
TRUST AGREEMENT

by and between

**[ZIONS BANCORPORATION, NATIONAL ASSOCIATION],
as Trustee,**

and

**CITY OF FLAGSTAFF, ARIZONA,
as Lessee**

Dated as of _____ 1, 2019

relating to

\$____,000

**Certificates of Participation, Series 2019
Evidencing Undivided Proportionate Interests of the Owner Thereof in
Lease Payments to be Made by
City of Flagstaff, Arizona,
as Lessee of Certain Property Pursuant
to a Lease-Purchase Agreement, dated as of _____ 1, 2019**

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TRUST AGREEMENT

THIS TRUST AGREEMENT dated as of _____ 1, 2019 (this “*Trust Agreement*”), by and between ZIONS BANCORPORATION, NATIONAL ASSOCIATION, as trustee (the “*Trustee*” or “*Lessor*”), and CITY OF FLAGSTAFF, ARIZONA (the “*Lessee*”), a municipal corporation duly organized and existing pursuant to the laws of the State of Arizona;

WITNESSETH:

WHEREAS, the Lessee and the Trustee have entered into a Ground Lease, dated as of even date herewith, pursuant to which the Lessee has leased certain real property (the “*Leased Land*”), to the Lessor, and the Lessor has leased the Leased Land from the Lessee; and

WHEREAS, in order to finance construction of a municipal court facility for the Lessee (the “*Projects*”), the Lessee and the Lessor have entered into a Lease-Purchase Agreement, dated as of even date herewith (the “*Lease Agreement*”), whereby the Lessor has agreed to lease its interest in the Leased Land together with improvements now or hereafter existing on the Leased Land (collectively, the “*Leased Property*”) to the Lessee and the Lessee has agreed to lease the Leased Property from the Lessor; and

WHEREAS, for the purpose of obtaining moneys in an amount sufficient to finance the Projects, the Trustee has agreed to execute and deliver the herein described 2019 Certificates, evidencing undivided proportionate interests in the Lease Agreement and the Lease Payments and Prepayments (as such terms and other capitalized terms used herein are hereinafter defined) to be made by the Lessee pursuant thereto,

GRANTING CLAUSES

NOW, THEREFORE, in order to secure (i) all Certificates executed, delivered and Outstanding pursuant to this Trust Agreement, (ii) the payment of the principal and interest evidenced by the Certificates, and (iii) the rights of the Owners of the Certificates and the performance and observance of the covenants and conditions contained in the Certificates, the Lease Agreement, the Ground Lease and herein, the Trustee is hereby directed to acquire, to receive and to hold as security for the Owners of the Certificates and does hereby declare an irrevocable trust and acknowledge its acceptance of all right, title and interest in and to, the following described property (the “*Trust Estate*”) and the Trustee and the Lessee hereby agree as thereafter provided:

GRANTING CLAUSE FIRST

All right, title and interest of the Lessor in and to the Ground Lease and the Lease Agreement and the present and continuing right (i) to make claim for, collect or cause to be collected, receive or cause to be received all revenues, receipts and other sums of money payable or receivable pursuant to the Lease Agreement, (ii) to bring actions and proceedings pursuant thereto or for the enforcement thereof, and (iii) to do any and all things that the Lessor is or may become entitled to do pursuant thereto; provided that this clause shall not transfer, impair or

diminish any right of the Lessor pursuant to any of the assigned instruments for indemnification, reimbursement of fees, costs and expenses or to receive notices or approve amendments, and

GRANTING CLAUSE SECOND

All right, title and interest of the Lessor in and to amounts on deposit from time to time in the funds created pursuant hereto, subject to the provisions of this Trust Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein.

All such rights and interest held by the Trustee pursuant hereto shall be exercised, held and administered according to the provisions of this Trust Agreement and for the equal and proportionate benefit of the Owners from time to time of Certificates.

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Trust Agreement, have the following meanings:

“*2019 Certificates*” means the \$____,000 aggregate principal amount of Certificates of Participation, Series 2019 Evidencing Undivided Proportionate Interests of the Owners Thereof in Lease Payments to be made by City of Flagstaff, Arizona, as Lessee of Certain Property Pursuant to a Lease-Purchase Agreement dated as of _____ 1, 2019, to be executed and delivered in denominations of \$5,000 denominated as principal or integral multiples thereof payable as to interest semiannually as provided in Article II hereof .

“*2019 Underwriter*” means Piper Jaffray & Co. as original purchaser of the 2019 Certificates.

“*Additional Certificates*” means any certificates executed and delivered pursuant to Section 2.11 hereof.

“*Additional Rent*” means any payments to be made pursuant to Section 4.7 of the Lease Agreement in addition to the Lease Payments.

“*Aggregate Value*” means, with respect to any Certificates, the Outstanding principal amount thereof.

“*Authorized Denominations*” means \$5,000 denominated as principal and any integral multiple thereof.

