral Agent in such request and (b) such other information as the Collateral Agent may reasonably request.

Section 6.06 Application of Proceeds.

(a) Subject to clauses (b) and (c) of this Section 6.06, after the taking of an Enforcement Action, all Proceeds received by the Collateral Agent derived from the funds set forth in clauses (i)-(iv) below pursuant to the exercise of any rights or remedies accorded to the Collateral Agent pursuant to, or by the operation of any of the terms of, any of the Security Documents shall be applied as follows:

(i) All amounts on deposit in, and all Proceeds attributable to any sub-account of the Senior Debt Service Account shall be transferred to the relevant Secured Creditor with respect to such sub-account in accordance with the Lien granted on such sub-account and Proceeds attributable thereto pursuant to this Agreement as set forth in Section 5.04(d), first to pay for the *pro rata* payment of all accrued and unpaid interest on the applicable Secured Obligations with respect to such sub-account, second, if any unpaid principal of any such Secured Obligation is due and payable (by acceleration or otherwise), to the *pro rata* payment of such principal amounts, and third, if any unpaid fees, costs, expenses and other amounts with respect to any such Secured Obligation are due and payable, to the *pro rata* payment of such fees, costs, expenses and other amounts;

(ii) All amounts on deposit in, and all Proceeds attributable to any sub-account of the Senior Debt Service Reserve Account shall be transferred to the relevant Secured Creditor with respect to such sub-account in accordance with the Lien granted on such sub-account and Proceeds attributable thereto pursuant to this Agreement as set forth in Section 5.05(d), first to pay for the *pro rata* payment of all accrued and unpaid interest on the applicable Secured Obligations with respect to such sub-account, and second, if any unpaid principal of any such Secured Obligation is due and payable (by acceleration or otherwise), to the *pro rata* payment of such principal amounts;

(iii) All amounts on deposit in, and all Proceeds attributable to any Pari Passu Debt Proceeds Account shall be transferred to the relevant Secured Creditor with respect to such account in accordance with the Lien granted on such account and Proceeds attributable thereto pursuant to this Agreement as set forth in Section 5.01(b)(vii), first to pay for the *pro rata* payment of all accrued and unpaid interest on the applicable series of Pari Passu Debt with respect to such Pari Passu Debt Proceeds Account, and second, if any unpaid principal of any such Pari Passu Debt is due and payable (by acceleration or otherwise), to the *pro rata* payment of such principal amounts; and

(iv) All amounts on deposit in, and all Proceeds attributable to, any sub-account of the Mandatory Prepayment Account shall be transferred to the relevant Secured Creditor with respect to such sub-account in accordance with the Lien granted on such sub-account and Proceeds attributable thereto pursuant to this Agreement as set forth in Section 5.06(d), first to pay for the *pro rata* payment of all accrued and unpaid interest on the relevant Secured Obligations with respect to such sub-account and second, if any unpaid principal of any such Secured Obligation is due and payable (by acceleration or otherwise), to the *pro rata* payment of such principal amounts.

(b) Following the taking of an Enforcement Action, notwithstanding any provision to the contrary in this Agreement or any other Finance Document, but subject to Section 5.09(c) and clause (a) of this Section 6.06, the Collateral Agent, as directed by the Required Creditors, will have the right to direct the application of all amounts on deposit in or credited to the Project Accounts, and to otherwise deal with the Collateral, without the need for consent of, or any other action by, the Borrower or any other Secured Party. Subject to the prior application of the funds as described in clause (a) of this Section 6.06, following the taking of an Enforcement Action, all Proceeds received by the Collateral Agent pursuant to the exercise of any rights or remedies accorded to the Collateral Agent pursuant to, or by the operation of any of the terms of, any of the Security Documents, including proceeds from the sale or disposition of Collateral or other Enforcement Action and amounts available in or otherwise transferred from the Project Accounts shall be applied promptly by the Collateral Agent, after payment of unpaid fees, costs and expenses of the Collateral Agent (including those of its attorneys and advisors) due and payable in accordance with Sections 7.01 and 7.02, as directed by the Required Creditors as follows (provided, that

any such proceeds that are to be used to pay any amounts to any Secured Creditor shall be paid to such Secured Creditor for deposit into the debt service fund applicable to such Secured Creditor's Secured Obligations, as the case may be):

First, to the *pro rata* payment of the unpaid fees, administrative costs and expenses due and payable to the Secured Parties under the Finance Documents, if any;

Second, to the *pro rata* payment of all accrued and unpaid interest due and payable on all Secured Obligations;

Third, to the *pro rata* payment of any unpaid principal of any Secured Obligation that is due and payable (by acceleration or otherwise);

Fourth, to the *pro rata* payment of all other amounts, if any, due and payable under the Finance Documents to the Secured Parties with respect to any Secured Obligations; and

Fifth, upon the payment in full of all Secured Obligations in accordance with clauses "First" through "Fourth" hereof, to pay to the Borrower, or as may be directed by the Borrower, or as a court of competent jurisdiction may direct, any Proceeds then remaining.

(c) If at any time any Secured Party shall for any reason obtain any payment or distribution upon or with respect to the Secured Obligations contrary to the terms of this Agreement, whether as a result of the Collateral Agent's exercise of any Enforcement Action in respect of the Collateral or otherwise, such Secured Party agrees that it shall have received such amounts in trust, and shall promptly remit such amount so received in error to the Collateral Agent to be applied in accordance with the terms of this Agreement.

Section 6.07 Reliance on Information. For purposes of applying payments received in accordance with this Article VI, the Collateral Agent shall be entitled to rely upon the information received by, and upon the request of, the Collateral Agent for such purpose, pursuant to Section 2.05 and Section 6.05 of this Agreement, with respect to the amounts of the outstanding Secured Obligations owed to the Secured Parties and the amount of any proceeds distributed from the Project Accounts. In the event that the Collateral Agent, in its reasonable discretion, determines that it is unable to determine the amount or order of payments that should be made hereunder, the parties hereto agree that the Collateral Agent shall have the right, at its option, to deposit with, or commence an interpleader proceeding in respect of, such funds in a court of competent jurisdiction for a determination by such court as to the correct application of such funds hereunder.

Section 6.08 Right of Holders of Secured Obligations to Direct Collateral Agent. Notwithstanding anything in this Agreement to the contrary, the holders of a majority in aggregate principal amount of Secured Obligations then outstanding (the "**Required Creditors**") shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Collateral Agent, to give any instruction, consent or direction to the Collateral Agent as required or permitted to be given pursuant to the terms of this Agreement, subject to the requirements of Section 5.09(c) with respect to application of proceeds of the Project Accounts.

ARTICLE VII COMPENSATION, INDEMNITY AND EXPENSES

Section 7.01 Compensation; Fees and Expenses. The Borrower hereby agrees to pay to the Collateral Agent for its own account compensation in such amount as separately agreed upon in writing

between the Borrower and the Collateral Agent. In addition, the Borrower shall pay on the next Transfer Date falling at least ten (10) Business Days after written demand from the Collateral Agent the amount of any and all other reasonable out-of-pocket expenses incurred by the Collateral Agent, including the reasonable and customary fees, charges and disbursements of any counsel for the Collateral Agent, in connection with (a) the preparation of amendments and waivers hereunder and under any other Security Documents requested by the Borrower; (b) the enforcement of the rights or remedies of the Collateral Agent under this Agreement or any other Security Document, including all reasonable out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Secured Obligations; (c) the sale of, collection from or other realization upon, the Collateral in accordance with the terms hereof and of any other Security Documents; and (d) lien and security interest searches and filings in connection with the Collateral.