“*Bankruptcy Code*” means the Bankruptcy Reform Act of 1978, as amended (Title 11 of the United States Code, as amended).

“*Beneficial Owner*” means any person on behalf of whom a DTC Participant holds an interest in the 2019 Certificates.

“*Business Day*” means a day of the year other than (i) a Saturday or Sunday or (ii) a day on which banking institutions located in the city designated by the Trustee for the presentation and payment of Certificates are required or authorized to remain closed.

“*Certificates*” means, jointly, the 2019 Certificates and any Additional Certificates executed and delivered pursuant hereto.

“*Closing Date*” means _____, 2019.

“*Code*” means the Internal Revenue Code of 1986, as amended and supplemented from time to time, and any regulations promulgated pursuant thereto.

“*Costs*” means the costs incurred in acquiring, constructing or improving the Projects.

“*Defeasance Obligations*” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following clause) and (ii) obligations of, or obligations guaranteed as to principal and interest by, the United States of America or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the United States of America, including (A) U.S. treasury obligations, (B) all direct or fully guaranteed obligations, (C) Farmers Home Administration, (D) General Services Administration, (E) Guaranteed Title XI financing, (F) Government National Mortgage Association (GNMA), and (G) State and Local Government Series. Any security used for defeasance must provide for the timely payment of principal and interest and cannot be callable or prepayable prior to maturity or earlier redemption of the rated debt (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date).

“*Delivery Costs*” means all items of expense directly or indirectly payable by or reimbursable to the Lessee or the Lessor relating to the execution, sale and delivery, as applicable, of the Ground Lease, the Lease Agreement, this Trust Agreement or the Certificates, including but not limited to filing and recording costs, settlement costs, printing costs, reproduction and binding costs, initial fees and charges of the Trustee and the Lessor, legal fees and charges, accountants’ verification fees, insurance fees and charges, costs of any title insurance policy, financial and other professional consultant fees, costs of rating agencies for credit ratings, fees for execution, transportation and safekeeping of the Certificates and any other costs, expenses, fees and charges in connection with the foregoing.

“*Delivery Costs Fund*” means the fund by that name established and held by the Trustee pursuant to Section 3.2 hereof.

“*DTC*” means The Depository Trust Company, New York, New York, and any successor corporation.

“*DTC Participant*” means those broker-dealers, banks and other financial institutions reflected on the books of DTC as holding beneficial interests in the 2019 Certificates.

“*Electronically*” or “*Electronic*” notice means notice transmitted through email, a time-sharing terminal, computer network or facsimile machine, if operative as between any two parties, or if not operative, by telephone (promptly confirmed in writing).

“*Event of Bankruptcy*” means the commencement of a case by or against the Lessee pursuant to the Bankruptcy Code or pursuant to any other domestic bankruptcy act or any similar act which hereafter may be enacted (other than such proceedings initiated by the Lessee against third parties other than the Lessee), unless such case shall have been dismissed and such dismissal shall be final and not subject to appeal.

“*Event of Default*” means an event of default described in Section 9.1 of the Lease Agreement.

“*Fiscal Period*” means a period of 12 consecutive months commencing on the first day of July and ending on the last day of June, or any other consecutive 12-month period that may be established hereafter as the fiscal year of the Lessee for budgeting purposes.

“*Ground Lease*” means the Ground Lease, dated as of even date herewith, by and between the Lessor and the Lessee, relating to the Leased Land, together with any duly authorized and executed amendment thereto permitted hereunder.

“*Independent Counsel*” means an attorney duly admitted to the practice of law before the highest court of the state in which such attorney maintains an office and who is not an employee of the Lessor, the Trustee or the Lessee.

“*Insurance and Condemnation Fund*” means the fund by that name established and held by the Trustee pursuant to Article VII hereof.

“*Interest Payment Date*” means, with respect to the 2019 Certificates, July 1 and January 1 of each year, commencing July 1, 2020, or, if any such date is not a Business Day, the next succeeding Business Day and (b) with respect to any Additional Certificates, the date or dates specified in the supplement to this Trust Agreement authorizing the execution and delivery of such Additional Certificates.

“*Lease Agreement*” means the Lease-Purchase Agreement, dated as of even date herewith, by and between the Lessee and the Lessor, together with any duly authorized and executed amendment thereto permitted hereunder.

“*Lease Payment*” means all payments required to be paid by the Lessee on any date pursuant to Section 4.4 of the Lease Agreement, as set forth in Exhibit A thereto.

“*Lease Payment Fund*” means the fund by that name established and held by the Trustee pursuant to Article V hereof.

“*Leased Land*” means that certain real property located in Coconino County, Arizona, described in the Lease Agreement which is being leased by the Lessee to the Lessor pursuant to the Ground Lease.

“*Leased Property*” means the Leased Land, together with all improvements now and hereafter existing thereon, which is being leased by the Lessor to the Lessee pursuant to the Lease Agreement.

“*Lessee*” means City of Flagstaff, Arizona.

“*Lessee Representative*” means the Management Services Director of the Lessee, or any other person designated by the Management Services Director of the Lessee to act on behalf of the Lessee pursuant to or with respect to this Trust Agreement and the Lease Agreement by a certificate filed with the Trustee containing the specimen signature of such person signed by the Management Services Director of the Lessee.

“*Lessor*” means Zions Bancorporation, National Association, as trustee, and its successors and assigns pursuant to the Lease Agreement.

“*Moody’s*” means Moody’s Investors Service, Inc., or any successor nationally recognized securities rating agency.

“*Net Proceeds*” means any insurance proceeds (other than proceeds of any insurance policy maintained pursuant to Section 5.3 of the Lease Agreement) or condemnation award in excess of \$25,000, paid with respect to the Leased Property, or any proceeds resulting from the re-renting or re-leasing of all or any portion of the Leased Property pursuant to Section 9.2(c) of the Lease Agreement, remaining after payment therefrom of all expenses incurred in the collection thereof.

“*Outstanding*,” when used with reference to the Certificates, means, as of any date of determination, all Certificates theretofore executed and delivered except:

- (i) Certificates theretofore canceled by the Trustee or delivered to the Trustee for cancellation;
- (ii) Certificates that are deemed paid and no longer Outstanding as provided herein;
- (iii) Certificates in lieu of which other Certificates of the same series shall have been executed and delivered pursuant to the provisions hereof relating to Certificates destroyed, stolen or lost, unless evidence satisfactory to the Trustee has been received that any such Certificate is held by a bona fide purchaser; and
- (iv) For the purposes described in Section 10.3 hereof, the Certificates described in said Section 10.3.

“*Owner*” or “*Certificate Owner*” or “*Owner of a Certificate*,” or any similar term, when used with respect to a Certificate, means the person in whose name such Certificate shall be registered.

“*Paying Agent*” means the Trustee.

“*Permitted Encumbrances*” mean, as of any particular time (i) liens for general ad valorem taxes and assessments, if any, not then delinquent, or that the Lessee may, pursuant to provisions of Article V of the Lease Agreement, permit to remain unpaid; (ii) the Lease Agreement; (iii) this Trust Agreement; (iv) the Ground Lease; (v) easements, leases, encumbrances, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions that exist as of the Closing Date and that the Lessee certifies in writing will not materially impair the use of the Leased Property; and (vi) easements, leases, encumbrances, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions to which the Lessor and the Lessee consent in writing.

“*Permitted Investments*” means and includes (to the extent permitted by law):

- (a) Defeasance Obligations;
- (b) Obligations of any federal agencies, which obligations represent the full faith and credit of the United States of America, including, but not limited to, the following:
 - (i) Export-Import Bank,
 - (ii) Rural Economic Community Development Administration,
 - (iii) U.S. Maritime Administration,
 - (iv) Small Business Administration,
 - (v) U.S. Department of Housing & Urban Development (PHAs),
 - (vi) Federal Housing Administration, and
 - (vii) Federal Financing Bank;
- (c) Direct obligations of any of the following federal agencies, which obligations are not fully guaranteed by the full faith and credit of the United States of America:
 - (i) Senior debt obligations issued by the Federal National Mortgage Association (FNMA) or Federal Home Loan Mortgage Corporation (FHLMC),
 - (ii) Obligations of the Resolution Funding Corporation (REFCORP),and

(iii) Senior debt obligations of the Federal Home Loan Bank System;

(d) U.S. dollar denominated deposit accounts, federal funds and bankers' acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "P-1" by Moody's and "A-1" or "A-1+" by S&P and maturing not more than 360 calendar days after the date of purchase; provided, however, ratings on holding companies are not considered as the rating of the bank;

(e) Commercial paper which is rated at the time of purchase in the single highest classification, "P-1" by Moody's and "A-1+" by S&P and which matures not more than 270 calendar days after the date of purchase;

(f) Investments in a money market fund rated "AAAm" or "AAAm-G" or better by S&P;

(g) Pre-refunded "Municipal Obligations", defined as follows: any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice, and

(i) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of Moody's or S&P or any successors thereto; or

(ii) (A) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in clause (ii) of the definition of Defeasance Obligations, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (B) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate and

(h) Municipal Obligations rated "Aaa/AAA" or general obligations of states with a rating of "A2/A" or higher by both Moody's and S&P.

"*Prepayment*" means any payment made, in whole or in part, pursuant to Article X of the Lease Agreement as a prepayment of the Lease Payments.

"*Projects*" means the "Projects" to be constructed or acquired with the proceeds of the sale of the Certificates as described in this Trust Agreement.

“*Project Fund*” means the fund by that name established and held by the Trustee pursuant to Section 3.1 hereof.