Section 7.02 Borrower Indemnification. The Borrower shall indemnify each of the Collateral Agent, the Securities Intermediary and any Co-Collateral Agent, and each of their respective officers, directors, employees, agents and attorneys-in-fact (each such Person being called an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including the reasonable fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of any Security Document or any agreement or instrument contemplated thereby to which such Indemnitee is a party or the performance by the parties hereto of their respective obligations hereunder or the consummation of the transactions contemplated thereby (including the performance by the parties hereto of their respective obligations under the Security Documents), (ii) any actual or alleged presence or release of hazardous material by the Borrower on or from the Project, or (iii) any actual claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto; provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related fees, charges, disbursements or expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee. The obligations of the Borrower under this Section 7.02 shall survive the payment in full of the Secured Obligations, any resignation or removal of the Collateral Agent and the Securities Intermediary pursuant to Section 2.11 hereof, and the termination of this Agreement pursuant to Article VIII hereof.

ARTICLE VIII TERMINATION

Upon termination of this Agreement pursuant to Section 5.10 of this Agreement, all rights to the Collateral as shall not have been sold or otherwise applied, in each case, pursuant to the terms hereof shall revert to the Borrower, its successors or assigns, or otherwise as a court of competent jurisdiction may direct. Upon any such termination, the Collateral Agent shall, at the Borrower's direction and expense, execute and deliver to the Borrower such documents as the Borrower shall reasonably request to evidence such termination.

ARTICLE IX ACCESSION

Section 9.01 Accession Generally. Any Person that is to become a party to this Agreement (an "**Acceding Party**"), including any Person that replaces any Secured Creditor party to this Agreement, shall accede to this Agreement by delivering to the Collateral Agent (with a copy to the Borrower and the other Secured Parties that are parties hereto or relevant representatives thereof) an Accession Agreement, duly executed by that Acceding Party. Upon the execution of such Accession Agreement by an Acceding

Party and the Collateral Agent, and acknowledged by the Borrower, such Acceding Party shall be a Secured Party hereunder and shall be bound by and subject to the terms and conditions of this Agreement. In connection with the issuance of any Additional Secured Debt, the Borrower shall ensure that the secured parties with respect to such Additional Secured Debt accede to this Agreement in accordance with this Section 9.01.

Section 9.02 Collateral Agent Instructions. The Collateral Agent is hereby authorized and instructed to promptly execute any Accession Agreement duly executed and delivered to the Collateral Agent by an Acceding Party, which is acknowledged by the Borrower.

ARTICLE X MISCELLANEOUS PROVISIONS

Section 10.01 Further Assurances. The Borrower agrees that from time to time, at its expense, it will promptly execute and deliver all further instruments and documents, and take all further action as the Collateral Agent or any Secured Party, with the consent of the Required Creditors, shall reasonably request to perfect and maintain perfected the Liens created and/or perfected hereunder and under the other Security Documents and to enable the Collateral Agent to exercise and enforce its rights and remedies hereunder and thereunder. Without limiting the foregoing, pursuant to any applicable law, the Borrower and the Collateral Agent authorize the TIFIA Lender, on behalf of the Collateral Agent, to file or record financing statements and other filing or recording documents or instruments with respect to the Project Accounts without the signature of the Borrower in such form and in such offices as the TIFIA Lender determines, in its sole discretion, advisable to perfect the security interests of the Collateral Agent under this Agreement. The Borrower and the Collateral Agent authorize the TIFIA Lender, on behalf of the Collateral Agent, to use any description of the Project Accounts that are Securities Accounts described in Section 1.01 herein (including the defined terms used therein), with such broader or lesser scope as the TIFIA Lender, in its sole discretion, finds desirable.

Section 10.02 Amendments; Waivers.

(a) Any term, covenant, agreement or condition of this Agreement or of any other Security Documents may be amended, modified or waived only by an instrument in writing signed by each of the Collateral Agent (acting upon the instruction of the Required Creditors) and the Borrower; provided, that the consent of the Securities Intermediary shall be required for any amendment to Section 5.11 hereof or any other amendment that would modify the rights or obligations of the Securities Intermediary; provided, further, that any such amendment, modification or waiver that materially and adversely or disproportionately affects the rights of any Secured Party as compared to the other Secured Parties shall require the consent of such Secured Party.

(b) The waiver (whether express or implied) by the Collateral Agent of any breach of the terms or conditions of this Agreement shall not prejudice any remedy of the Collateral Agent in respect of any continuing or other breach of the terms and conditions hereof, and shall not be construed as a bar to any right or remedy which the Collateral Agent would otherwise have on any future occasion under this Agreement.

(c) No failure to exercise nor any delay in exercising, on the part of the Collateral Agent or any other Secured Party, of any right, power or privilege under this Agreement shall operate as a waiver thereof. No single or partial exercise by the Collateral Agent or any other Secured Party of any right, power or privilege under this Agreement shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege available to it. All remedies hereunder and under any other

Security Documents are cumulative and are not exclusive of any other remedies that may be available to the Collateral Agent, whether at law, in equity or otherwise.

Section 10.03 Successors and Assigns.

(a) This Agreement and the other Security Documents, if any, shall be binding upon and inure to the benefit of the Collateral Agent, the Securities Intermediary, the Borrower, the other Secured Parties that are parties hereto, any Acceding Party, and their respective successors and permitted assigns. Each Secured Party that is not a party hereto shall be an express third party beneficiary of this Agreement.

(b) Nothing contained in this Agreement or any other Security Document is intended to limit the right of any Secured Party to assign, transfer or grant participations in its rights in its respective Secured Obligations and Finance Documents.

Section 10.04 Notices. Unless otherwise expressly provided herein, all notices, instructions, consents, requests, directions and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or email, as follows:

(i) if to the Borrower:

Monterey-Salinas Transit District
19 Upper Ragsdale Drive, Suite 200
Monterey, CA 93940
Attention: Lisa I. Rheinheimer,
Assistant General Manager
Email: lrheinheimer@mst.org

(ii) if to the Collateral Agent and Securities Intermediary:

U.S. Bank National Association
633 W. Fifth Street, 24th Floor
Los Angeles, CA 90071
Attention: Global Corporate Trust

(iii) if to the TIFIA Lender:

Build America Bureau
United States Department of Transportation
Room W12-464
1200 New Jersey Avenue, SE
Washington, D.C. 20590
Attention: Director, Office of Credit Programs
Email: BureauOversight@dot.gov

All instructions required under this Agreement shall be delivered to the Collateral Agent in writing, in either original, electronic document format (e.g. pdf) or facsimile form, executed by an Authorized Representative. The identity of such Authorized Representatives, as well as their specimen signatures, shall be delivered to the Collateral Agent substantially in the form of a duly completed and

executed Incumbency Certificate substantially in the form of Exhibit C (provided that for the TIFIA Lender, delivery of the TIFIA Lender's Authorized Representative Certificate, as provided pursuant to the TIFIA Loan Agreement, shall satisfy the requirements of this section) and shall remain in effect until such party notifies the Collateral Agent of any change by delivery of a replacement duly completed and executed Incumbency Certificate substantially in the form of Exhibit C. In its capacity as Collateral Agent, the Collateral Agent will accept all instructions and documents complying with the above under the indemnities provided in this Agreement, and reserves the right to refuse to accept any instructions or documents which fail to comply with the terms hereof; provided, that in the event of any such refusal by the Collateral Agent, the Collateral Agent shall promptly notify the relevant Authorized Representative executing the instructions or delivering the documents of such non-compliance and provide a reasonable time period for the correction thereof. Further to this procedure, the Collateral Agent reserves the right to telephone an Authorized Representative of the applicable Secured Creditor or the Borrower to confirm the details of such instructions or documents if they are not already on file with it as standing instructions, and the Collateral Agent agrees that it will promptly telephone an Authorized Representative of the applicable Secured Creditor or the Borrower, as applicable, if the Collateral Agent has determined that it will refuse to accept any instructions or documents which fail, or appear to fail, to comply. The Collateral Agent and the parties hereto agree that the above constitutes a commercially reasonable security procedure.

Any party hereto may change its address, email address or facsimile number for notices and other communications hereunder by notice to the Borrower, the Collateral Agent, the TIFIA Lender and the other Secured Parties party hereto. All notices or other communications required or permitted to be given pursuant to this Agreement shall be in writing and, if given in accordance with this Section, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered by hand or, in the case of notice given by mail, overnight delivery service, facsimile or email, when deposited in the mail, one Business Day after delivery to the overnight courier, or when sent by fax or email, as applicable; provided that any notice to be served on the Collateral Agent shall be effective only when actually received by the Collateral Agent, marked for the attention of the department or officer specified by the Collateral Agent for such purpose.

Section 10.05 Counterparts. This Agreement may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page of this Agreement or of any document or instrument delivered in connection herewith in accordance with Section 10.04 shall be effective as delivery of an original executed counterpart of this Agreement or such other document or instrument, as applicable, and any printed or copied versions of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page. Signatures for this Agreement or for any document or instrument delivered in connection herewith may be made by electronic means, if accompanied by an email from the applicable signatory, contemporaneous or otherwise, confirming the use of such means.

Section 10.06 Governing Law; Consent to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement and the rights and obligations of the parties under this Agreement shall be governed by and construed in accordance with the laws of the State of California. Each of the parties hereto hereby irrevocably consents and submits to the non-exclusive jurisdiction of any California state court sitting in Los Angeles County, California and of the United States District Court of the Central District sitting in Los Angeles County, in any suit, action or proceeding arising out of or relating to this Agreement.

(b) EXCEPT AS OTHERWISE SET FORTH IN THIS CLAUSE (B), EACH PARTY AGREES TO SUBMIT TO JUDICIAL REFERENCE PURSUANT TO SECTION 638, ET SEQ., OF THE CALIFORNIA CODE OF CIVIL PROCEDURE ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY EXHIBIT HERETO, ANY CLOSING DOCUMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT, STATUTE OR ANY OTHER LEGAL THEORY (HEREINAFTER "DISPUTE")); PROVIDED, HOWEVER, THAT IF ANY DISPUTE HEREUNDER ARISES, THE TIFIA LENDER SHALL HAVE THE RIGHT TO ELECT, IN ITS SOLE DISCRETION, WHETHER TO AGREE TO SUBMIT SUCH DISPUTE TO JUDICIAL REFERENCE, AS PROVIDED IN CLAUSE (C) BELOW. IF THE TIFIA LENDER ELECTS IN WRITING TO SUBMIT SUCH DISPUTE TO JUDICIAL REFERENCE, EACH OTHER PARTY HERETO HEREBY AGREES TO SUBMIT SUCH DISPUTE TO JUDICIAL REFERENCE. IF THE TIFIA LENDER ELECTS NOT TO SUBMIT SUCH DISPUTE TO JUDICIAL REFERENCE, EACH PARTY HERETO HEREBY WAIVES THE RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH DISPUTE AND AGREES NOT TO SUBMIT SUCH DISPUTE TO JUDICIAL REFERENCE.

(c) ANY JUDICIAL REFERENCE AGREED TO IN ACCORDANCE WITH CLAUSE (B) ABOVE WILL BE FILED AND PROSECUTED IN THE LOS ANGELES SUPERIOR COURT. PURSUANT TO SUCH JUDICIAL REFERENCE, THE PARTIES AGREE TO THE APPOINTMENT OF A SINGLE REFEREE AND TO USE THEIR BEST EFFORTS TO AGREE ON THE SELECTION OF A REFEREE. IF THE PARTIES TO THE APPLICABLE DISPUTE ARE UNABLE TO AGREE ON A SINGLE REFEREE, A REFEREE WILL BE APPOINTED BY THE COURT TO HEAR SUCH DISPUTE IN LIEU OF A JURY TRIAL. THE PARTIES AGREE THAT THE APPOINTED REFEREE WILL HAVE THE POWER TO DECIDE ALL ISSUES REGARDING SUCH DISPUTE IN THE APPLICABLE ACTION OR PROCEEDING, WHETHER OF FACT OR LAW, AND WILL REPORT A STATEMENT OF DECISION THEREON. THE PARTIES AGREE THAT THE PROVISIONS CONTAINED IN THIS AGREEMENT HAVE BEEN FAIRLY NEGOTIATED ON AN ARM'S-LENGTH BASIS, WITH ALL PARTIES BEING AFFORDED THE OPPORTUNITY TO HAVE THE ADVICE AND COUNSEL OF THEIR INDEPENDENT ATTORNEY. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION, TOGETHER WITH THE WRITTEN AGREEMENT OF THE TIFIA LENDER PROVIDED IN ACCORDANCE WITH CLAUSE (B) ABOVE, WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES TO THE APPLICATION OF JUDICIAL REFERENCE IN THE EVENT OF SUCH DISPUTE.

Section 10.07 Captions. The headings of the several articles and sections and clauses of this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

Section 10.08 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement.

Section 10.09 Collateral Agent's Rights.

(a) If at any time the Collateral Agent is served with any judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process which in any way affects the Collateral (including but not limited to orders of attachment or garnishment or other forms of levies or

injunctions or stays relating to the transfer of such property), the Collateral Agent is authorized to comply therewith in any manner it or legal counsel of its own choosing reasonably deems appropriate. If the Collateral Agent complies with any such judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process, the Collateral Agent shall not be liable to any of the parties hereto or to any other Person or entity even though such order, judgment, decree, writ or process may be subsequently modified or vacated or otherwise determined to have been without legal force or effect.

(b) In the event of any dispute between or conflicting claims by or among the Borrower and the Secured Parties with respect to any property being held by the Collateral Agent in connection with this Agreement or any other Security Documents, the Collateral Agent shall be entitled, in its sole discretion, to refuse to comply with any and all claims, demands or instructions with respect to such property so long as such dispute or conflict shall continue, and the Collateral Agent shall not be or become liable in any way to the Borrower or the Secured Parties for failure or refusal to comply with such conflicting claims, demands or instructions. The Collateral Agent shall be entitled to refuse to act until, in its sole discretion, either (i) such conflicting or adverse claims or demands shall have been determined by a final order, judgment or decree of a court of competent jurisdiction, which order, judgment or decree is not subject to appeal, or settled by agreement between the conflicting parties as evidenced in a writing reasonably satisfactory to the Collateral Agent or (ii) the Collateral Agent shall have received security or an indemnity reasonably satisfactory to it sufficient to hold it harmless from and against any and all losses which it may incur by reason of so acting (provided that any indemnity that may at any time be requested from the TIFIA Lender shall instead be provided by the Borrower and the Collateral Agent shall not refuse to take any action on the basis that the Borrower is providing such indemnification in lieu of the TIFIA Lender). Any court order, judgment or decree shall be accompanied by a legal opinion by counsel for the presenting party, reasonably satisfactory to the Collateral Agent, to the effect that said order, judgment or decree represents a final adjudication of the rights of the parties by a court of competent jurisdiction, and that the time for appeal from such order, judgment or decree has expired without an appeal having been perfected. The Collateral Agent shall act on such court order and legal opinions without further question.

(c) To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each Person who opens an account. When any account or sub-account is opened, the Collateral Agent shall be entitled to such information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

Section 10.10 Patriot Act Notification. The Collateral Agent hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act, Title III of Pub. L., 107-56 (signed into law October 26, 2001) (the "**Patriot Act**"), the Collateral Agent may be required to obtain, verify and record information that identifies the Borrower, which information includes the name, address, tax identification number and other information regarding the Borrower that will allow the Collateral Agent to identify the Borrower in accordance with the Patriot Act.

Section 10.11 Events Occurring on Days That Are Not Business Days. Other than as expressly set forth in this Agreement, if the date for making any payment or the last day for the performance of any act or the exercising of any right under this Agreement is a day that is not a Business Day, such payment shall be made, such act shall be performed and such right shall be exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date herein.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective duly authorized officers as of the date first written above.