“*Qualified Self-Insurance*” means any program of self-insurance regarding which the Trustee has received a written evaluation of an independent insurance consultant or actuarial consultant having a favorable reputation for skill and experience and an opinion of such consultant that adequate reserves for such program are either maintained with an independent corporate trustee or otherwise held with appropriate safeguards to insure their availability.

“*Register*” means the registration books maintained by the Trustee or the Registrar pursuant to Section 2.7(b) hereof.

“*Registrar*” means the Trustee.

“*Regular Record Date*” means the close of business on the 15th day of the month preceding an Interest Payment Date.

“*S&P*” means S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC, or any successor nationally recognized securities rating agency.

“*Special Counsel*” means any law firm, acceptable to the Lessee Representative and the Trustee, having a national reputation in the field of law relating to municipal bonds whose opinions are generally accepted by purchasers of municipal obligations.

“*Special Interest Payment Date*” means the Business Day established by the Trustee for the payment of overdue interest evidenced by the 2019 Certificates pursuant to Section 2.2 hereof.

“*Special Record Date*” means the Business Day established by the Trustee for determination of the registered Owners entitled to receive overdue interest evidenced by the 2019 Certificates pursuant to Section 2.2 hereof.

“*State*” means the State of Arizona.

“*Term*” or “*Term of the Lease Agreement*” means the time during which the Lease Agreement is in effect, as provided in Section 4.2 of the Lease Agreement.

“*Trust Agreement*” means this Trust Agreement, together with any amendments or supplements hereto permitted to be made pursuant hereto.

“*Trustee*” means Zions Bancorporation, National Association, and any successor thereto acting as trustee pursuant to this Trust Agreement.

Section 1.2 Authorization. Each of the parties hereby represents and warrants that it has full legal authority and is duly empowered to enter into this Trust Agreement and has taken all actions necessary to authorize the execution of this Trust Agreement by the officers and persons signing it.

Section 1.3 Interpretation.

(a) Any reference herein to the Lessor, Trustee or Lessee or any officer thereof shall include those succeeding to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

(b) Unless the context otherwise indicates, words importing the singular shall include the plural and vice versa and the use of the neuter, masculine or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine or feminine gender.

(c) Any terms not defined herein, but defined in the Lease Agreement shall have the same meaning herein.

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

Section 1.4 Execution and Delivery of 2019 Certificates. To accomplish the construction and acquisition, as applicable, of the Projects as set forth in Section 3.2 of the Lease Agreement, the 2019 Certificates shall be executed and delivered in an amount sufficient to pay costs of the Projects and other costs incurred in connection with the execution and delivery of the 2019 Certificates as set forth in this Trust Agreement.

ARTICLE II

THE 2019 CERTIFICATES; ADDITIONAL CERTIFICATES

Section 2.1 Authorization of the 2019 Certificates.

(a) The Trustee is hereby authorized and directed to prepare and execute and deliver or cause to be delivered to the 2019 Underwriter the 2019 Certificates, in an aggregate amount denominated as principal of \$____,000. The 2019 Certificates shall evidence undivided proportionate interests in the Lease Agreement and in the Lease Payments and the Prepayments to be made pursuant thereto.

(b) Except as provided in Section 2.11 hereof, the Trustee shall not at any time while the Certificates are Outstanding execute and deliver additional certificates payable from the Lease Payments or secured by a lien and charge upon the Leased Property on a parity with or prior to the lien and charge securing the Outstanding Certificates hereunder.

Section 2.2 Date of the 2019 Certificates. Each 2019 Certificate shall bear the dated date of the date of initial execution and delivery thereof, and interest evidenced by each 2019 Certificate shall be payable from such dated date and then from the Interest Payment Date next preceding the date of execution thereof, unless (i) it is executed as of an Interest Payment Date, in which event interest evidenced thereby shall be payable from such date of execution or (ii) it is executed after a Regular Record Date and before the following Interest Payment Date, in

which event interest evidenced thereby shall be payable from such Interest Payment Date; provided, however, that if, as of the date of execution of any 2019 Certificate, interest evidenced by any Outstanding 2019 Certificate is in default, interest evidenced by such 2019 Certificate shall be payable from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Outstanding 2019 Certificates unless it is executed after a Special Record Date and before the following Special Interest Payment Date, in which event interest evidenced thereby shall be payable from the scheduled Interest Payment Date next preceding such date of execution.

In the event there are insufficient funds available on any Interest Payment Date to pay the interest then due on the 2019 Certificates, the Regular Record Date shall no longer be applicable with respect to the 2019 Certificates. If sufficient funds for the payment of such interest thereafter become available, the Trustee shall immediately establish a Special Interest Payment Date for the payment of the overdue interest and a Special Record Date for determining the Owners entitled to such payments. Notice of the establishment of any such Special Interest Payment Date and Special Record Date shall be mailed by the Trustee to each Owner not less than ten days before the Special Record Date nor more than 30 days before the Special Interest Payment Date. Such overdue interest shall be paid on the Special Interest Payment Date to the Owners of the 2019 Certificates as of the Special Record Date.