**MONTEREY-SALINAS TRANSIT
DISTRICT,**
as Borrower

By: _____
Name:
Title:

DRAFT

U.S. BANK NATIONAL ASSOCIATION,
as the Collateral Agent and the Securities
Intermediary on behalf of itself and the other
Secured Parties

By: _____

Name: John Axt

Title: Vice President

DRAFT

**UNITED STATES DEPARTMENT OF
TRANSPORTATION,**
acting by and through the Executive Director of
the Build America Bureau

By: _____
Name: Dr. Morteza Farajian
Title: Executive Director

DRAFT

EXHIBIT A

DEFINITIONS AND RULES OF INTERPRETATION

Defined Terms

"**Acceding Party**" has the meaning specified in Section 9.01.

"**Accession Agreement**" means an Accession Agreement substantially in the form attached as Exhibit D to this Agreement.

"**Account Earnings**" means the interest income and other investment earnings earned with respect to amounts deposited to any Project Account.

"**Adjusted Debt Service Amount**" means the amounts described in clauses (a) and (b) below, subject to the adjustment described in the proviso below:

(a) for the TIFIA Debt Service Sub-Account, an amount equal to (i) the interest due on the TIFIA Loan on the next Interest Payment Date, *plus* (ii) (A) for any Payment Period beginning on July 1, fifty percent (50%) of the principal due on the TIFIA Loan on the next Principal Payment Date or (B) for any Payment Period beginning on January 1, one hundred percent (100%) of the principal due on the TIFIA Loan on the next Principal Payment Date, *plus* (iii) any fees, costs, expenses and other amounts then due and payable under the TIFIA Loan Agreement; and

(b) for any Pari Passu Debt Service Sub-Account, an amount equal to (i) the interest due on the applicable Pari Passu Debt with respect to such sub-account on the next Interest Payment Date for the applicable Pari Passu Debt, *plus* (ii) (A) for any Payment Period beginning on a Principal Payment Date for the applicable Pari Passu Debt, fifty percent (50%) of the principal due on the applicable Pari Passu Debt with respect to such sub-account on the next Principal Payment Date for the applicable Pari Passu Debt or (B) for any Payment Period that does not begin on a Principal Payment Date for the applicable Pari Passu Debt, one hundred percent (100%) of the principal due on the applicable Pari Passu Debt with respect to such sub-account on the next Principal Payment Date for the applicable Pari Passu Debt; provided that if the principal on any Pari Passu Debt is payable on a semi-annual basis, clause (ii) shall read "the principal due on the applicable Pari Passu Debt with respect to such account on the next semi-annual principal payment date for such Pari Passu Debt", *plus* (iii) any fees, costs, expenses and other amounts then due and payable under the applicable Pari Passu Loan Agreement with respect to such sub-account.

"**Affiliate**" means, with respect to any Person, any other Person that is Controlling, Controlled by, or under common Control with such Person. For purposes of this definition, "**control**" (including its correlative meanings – "Controlling", "Controlled by" and "under common Control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

"**Agreement**" has the meaning specified in the preamble.

"**Authorized Representative**" means the authorized representative or other authorized signatory of the Borrower or any other party hereto, as set forth in the most recently delivered Incumbency Certificate for such party.

"Bankruptcy Related Event" means, with respect to the Borrower,

(a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any of its debts, or of a substantial part of the assets thereof, under any Insolvency Laws, or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for the Borrower or for a substantial part of the assets thereof and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered;

(b) the Borrower shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official therefor or for a substantial part of the assets thereof, (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, (iii) fail to make two (2) consecutive payments of principal and interest due and payable on the TIFIA Loan in accordance with the provisions of Section 9 of the TIFIA Loan Agreement, (iv) make a general assignment for the benefit of creditors, (v) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, (vi) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief under any Insolvency Law, (vii) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (vi), inclusive, of this clause (b), or (viii) take any action for the purpose of effecting any of the foregoing;

(c) (i) the Collateral Agent shall commence a process pursuant to which all or a substantial part of the Collateral may be sold or otherwise disposed of in a public or private sale or disposition pursuant to a foreclosure of the Liens thereon securing the Secured Obligations, or (ii) the Collateral Agent shall commence a process pursuant to which all or a substantial part of the Collateral may be sold or otherwise disposed of pursuant to a sale or disposition of such Collateral in lieu of foreclosure; or

(d) the Collateral Agent shall transfer, pursuant to directions issued by the Secured Creditors, funds on deposit in any of the Project Accounts upon the occurrence and during the continuation of an Event of Default for application to the prepayment or repayment of any principal amount of the TIFIA Loan or any other Secured Obligations other than in accordance with the provisions of the Finance Documents.

"Borrower" has the meaning specified in the recitals to this Agreement.

"Borrower Fiscal Year" means (a) as of the Effective Date, a fiscal year of the Borrower commencing on July 1 of any calendar year and ending on June 30 of the immediately succeeding calendar year or (b) such other fiscal year as the Borrower may hereafter adopt after giving thirty (30) days' prior written notice to the Secured Parties.

"Business Day" means any day other than a Saturday, a Sunday or a day on which offices of the Federal Government of the United States of America and its departments and agencies or the State of California are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York, Monterey County, California or Los Angeles, California.

"Clearing Agency" has the meaning specified in Section 5.08(f).

"**Co-Collateral Agent**" has the meaning specified in Section 2.11(c).

"**Code**" means the Internal Revenue Code of 1986 and the regulations promulgated and rulings issued thereunder, each as amended from time to time, and any successor statute.

"**Collateral**" means all real and personal property, now owned or hereafter acquired, that is subject to the Liens granted by the Borrower under any of the Security Documents, which as of the Effective Date consists of the property described in Section 1.01.

"**Collateral Agent**" has the meaning specified in the preamble to this Agreement.

"**Debt Service Payment Commencement Date**" means the first Interest Payment Date following the initial draw on the TIFIA Loan.

"**Default**" means any event or circumstance that, with the giving of notice, the lapse of time, or both, would (if not cured or otherwise remedied during such time) constitute an Event of Default.

"**Direction Notice**" has the meaning specified in Section 6.03.

"**Dollars**", "**U.S. Dollars**" or "**\$**" means the lawful currency of the United States of America.

"**Effective Date**" means the date of this Agreement.

"**Enforcement Action**" means any action, whether by judicial proceedings or otherwise, to enforce or exercise any of the rights and remedies granted to the Collateral Agent and/or the Secured Parties pursuant to the Finance Documents against the Collateral or the Borrower, in each case, upon the occurrence of an Event of Default.

"**Event of Default**" means any of the events identified as an "Event of Default" under any Finance Document.

"**Farebox Revenues**" means all farebox revenues and contract service revenues collected by or on behalf of the Borrower in connection with the operation of all transit vehicles owned or leased by the Borrower, including:

- (a) revenues earned under contractual arrangements with public or private entities, either (i) for transit fares for a specified group of employees, members, or clients, or (ii) to guarantee a minimum revenue on a line operated especially for the benefit of the paying entity (e.g., an employer, shopping center, university, etc.);
- (b) cash donations made by individual passengers or community organizations in lieu of a prescribed fare;
- (c) passenger fares collected by the Borrower;
- (d) fare subsidies from a public or private entity;
- (e) local support, including passenger donations and local business contributions made to benefit employees, customers, visitors, or residents;
- (f) parking revenues used as fare subsidies; and

- (g) support from private non-profits to supplement discount or zero fares.

"**FDIC**" means the Federal Deposit Insurance Corporation.