Section 2.3 Terms of the 2019 Certificates. The 2019 Certificates shall be executed and delivered only in fully registered form, without coupons, and shall be numbered from one upwards, in the order of their execution, with any other designation as the Trustee deems appropriate. The 2019 Certificates shall be in Authorized Denominations, except that no 2019 Certificate may evidence principal scheduled for payment on more than one date, and shall be payable as to principal on the dates and in the amounts, and interest evidenced thereby shall be computed at the rates, as shown below:

Scheduled Payment Date <u>(July 1)</u>	<u>Amount</u>	Interest <u>Rate</u>
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Interest evidenced by the 2019 Certificates shall be payable on the Interest Payment Dates. Said interest shall represent the portion of Lease Payments designated as interest and paid during the six month or shorter period preceding each Interest Payment Date with respect to the 2019 Certificates. The proportionate share of the Lease Payments designated as interest with respect to any 2019 Certificate shall be computed by multiplying the portion of the Lease Payments designated as principal evidenced by such 2019 Certificate by the rate of

interest applicable to such 2019 Certificate (on the basis of a 360-day year consisting of twelve 30-day months).

Section 2.4 Form of the 2019 Certificates. The 2019 Certificates and the assignment to appear thereon shall be substantially in the form set forth in Exhibit A attached hereto and by this reference incorporated herein with necessary or appropriate variations, omissions and insertions.

Section 2.5 Execution. The 2019 Certificates shall be executed by and in the name of the Trustee by the manual signature of an authorized officer or representative of the Trustee. If any such officer or representative whose signature appears on any 2019 Certificate ceases to be such officer or representative before the date of delivery thereof, such signature shall nevertheless be as effective as if the officer or representative had remained as such until such date of delivery. Any 2019 Certificate may be executed on behalf of the Trustee by such person as at the actual date of the execution of such 2019 Certificate shall be the proper officer or representative of the Trustee although at the nominal date of such 2019 Certificate such person shall not have been such officer or representative of the Trustee.

Section 2.6 Application of Proceeds and Other Moneys. The proceeds received by the Trustee from the sale of the 2019 Certificates shall forthwith be set aside by the Trustee in the following respective amounts and funds:

- (a) \$_____ into the Delivery Costs Fund; and
- (b) \$_____ into the Project Fund.

Section 2.7 Registration, Transfer and Exchange of 2019 Certificates.

(a) All 2019 Certificates executed and delivered hereunder shall be negotiable, subject to the provisions for registration and transfer thereof contained herein or in the 2019 Certificates.

(b) So long as any 2019 Certificates are Outstanding, the Trustee shall maintain at its designated office the Register and shall provide for the registration and transfer of any 2019 Certificate pursuant to such reasonable regulations as the Trustee may prescribe. The Trustee shall act as registrar for purposes of exchanging and registering 2019 Certificates in accordance with the provisions hereof.

(c) Each 2019 Certificate shall be transferable only upon the Register by the Owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Trustee duly executed by the Owner thereof or his duly authorized attorney. Upon surrender for transfer of any 2019 Certificate, the Trustee shall authenticate and deliver, in the name of the transferee, one or more new 2019 Certificates of the same aggregate principal amount and scheduled payment date as the surrendered 2019 Certificate.

(d) Any 2019 Certificate, upon surrender thereof to the Trustee together with written instructions satisfactory to the Trustee, duly executed by the Owner thereof or his attorney duly authorized in writing, may, at the option of the Owner thereof, be exchanged for an equal aggregate principal amount of 2019 Certificates with the same scheduled payment date of any other Authorized Denominations.

(e) All 2019 Certificates surrendered in any exchange or transfer of 2019 Certificates shall forthwith be canceled by the Trustee.

(f) In connection with any such exchange or transfer of 2019 Certificates, the Owner requesting such exchange or transfer shall as a condition precedent to the exercise of the privilege of making such exchange or transfer, remit to the Trustee an amount sufficient to pay any tax or other governmental charge required to be paid with respect to such exchange or transfer.

(g) The Trustee may but shall not be obligated to exchange or register the transfer of any 2019 Certificate (i) that has been called or selected for call for prepayment in whole or in part, or (ii) during a period of 15 days preceding the giving of a notice of prepayment. If the transfer of any 2019 Certificate that has been called or selected for call for prepayment in whole or in part is registered, any notice of prepayment that has been given to the transferor shall be binding upon the transferee and a copy of the notice of prepayment shall be delivered by the Trustee to the transferee along with the 2019 Certificate or 2019 Certificates.

Section 2.8 Mutilated, Lost, Destroyed and Stolen Certificates. If (i) any mutilated 2019 Certificate is surrendered to the Trustee, or the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any 2019 Certificate, and (ii) there is delivered to the Trustee such security or indemnity as may be required by the Trustee to hold it harmless, then, in the absence of written notice to the Trustee that such 2019 Certificate has been acquired by a bona fide purchaser and upon the Owner paying the reasonable expenses of the Trustee, the Trustee shall cause to be executed and shall authenticate and deliver, in exchange for such mutilated 2019 Certificate or in lieu of such destroyed, lost or stolen 2019 Certificate, a new 2019 Certificate of like principal amount, date and tenor. If the principal amount evidenced by any such mutilated, destroyed, lost or stolen 2019 Certificate has become, or will on or before the next Interest Payment Date become, due and payable, the Trustee may, in its discretion, pay such 2019 Certificate when due instead of delivering a new 2019 Certificate.

Section 2.9 Payment. Payment of interest evidenced by any 2019 Certificate on any Interest Payment Date or any Special Interest Payment Date shall be made to the person appearing on the Register as the Owner thereof as of the Regular Record Date immediately preceding such Interest Payment Date or, if applicable, the Special Record Date immediately preceding such Special Interest Payment Date, such interest to be paid by (i) check or draft mailed to such Owner at his address as it appears on the Register or at such other address as he may have filed with the Trustee for that purpose, or (ii) to any Owner of \$1,000,000 or more in aggregate principal amount evidenced by 2019 Certificates as of the close of business of the Trustee on the Regular Record Date for a particular Interest Payment Date or, if applicable, the Special Record Date for a Special Interest Payment Date, by wire transfer in immediately available funds sent (at such Owner's expense) on the Interest Payment Date or Special Interest

Payment Date in accordance with written notice from such Owner containing the wire transfer address (which shall be in the United States) to which such Owner wishes to have such wire transfer directed, which written notice is received not later than ten days before the Regular Record Date with respect to such Interest Payment Date or, if applicable, the Special Record Date for a Special Interest Payment Date, it being understood that such notice may refer to multiple interest payments.

Section 2.10 Execution of Documents and Proof of Ownership. Any request, direction, consent, revocation of consent, or other instrument in writing required or permitted by this Trust Agreement to be signed or executed by 2019 Certificate Owners may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Owners in person or by their attorneys or agents appointed by an instrument in writing for that purpose, or by any bank, trust company or other depository for such 2019 Certificates. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the ownership of 2019 Certificates shall be sufficient for any purpose of this Trust Agreement (except as otherwise herein provided), if made in the following manner:

(i) The fact and date of the execution by any Owner or his attorney or agent of any such instrument and of any instrument appointing any such attorney or agent, may be proved by a certificate of an officer of any bank or trust company located within the United States of America, which need not be acknowledged or verified. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership or limited liability company on behalf of such corporation, association, partnership or limited liability company, such certificate shall also constitute sufficient proof of his authority.

(ii) The fact of the ownership of 2019 Certificates by any person and the amount, the scheduled payment date and the numbers of such 2019 Certificates and the date of his holding the same shall be proved by the Register maintained pursuant to Section 2.7(b) hereof.

Nothing contained in this Article II shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated that the Trustee may deem sufficient. Any request or consent of the Owner of any 2019 Certificate shall bind every future Owner of the same 2019 Certificate in respect of anything done or suffered to be done by the Trustee in pursuance of such request or consent.

Section 2.11 Execution and Delivery of Additional Certificates. So long as no Event of Default or termination of the Lease Agreement pursuant to Section 4.2(b) of the Lease Agreement has occurred and will continue after execution and delivery of any Additional Certificates, the Trustee may execute and deliver, at the direction of the Lessee, Additional Certificates from time to time to provide funds to expand or improve the Projects or to pay the costs of refunding Outstanding Certificates.

Before the Trustee shall deliver any Additional Certificates executed pursuant to a supplement authorized by Article X hereof, the following items shall have been received by the Trustee:

(i) Original executed counterparts of any amendments or supplements to the Lease Agreement and of this Trust Agreement entered into in connection with the execution and delivery of the Additional Certificates that are necessary or advisable, in the opinion of Special Counsel, to provide that the Additional Certificates will be executed and delivered in compliance with the provisions of this Trust Agreement.

(ii) A written opinion of Special Counsel, reasonably satisfactory to the Trustee, to the effect that (A) the documents submitted to the Trustee in connection with the request then being made comply with the requirements of this Trust Agreement, (B) any filings required to be made pursuant to Section 11.4 of this Trust Agreement have been made, and (C) all conditions precedent to the delivery of the Additional Certificates have been fulfilled.