"**Federal Book-Entry Regulations**" means (i) the United States Department of the Treasury's regulations governing "Securities" (as defined in 31 C.F.R. § 357.2) issued by the United States Treasury and maintained in the form of entries in the federal reserve banks' book-entry system known as the Treasury/Reserve Automated Debt Entry System (TRADES), as such regulations are set forth in 31 C.F.R. Part 357 and (ii) regulations analogous and substantially similar to the regulations described in clause (i) above governing any other automated book-entry system operated by the United States federal reserve banks in which securities issued by government sponsored enterprises are issued, recorded, transferred and maintained in book-entry form.

"**Finance Documents**" means:

- (a) the Notes;
- (b) the TIFIA Loan Agreement;
- (c) any Pari Passu Loan Agreements;
- (d) this Agreement;
- (e) any other Security Documents; and
- (f) any other agreement, document or instrument relating to the foregoing and designated as a Finance Document in writing by the Borrower and each of the Secured Parties.

"**Funds Transfer Certificate**" means a certificate prepared by the Borrower in accordance with the terms of this Agreement substantially in the form of Exhibit B attached to this Agreement containing the certifications by the Borrower required by this Agreement with respect to a requested transfer of funds from a Project Account.

"**GAAP**" means generally accepted accounting principles as defined by the American Institute of Certified Public Accountants or such other nationally recognized professional body, in effect from time to time in the United States of America.

"**Governmental Authority**" means any nation, state, sovereign or government, any federal, regional, state or local government or political subdivision thereof or other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and having jurisdiction over the Person or matters in question.

"**Indebtedness**" of any Person means, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services, (c) all obligations of such Person evidenced by notes, bonds, loan agreements, debentures or other similar instruments, (d) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all obligations of such Person as lessee under leases that have been or should be, in accordance with GAAP, recorded as capital leases, (f) all obligations, contingent or otherwise, of such Person in respect of letters of credit, bankers' acceptances, bank guaranties, surety Pari

Passu Debt or similar extensions of credit, (g) indebtedness secured by a Lien on property owned or being purchased by such Person, whether or not such indebtedness shall have been assumed by such Person or is limited in recourse and (h) all Indebtedness of others referred to in clauses (a) through (g) above and other payment obligations (collectively, "**Guaranteed Indebtedness**") guaranteed directly or indirectly in any manner by such Person, or in effect guaranteed directly or indirectly by such Person through an agreement (i) to pay or purchase such Guaranteed Indebtedness or to advance or supply funds for the payment or purchase of such Guaranteed Indebtedness, (ii) to purchase, sell or lease (as lessee or lessor) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Guaranteed Indebtedness or to assure the holder of such Guaranteed Indebtedness against loss, (iii) to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered) or (iv) otherwise to assure a creditor against loss.

"**Indemnitee**" has the meaning specified in Section 7.02.

"**Initial LTF Funds Deposit Date**" means the first date after the Effective Date on which LTF Funds are allocated to the Borrower by TAMC.

"**Insolvency Laws**" means the United States Bankruptcy Code, 11 U.S.C. § 101 et seq., as from time to time amended and in effect, and any state bankruptcy, insolvency, receivership, conservatorship or similar law now or hereafter in effect.

"**Interest Payment Date**" means (i) for the TIFIA Loan, each January 1 and July 1, or if any such day is not a Business Day, then the Business Day immediately succeeding such date, commencing on the Debt Service Payment Commencement Date and (ii) for any other Secured Obligations, the date or dates on which interest is payable on such Secured Obligations as set forth in, and commencing from the initial interest payment date provided in, the documents pursuant to which such Secured Obligations were incurred.

"**Law**" means any federal, state, local and municipal laws, rules and regulations, orders, codes, directives, permits, approvals, decisions, decrees, ordinances or by-laws having the force of law and any common or civil law, whether adopted or enacted prior to or after the date hereof including binding court and judicial decisions having the force of law, and includes any amendment, extension or re-enactment of any of the same in force from time to time and all other instruments, orders and regulations made pursuant to statute, including those made by any Governmental Authority.

"**Lien**" means any mortgage, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, attachment, lien (statutory or other), charge or other security interest, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever, including any sale-leaseback arrangement, any conditional sale or other title retention agreement, or any financing lease having substantially the same effect as any of the foregoing, and the filing of any financing statement or similar instrument under the UCC or any other applicable law.

"**LTF Funds**" means Local Transportation Funds distributed by the State pursuant to the Transportation Development Act (California Government Code Section 29530 – 29536, California Public Utilities Code Section 99200 – 99408, and Title 21 California Code of Regulations Section 6600 – 6756).

"**Mandatory Payments**" has the meaning specified in clause "Fifth" of Section 5.03(b).

"Mandatory Prepayment Account" means the sub-account of the Revenue Account established, after the date hereof in accordance with Section 5.06(a), for the prepayment and redemption of any Secured Obligations.

"Measure Q Revenues" means any Measure Q sales tax revenues received by or on behalf of the Borrower.¹

"Measure X Revenues" means any sales tax revenues allocated to, and received by or on behalf of the Borrower, pursuant to the Transportation Safety & Investment Plan Measure X (TAMC Ordinance No. 2016-01) that authorized TAMC to impose and administer the proceeds from a three-eighths cent transaction and use tax.²

"Nationally Recognized Rating Agency" means any nationally recognized statistical rating organization identified as such by the U.S. Securities and Exchange Commission.

"Notes" means the TIFIA Note and any promissory note, if any, issued by the Borrower relating to any Pari Passu Loan Agreement.

"Other Revenue Transfer Conditions" means, as of any date, that:

(a) amounts on deposit in the applicable sub-accounts of the Senior Debt Service Account are at least equal to the Adjusted Debt Service Amount for the TIFIA Debt Service Sub-Account and each Pari Passu Debt Service Sub-Account; and

(b) (i) amounts on deposit in the TIFIA Debt Service Reserve Sub-Account are at least equal to the TIFIA Debt Service Reserve Required Balance and (ii) amounts on deposit in each Pari Passu Debt Service Reserve Sub-Account are at least equal to the Pari Passu Debt Service Reserve Required Balance for such sub-account.

"Other Revenues" means any revenues of the Borrower (other than LTF Funds allocated to the Borrower, Measure Q Revenues and federal grant funds), including (a) all STA Funds allocated to the Borrower, (b) all Farebox Revenues received by or on behalf of the Borrower, (c) all Measure X Revenues, (d) all income derived from Permitted Investments, (e) proceeds from business interruption and delay in start-up insurance policies, (f) revenue from any lease or other contract (including advertising revenues), (g) the proceeds of any sale or other disposition of assets of the Borrower permitted under each of the Finance Documents, and (h) all net cash payments received by the Borrower under or in connection with any hedging agreements.

"Pari Passu Debt" means additional indebtedness that the Borrower incurs after the date hereof and that is (a) equally and ratably secured by the Collateral with the TIFIA Loan, without preference, priority or distinction and (b) permitted pursuant to the terms of the Finance Documents, including the requirements for "Additional Obligations" pursuant to the TIFIA Loan Agreement.

"Pari Passu Debt Proceeds Account" has the meaning specified in Section 5.01(b)(i).

¹ Note to Borrower: Please confirm this definition or revise as necessary.

² Note to Borrower: Please confirm this definition or revise as necessary.

"Pari Passu Debt Service Reserve Required Balance" means, at any time for a Pari Passu Debt Service Reserve Sub-Account established for any Pari Passu Debt, the amount required to be on deposit in such sub-account as set forth in the applicable Pari Passu Loan Agreement for such Pari Passu Debt with respect to such sub-account.

"Pari Passu Debt Service Reserve Sub-Account" means any sub-account of the Senior Debt Service Reserve Account (other than the TIFIA Debt Service Reserve Sub-Account) established after the date hereof pursuant to Section 5.01(a) by the Securities Intermediary in the Borrower's name for a series of Pari Passu Debt.

"Pari Passu Debt Service Sub-Account" means any sub-account of the Senior Debt Service Account (other than the TIFIA Debt Service Sub-Account) established after the date hereof pursuant to Section 5.01(a) by the Securities Intermediary in the Borrower's name for a series of Pari Passu Debt.

"Pari Passu Loan Agreement" means, for each series of Pari Passu Debt, the loan agreement or other issuing instrument executed by the Borrower and the lender or other obligation holder thereto, as applicable, in connection with the issuance of such Pari Passu Debt.

"Pari Passu Secured Obligations" means any obligations of the Borrower incurred under or in connection with any Pari Passu Loan Agreement, including all such amounts that would be owed by the Borrower but for the fact that collection or receipt of such amounts is unenforceable or not allowed due to a pending proceeding by or against the Borrower under any Insolvency Law.

"Patriot Act" has the meaning specified in Section 10.10.

"Payment Date" means each Interest Payment Date and each Principal Payment Date.

"Payment Period" means any period of six (6) months from (and including) an Interest Payment Date to (but excluding) the immediately succeeding Interest Payment Date.

"Permitted Investments" means any investments to the extent permitted under each of the Finance Documents (including the TIFIA Loan Agreement prior to the termination thereof).

"Permitted Subordinated Loans" means, to the extent permitted by the terms of the TIFIA Loan Agreement and, if applicable, any Pari Passu Loan Agreement, unsecured Indebtedness of the Borrower.

"Person" means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Principal Payment Date" means (i) for the TIFIA Loan, each July 1, or if such day is not a Business Day, then the Business Day immediately succeeding such date, commencing July 1, 2026 and (ii) for any other Secured Obligations, the date on which principal of such Secured Obligations is due and payable as set forth in, and commencing from the initial principal payment date provided in, the documents pursuant to which such Secured Obligations were incurred.

"Proceeds" means "proceeds" as such term is defined in the UCC or under other relevant law and, in any event, shall include, but shall not be limited to, (i) any and all proceeds of, or amounts (in whatsoever form, whether cash, securities, property or other assets) received under or with respect to, any insurance, indemnity, warranty or guaranty payable to the Borrower from time to time, and claims for insurance, indemnity, warranty or guaranty effected or held for the benefit of the Borrower, in each case

with respect to any of the Collateral, (ii) any and all payments (in any form whatsoever, whether cash, securities, property or other assets) made or due and payable to the Borrower from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any Governmental Authority (or any person acting under color of Governmental Authority), and (iii) any and all other amounts (in any form whatsoever, whether cash, securities, property or other assets) from time to time paid or payable under or in connection with any of the Collateral (whether or not in connection with the sale, lease or other disposition of the Collateral).

"Project" has the meaning specified in the recitals hereinabove.

"Project Accounts" means, collectively, (a) each of the Securities Accounts and (b) each such other account specified or to be specified as being a "Project Account" in this Agreement, including any sub-accounts thereof, from time to time.

"Required Creditors" has the meaning specified in Section 6.08.

"Revenues" means (i) all LTF Funds allocated to the Borrower and (ii) all Other Revenues received by or on behalf of the Borrower.

"Revenue Account" has the meaning specified in Section 5.01(a).

"Secured Creditors" means, collectively, (i) the TIFIA Lender and (ii) any other holder of Secured Obligations.

"Secured Obligations" means (i) the Pari Passu Secured Obligations and (ii) the TIFIA Obligations.

"Secured Parties" means, collectively, the Secured Creditors and the Collateral Agent.

"Securities" means any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit sharing agreement or arrangement, options, warrants, bonds, debentures, notes or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities" or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire any of the foregoing.

"Securities Accounts" has the meaning specified in Section 5.01(a).

"Securities Intermediary" has the meaning specified in Section 5.11(a).

"Security Documents" means the collective reference to (a) this Agreement; (b) any other agreement, document or instrument hereafter entered into or delivered by the Borrower or any other Person which purports to create a Lien in favor of the Collateral Agent for the benefit of all of the Secured Parties; and (c) all UCC financing statements and other filings, recordings or registrations required by the Finance Documents to be filed or made in respect of any such Security Document.

"Senior Debt Service Account" has the meaning specified in Section 5.01(a).

"Senior Debt Service Reserve Account" has the meaning specified in Section 5.01(a).

"STA Funds" means State Transit Assistance funds distributed by the State pursuant to the Transportation Development Act (California Government Code Section 29530 – 29536, California Public Utilities Code Section 99200 – 99408, and Title 21 California Code of Regulations Section 6600 – 6756).

"State" means the State of California.

"TAMC" means the Transportation Agency for Monterey County.

"TAMC Irrevocable Instruction" means that certain Agreement for Irrevocable Direction to Deposit LTF Funds, dated as of [___], 2020, among the Borrower, TAMC and the other signatories thereto.

"Taxes" means any and all present or future income, stamp, transfer, turnover and other taxes, levies, imposts, duties, charges, fees, deductions or withholdings now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, and any and all interest, penalties, claims or other liabilities arising under or relating thereto, including those on any of the Secured Parties or on payments to be made to or received by any of them from the Borrower under this Agreement.

"TIFIA Debt Service Reserve Required Balance" means, as of any date, an amount equal to fifty percent (50%) of the principal and interest payments on the TIFIA Loan due and payable during the then-current Borrower Fiscal Year.

"TIFIA Debt Service Reserve Sub-Account" has the meaning specified in Section 5.01(a).

"TIFIA Debt Service Sub-Account" has the meaning specified in Section 5.01(a).

"TIFIA Lender" has the meaning specified in the recitals to this Agreement.

"TIFIA Loan" has the meaning specified in the recitals to this Agreement.

"TIFIA Loan Agreement" has the meaning specified in the recitals to this Agreement.

"TIFIA Note" means the promissory note delivered by the Borrower in substantially the form of Exhibit A to the TIFIA Loan Agreement.

"TIFIA Obligations" means any obligations of the Borrower incurred under or in connection with the TIFIA Loan Agreement, including all such amounts that would be owed by the Borrower but for the fact that collection or receipt of such amounts is unenforceable or not allowed due to a pending proceeding by or against the Borrower under any Insolvency Law.

"Transfer Date" means the fifth (5th) day of each month (or, if such date is not a Business Day, the immediately preceding Business Day); provided that, in any given month, the Borrower may elect to have a second Transfer Date that occurs on the first Business Day following the date on which LTF Funds are deposited to the Revenue Account in accordance with Section 5.03(a)(i) in such month.

"Treasury Regulations" means the temporary, proposed or final federal income tax regulations promulgated by the U.S. Department of the Treasury, together with the other published written guidance thereof, as applicable.

"Uniform Commercial Code" or **"UCC"** means the Uniform Commercial Code, as the same may, from time to time, be in effect in the State of California; provided that if, with respect to any

financing statement or by reason of mandatory provisions of law, any or all of the perfection, or priority of the security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of California, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof or any other Finance Document or any financing statement relating to such perfection or priority and for purposes of definitions related to such provisions.

"U.S. Government" means the United States of America and its departments and agencies.

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Rules of Interpretation

1. The incorporation by reference of definitions or other terms from other agreements shall survive any termination of such agreements until this Agreement is terminated as provided in Article VIII hereof.
2. Definitions of terms shall apply equally to the singular and plural forms of the terms defined.
3. The use in this Agreement of the word "include" or "including", when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter.
4. The word "will" shall be construed to have the same meaning and effect as the word "shall".
5. A reference to a Law includes any amendment or modification to such Law, and all regulations, rulings and other Laws promulgated under such Law.
6. A reference to a Person shall be construed to include its successors and permitted assigns.
7. Except as otherwise expressly specified, all accounting terms have the meanings assigned to them by GAAP, as in effect from time to time.
8. A reference in a document to an Article, Section, Exhibit, Schedule, Annex or Appendix is to the Article, Section, Exhibit, Schedule, Annex or Appendix of such document unless otherwise indicated. Exhibits, Schedules, Annexes or Appendices to any document shall be deemed incorporated by reference in such document.
9. Any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented and/or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth in the Finance Documents).
10. The words "herein," "hereof," "hereto," "hereby," "hereunder" and other words of similar import in this Agreement refer to this Agreement as a whole and not to any particular Article, Section or other subdivision; and, if this Agreement has been amended, such words shall refer to this Agreement as so amended.
11. References to "days" means calendar days, unless the term "Business Days" shall be used. References to a time of day means such time in New York, New York, unless otherwise specified.
12. The terms lease and license shall include sub-lease and sub-license, as applicable, and as may be allowed under this Agreement, any other Finance Documents, as applicable.