(iii) A written opinion of Special Counsel (who also may be the counsel to whom or which reference is made in paragraph (ii) above), to the effect that (A) when executed and delivered by the Trustee, the Additional Certificates will be valid and binding in accordance with their terms and will be secured hereunder equally and on a parity with all other Certificates at the time Outstanding hereunder as to the assignment to the Trustee of the amounts pledged hereunder, and (B) the execution and delivery of the Additional Certificates will not result in the portion of the Lease Payments designated as interest evidenced by the Certificates Outstanding immediately before that execution and delivery of such Additional Certificates becoming includable in gross income for purposes of federal income taxation.

(iv) A written opinion of Special Counsel (who also may be the counsel to whom or which reference is made in paragraph (ii) above), reasonably satisfactory to the Trustee, to the effect that any amendments or supplements to the Lease Agreement entered into in connection with the execution and delivery of the Additional Certificates have been duly authorized, executed and delivered by the Lessee, and that the Lease Agreement, as amended or supplemented, constitutes a legal, valid and binding obligation of the Lessee, enforceable in accordance with its terms, subject to exceptions reasonably satisfactory to the Trustee for bankruptcy laws and other laws affecting creditors' rights and the exercise of judicial discretion.

(v) Evidence that the Lessee has obtained the additional amount of insurance or self-insurance, if any, required to be maintained pursuant to Sections 5.3 and 5.4 of the Lease Agreement as a result of the execution and delivery of the Additional Certificates.

(vi) Evidence satisfactory to the Trustee of confirmation that the ratings on any Outstanding Certificates will remain the same, immediately after execution and delivery of the Additional Certificates.

When the documents listed above have been received by the Trustee, the Trustee shall execute and deliver the Additional Certificates to or on the order of the original purchaser thereof, but only upon payment of the agreed-upon purchase price for the Additional Certificates.

Section 2.12 Book-Entry-Only System. The 2019 Certificates shall be initially executed and delivered in the form of a single fully registered certificate for each scheduled principal payment date of the 2019 Certificates. Upon initial execution and delivery, the ownership of such 2019 Certificates shall be registered in the Register in the name of Cede & Co., as nominee of DTC, and except as hereinafter provided, all of the Outstanding 2019 Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to the 2019 Certificates registered in the Register in the name of Cede & Co., as nominee of DTC, the Trustee shall have no responsibility or obligation to any DTC Participant or to any Beneficial Owner, nor any responsibility or obligation to any DTC Participant, any Beneficial Owner or any other person claiming a beneficial ownership interest in the 2019 Certificates pursuant to or through DTC or any DTC Participant, or any other person with respect to (i) the accuracy of any records maintained by DTC or any DTC Participant, (ii) the payment by DTC or any DTC Participant of any amount in respect of the 2019 Certificates, (iii) the giving of any notice that is permitted or required to be given to Owners pursuant to this Trust Agreement, or (iv) any consent given or other action taken by DTC as an Owner.

Notwithstanding any other provision of this Trust Agreement to the contrary, the Trustee shall be entitled to treat and consider the person in whose name each 2019 Certificate is registered in the Register as an absolute Owner of such 2019 Certificate for the purpose of payment, for the purpose of giving notices of prepayment with respect to any 2019 Certificate, for the purpose of registering transfers with respect to such 2019 Certificate, and for all other purposes whatsoever. The Trustee shall pay all principal, premium, if any, and interest evidenced by any 2019 Certificate only to or upon the order of the respective 2019 Certificate Owners, as shown in the Register as provided in this Trust Agreement, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the obligations with respect to payment of principal, premium, if any, and interest evidenced by the 2019 Certificates to the extent of the sum or sums so paid. No person other than a 2019 Certificate Owner, as shown in the Register, shall receive a 2019 Certificate evidencing the obligation to make payments of principal, premium, if any, and interest pursuant to this Trust Agreement.

Notwithstanding any other provision of this Trust Agreement or the 2019 Certificates, so long as the 2019 Certificates are held in book-entry form and registered in the name of Cede & Co., as nominee or DTC, or registered in the name of any successor securities depository, or its nominee, the following provisions shall apply:

- (i) Presentation of 2019 Certificates to the Paying Agent at prepayment or at scheduled payment date, or delivery of 2019 Certificates to the Paying Agent in connection with a purchase of tendered 2019 Certificates, shall be deemed made to the Paying Agent when the right to exercise ownership rights in the 2019 Certificates through DTC or a DTC Participant is transferred by DTC on its books.
- (ii) DTC may present notices, approvals, waivers, votes or other communications required or permitted to be made by Owners pursuant to this Trust

Agreement on a fractionalized basis on behalf of some or all of those persons entitled to exercise ownership rights in the 2019 Certificates through DTC or DTC Participants.