13. All references in this Agreement to provisions of the UCC shall include all successor provisions under any subsequent version or amendment to the applicable UCC.
14. The term "money" or "funds" includes any cash, check, deposit, investment security or other form in which any of the foregoing are held hereunder.
15. Any reference to or defined term for any securities account or deposit account, including without limitation the Project Accounts and the Securities Accounts, shall include any subaccount thereof, and any substitute, successor (whether by renumbering or otherwise) or replacement account therefore.

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EXHIBIT B

FORM OF FUNDS TRANSFER CERTIFICATE

Date: [____], [____]

Funding Date: [____], [____]

U.S. Bank National Association,
as Collateral Agent
633 W. Fifth Street, 24th Floor
Los Angeles, CA 90071
Attention: Global Corporate Trust

Re: Monterey-Salinas Transit District

Ladies and Gentlemen:

Reference is made to that certain Collateral Accounts and Security Agreement, dated as of [____], 2020 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "CASA"), among the Monterey-Salinas Transit District, a special purpose district created under the laws of the State of California (the "Borrower"), the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau, in its capacity as lender under the TIFIA Loan Agreement (including its successors and assigns, the "TIFIA Lender"), U.S. Bank National Association, a national banking association, in its capacity as collateral agent on behalf of itself and the other Secured Parties (in such capacity (including its successors and assigns), the "Collateral Agent"), U.S. Bank National Association, a national banking association, in its capacity as securities intermediary (in such capacity (including its successors and assigns), the "Securities Intermediary"), and each other Secured Party that accedes to the CASA in accordance with Article IX thereto.

The undersigned is an Authorized Representative of the Borrower and is delivering this certificate (this "Funds Transfer Certificate") pursuant to Section 5.03(b) and Section 5.09 of the CASA. Capitalized terms used and not otherwise defined herein shall have the meanings given to them (by reference or otherwise) in the CASA.

1. Revenue Account. The following transfers are requested to be made from the Revenue Account on [____], [____] (the "Funding Date")³ in accordance with this Funds Transfer Certificate as set forth in greater detail in Part A of the attached Schedule I, each in accordance with Section 5.03(b) of the CASA and the other provisions of the CASA:
 - (a) In accordance with priority "First" of Section 5.03(b) of the CASA, the Borrower requests that:
 - (i) [\${____}] be withdrawn from the Revenue Account and transferred to the TIFIA Debt Service Sub-Account for payment of interest and/or principal on the TIFIA Loan and/or other fees, costs, expenses and other amounts then due and payable under the TIFIA Loan Agreement.]

³ Each Funding Date shall be a Transfer Date or with respect to funds deposited to the Revenue Account in accordance with Section 5.03(a)(ii) of the CASA, any date on which such funds are deposited into the Revenue Account.

- (ii) [\${_____}] be withdrawn from the Revenue Account and transferred to the [insert name of applicable *Pari Passu Debt Service Sub-Account*] for payment of interest and/or principal on the applicable *Pari Passu Debt* with respect to such sub-account and/or other fees, costs, expenses and other amounts then due and payable under the applicable *Pari Passu Loan Agreement* with respect to such sub-account.]
- (b) In accordance with priority “Second” of Section 5.03(b) of the CASA, the Borrower requests that:
 - (i) [\${_____}] be withdrawn from the Revenue Account and transferred to the TIFIA Debt Service Reserve Sub-Account in order to satisfy the TIFIA Debt Service Reserve Required Balance.]
 - (ii) [\${_____}] be withdrawn from the Revenue Account and transferred to the [insert name of applicable *Pari Passu Debt Service Reserve Sub-Account*] in order to satisfy the *Pari Passu Debt Service Reserve Required Balance* for such sub-account.]
- (c) [In accordance with priority “Third” of Section 5.03(b) of the CASA, the Borrower requests that, in order to satisfy the Other Revenue Transfer Conditions set forth in clause (a) of the definition thereof for the next succeeding Payment Period after the current Payment Period:
 - (i) [\${_____}] be withdrawn from the Revenue Account and transferred to the TIFIA Debt Service Sub-Account.]
 - (ii) [\${_____}] be withdrawn from the Revenue Account and transferred to the [insert name of applicable *Pari Passu Debt Service Sub-Account*].]]⁴
- (d) [In accordance with priority “Fourth” of Section 5.03(b) of the CASA, the Borrower requests that, in order to satisfy the Other Revenue Transfer Conditions set forth in clause (b) of the definition thereof for the next succeeding Payment Period after the current Payment Period:
 - (i) [\${_____}] be withdrawn from the Revenue Account and transferred to the TIFIA Debt Service Reserve Sub-Account.]
 - (ii) [\${_____}] be withdrawn from the Revenue Account and transferred to the [insert name of applicable *Pari Passu Debt Service Reserve Sub-Account*].]]⁵
- (e) In accordance with priority “Fifth” of Section 5.03(b) of the CASA, the Borrower requests that [\${_____}] be withdrawn from the Revenue Account and transferred to the Mandatory Prepayment Account for Mandatory Payments to the applicable Secured Obligations.

⁴ To be included for any Funding Date that is a Transfer Date occurring in June or December.

⁵ To be included for any Funding Date that is a Transfer Date occurring in June or December.

- (f) In accordance with priority “Sixth” of Section 5.03(b) of the CASA, the Borrower requests that \$[_____] be withdrawn from the Revenue Account and transferred to [*insert name of applicable sub-account*] of the Revenue Account for the payment of interest on the applicable Permitted Subordinated Loans.
- (g) In accordance with priority “Seventh” of Section 5.03(b) of the CASA, the Borrower requests that \$[_____] be withdrawn from the Revenue Account and transferred to [*insert name of applicable sub-account*] of the Revenue Account for the payment of principal on the applicable Permitted Subordinated Loans.

The following transfers are requested to be made from the applicable Project Account set forth below on the Funding Date (or such other date as set forth in greater detail in the relevant Part(s) of the attached Schedule I) in accordance with the provisions of the CASA:

- 2. TIFIA Debt Service Sub-Account. In accordance with Section 5.04(b) of the CASA, the Borrower requests that \$[_____] be withdrawn from the TIFIA Debt Service Sub-Account and applied to pay principal, accrued and unpaid interest, and any other fees, costs, expenses and other amounts due and payable on the TIFIA Loan, as set forth in greater detail in Part B of the attached Schedule I.
- 3. Pari Passu Debt Service Sub-Account. In accordance with Section 5.04(c) of the CASA, the Borrower requests that \$[_____] be withdrawn from the [*insert name of applicable Pari Passu Debt Service Sub-Account*] established for the [*describe applicable Pari Passu Debt*] and applied to pay principal, accrued and unpaid interest, and any other fees, costs, expenses and other amounts due and payable on such Pari Passu Debt, as set forth in greater detail in Part C of the attached Schedule I.
- 4. TIFIA Debt Service Reserve Sub-Account. In accordance with Section 5.05(b) of the CASA, the Borrower requests that \$[_____] be withdrawn from the TIFIA Debt Service Reserve Sub-Account and applied to pay principal and accrued and unpaid interest due and payable on the TIFIA Loan that is not otherwise paid by Revenues deposited to the Revenue Account, as set forth in greater detail in Part D of the attached Schedule I.
- 5. Pari Passu Debt Service Reserve Sub-Account. In accordance with Section 5.05(c) of the CASA, the Borrower requests that \$[_____] be withdrawn from the [*insert name of applicable Pari Passu Debt Service Reserve Sub-Account*] established for the [*describe applicable Pari Passu Debt*] and applied to pay principal and accrued and unpaid interest due and payable on such Pari Passu Debt that is not otherwise paid by Revenues deposited to the Revenue Account, as set forth in greater detail in Part E of the attached Schedule I.
- 6. Pari Passu Debt Proceeds Account.
 - (a) In accordance with Section[s] 5.01(b)(iii) [and (iv)] of the CASA, the Borrower requests that \$[_____] be withdrawn from the [*insert name of applicable Pari Passu Debt Proceeds Account*] and transferred as set forth in greater detail in Part F of the attached Schedule I to pay costs in compliance with the applicable Pari Passu Loan Agreement and the applicable provisions of the other Finance Documents relating to the incurrence of the applicable Pari Passu Debt, and with respect to any future tax-exempt borrowings comprising Pari Passu Debt, in compliance with the Code.

- (b) In accordance with Section 5.01(b)(iv)(v) of the CASA, the Borrower requests that \$[] be withdrawn from the [insert name of applicable *Pari Passu Debt Proceeds Account*] and transferred to the [insert name of applicable *sub-account*] of the Mandatory Prepayment Account for redemption of the applicable *Pari Passu Debt* with respect to such *sub-account* in accordance with the applicable *Pari Passu Loan Agreement*, as set forth in greater detail in Part F of the attached Schedule I.
7. Mandatory Prepayment Account. In accordance with Section 5.06(c) of the CASA, the Borrower requests that \$[] be withdrawn from the Mandatory Prepayment Account and transferred to the [insert name of applicable *sub-account*] of the Mandatory Prepayment Account for prepayment and redemption of the applicable *Secured Obligation*, as set forth in greater detail in Part G of the attached Schedule I.
8. [] Sub-Account of the Mandatory Prepayment Account. In accordance with Section 5.06(c) of the CASA, the Borrower requests that \$[] be withdrawn from the [insert name of applicable *sub-account*] of the Mandatory Prepayment Account established for the [describe applicable *Secured Obligations*] and transferred as set forth in greater detail in Part H of the attached Schedule I for application to the mandatory prepayment and/or mandatory redemption of such *Secured Obligations*.
9. [] Sub-Account of the Revenue Account. In accordance with Section 5.03(b) of the CASA, the Borrower requests that \$[] be withdrawn from the [insert name of applicable *sub-account*] of the Revenue Account established for the payment of [interest][principal] on Permitted Subordinated Loans and transferred as set forth in greater detail in Part I of the attached Schedule I for application to the payment of [interest][principal] then due and payable on such Permitted Subordinated Loans.

The undersigned, as an Authorized Representative of the Borrower, hereby certifies on behalf of the Borrower, as of the date hereof, that each withdrawal or transfer requested hereby complies with each of the applicable requirements of the CASA and each other relevant Finance Document.

[Signature page follows]

IN WITNESS WHEREOF, the Borrower has caused this Funds Transfer Certificate to be duly executed and delivered by an Authorized Representative of the Borrower as of the date first written above.

**MONTEREY-SALINAS TRANSIT
DISTRICT,**
as the Borrower

By: _____
Name:
Title:

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SCHEDULE I TO FUNDS TRANSFER CERTIFICATE

[Borrower to attach Excel spreadsheets (in .pdf format) with appropriate detail for each applicable transfer, including columns for (i) Section reference, (ii) Transfer Date, (iii) Payee/Account, (iv) Purpose, (v) Payment Date, (vi) Wiring or Other Payment Instructions and (vii) Amount, divided by Parts A through I (and sub-divided as necessary)]

Part A: Transfers from Revenue Account

Part B: Transfers from TIFIA Debt Service Sub-Account

Part C: Transfers from Pari Passu Debt Service Sub-Account

Part D: Transfers from TIFIA Debt Service Reserve Sub-Account

Part E: Transfers from Pari Passu Debt Service Reserve Sub-Account

Part F: Transfers from Pari Passu Debt Proceeds Account

Part G: Transfers from Mandatory Prepayment Account

Part H: Transfers from [_____] Sub-Account of the Mandatory Prepayment Account

Part I: Transfers from [_____] Sub-Account of the Revenue Account

EXHIBIT C

INCUMBENCY CERTIFICATE

Monterey-Salinas Transit District

[____], 20[__]

I, the undersigned [*NAME*], [*TITLE*] of the Monterey-Salinas Transit District (the “Borrower”), hereby certify that the following Authorized Representatives of the Borrower have been duly elected or appointed and are now acting and are qualified to sign on the Borrower’s behalf and that the specimen signatures appearing opposite the names and titles are the genuine signatures of such officers and that said elections or appointments are now in full force and effect. You are further authorized to recognize these signatures until you receive our written instructions to the contrary.

Name (Print)	Title	Signature
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, the undersigned has caused this Incumbency Certificate to be duly executed and delivered as of the date set forth above.

By:

Name:
Title:

EXHIBIT D

FORM OF ACCESSION AGREEMENT

[Date]

To: U.S. Bank National Association,
as Collateral Agent
633 W. Fifth Street, 24th Floor
Los Angeles, CA 90071
Attention: Global Corporate Trust

Re: Collateral Accounts and Security Agreement, dated as of [], 2020 (as amended, amended and restated, supplemented or otherwise modified from time to time, the “CASA”), among the Monterey-Salinas Transit District, a special purpose district created under the laws of the State of California (the “Borrower”), the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau, in its capacity as lender under the TIFIA Loan Agreement (including its successors and assigns, the “TIFIA Lender”), U.S. Bank National Association, a national banking association, in its capacity as collateral agent on behalf of itself and the other Secured Parties (in such capacity (including its successors and assigns), the “Collateral Agent”), U.S. Bank National Association, a national banking association, in its capacity as securities intermediary (in such capacity (including its successors and assigns), the “Securities Intermediary”), and each other Secured Party that accedes to the CASA in accordance with Article IX thereto.

Ladies and Gentlemen:

The undersigned acknowledges receipt of the CASA and agrees to be bound by and subject to the terms of the CASA in its capacity as [INSERT CAPACIT[Y][IES] OF ACCEDING PARTY]. The undersigned further agrees to the appointment of the Collateral Agent as its agent in accordance with the terms of the CASA. Capitalized terms used but not defined in this Accession Agreement have the meanings given to them (by reference or otherwise) in the CASA.

The address and fax number for notice of [ACCEDING PARTY] for the purposes of Section 10.04 (*Notices*) of the CASA is:

[INSERT ACCEDING PARTY]
[INSERT ADDRESS]
Attention: [INSERT ATTENTION PARTY]
Facsimile: [INSERT FACSIMILE NUMBER]
Telephone: [INSERT TELEPHONE NUMBER]
Email: [INSERT EMAIL]

The provisions of Section 10.05 (*Counterparts*) and Section 10.06 (*Governing Law; Consent to Jurisdiction; Waiver of Jury Trial*) of the CASA shall apply *mutatis mutandis* to this Accession Agreement as if set out in full herein.

Very truly yours,

[NAME OF ACCEDING PARTY],

as [INSERT CAPACIT[Y][IES] OF ACCEDING PARTY]

By: _____
Name:
Title:

AGREED AND ACCEPTED:

U.S. BANK NATIONAL ASSOCIATION,
as Collateral Agent

By: _____
Name:
Title:

DRAFT

AGREED AND ACCEPTED:

MONTEREY-SALINAS TRANSIT DISTRICT,
as the Borrower

By: _____
Name:
Title:

cc: Monterey-Salinas Transit District, as the Borrower
Secured Parties to the CASA (other than the Collateral Agent)

DRAFT