The 2019 Certificate Owners have no right to a depository for the 2019 Certificates. Subject to the consent of DTC or the DTC Participants, the Lessee or the Trustee may remove DTC or any successor thereto for any reason at any time. In such event, the Trustee shall (i) appoint a successor securities depository qualified to act as such pursuant to Section 17(i) of the Securities Exchange Act of 1934, as amended, notify DTC of the appointment of such successor securities depository and transfer one or more separate 2019 Certificates to such successor securities depository, or (ii) notify DTC of the availability through DTC of 2019 Certificates and transfer one or more separate 2019 Certificates to DTC Participants having 2019 Certificates credited to their DTC accounts as directed by DTC. In such event, the 2019 Certificates shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names the DTC Participants receiving 2019 Certificates shall designate, in accordance with the provisions of this Trust Agreement. The Lessee and the Trustee may conclusively rely upon (i) a certificate of the DTC as to the identity of the DTC Participants and (ii) a certificate of such DTC Participants as to the identity of, and the respective principal amounts of 2019 Certificates beneficially owned by, the beneficial owners.

The Trustee and the Lessee may execute the letter of representations in connection with the execution and delivery of the 2019 Certificates. The letter of representation is for the purpose of effectuating the book-entry-only system only and shall not be deemed to amend, supersede or supplement the terms of this Trust Agreement that are intended to be complete without reference to the letter of representation. In the event of any conflict between the terms of the letter of representations and the terms of this Trust Agreement, the terms of this Trust Agreement shall control. DTC may exercise the rights of a 2019 Certificate Owner hereunder only in accordance with the terms hereof applicable to the exercise of such rights.

ARTICLE III

PROJECT FUND AND DELIVERY COSTS FUND

Section 3.1 Project Fund. The Trustee shall establish a special fund designated the “*Project Fund*”. The Trustee shall keep such fund separate and apart from all other funds and moneys held by it and shall administer such fund as provided herein and in the Lease Agreement. Proceeds from the sale of the 2019 Certificates shall be deposited in the Project Fund as described in Section 2.6(b) hereof.

The Trustee shall make disbursements from the Project Fund to pay or reimburse any Costs that may be approved as provided herein. Each of the payments referred to in this Section 3.1 shall be made only upon a written order signed by the Lessee Representative substantially in the form attached hereto as Exhibit B entitled “Order for Disbursement.” Any amount remaining in the Project Fund on the earlier of completion of the Projects (as evidenced by the Lessee’s filing with the Trustee of the Certificate of Completion contemplated by Section

4.3 of the Lease Agreement) or _____ 1, 2022, and after provision for payment of any necessary and related Costs as authorized herein which are then due and payable, shall be immediately transferred to the Lease Payment Fund.

The Trustee shall be responsible for the safekeeping and investment, upon the written direction of the Lessee Representative, of the moneys held in the Project Fund in Permitted Investments and the disbursement thereof in accordance with this Section. Notwithstanding the foregoing, the Trustee shall be entitled to rely conclusively on the requisitions and written orders supplied to it by any Lessee Representative in connection with disbursements made pursuant to this Section.

Section 3.2 Delivery Costs Fund. The Trustee shall establish a special fund designated the “*Delivery Costs Fund*.” The Trustee shall keep such fund separate and apart from all other funds and moneys held by it and shall administer such fund as provided herein and in the Lease Agreement. Proceeds from the sale of the 2019 Certificates shall be deposited in the Delivery Costs Fund as described in Section 2.6(a) hereof.

The Trustee shall make disbursements from the Delivery Costs Fund only upon a requisition signed by the Lessee Representative, substantially in the form attached hereto as Exhibit B entitled “Order for Disbursement”, setting forth the amounts to be disbursed for payment or reimbursement of Delivery Costs and the person or persons to whom such amounts are to be disbursed, stating that the amounts to be disbursed are for Delivery Costs properly chargeable to the Delivery Costs Fund. Amounts remaining in the Delivery Costs Fund after June 1, 2020, or such earlier date as the Lessee has notified the Trustee that all Delivery Costs relating to the 2019 Certificates have been paid, shall be transferred to the Lease Payment Fund.

The Trustee shall be responsible for the safekeeping and investment, upon the written direction of the Lessee Representative, of the moneys held in the Delivery Costs Fund in Permitted Investments and the disbursement thereof in accordance with this Section. Notwithstanding the foregoing, the Trustee shall be entitled to rely conclusively on the requisitions and written orders supplied to it by the Lessee Representative in connection with disbursements made pursuant to this Section.

ARTICLE IV

PREPAYMENT OF 2019 CERTIFICATES

Section 4.1 Right to Prepay Certificates. The 2019 Certificates shall be subject to prepayment at such times, to the extent and in the manner provided herein.

Section 4.2 Prepayment.

(a) The 2019 Certificates scheduled for payment on or after July 1, 20__, are subject to optional prepayment prior to such dates, at the direction of the Lessee, on any date on or after July 1, 20__, in whole or in part, in any order designated by the Lessee (or by the Trustee by lot in the event that no designation accompanies the direction of the Lessee to prepay the 2019 Certificates pursuant to this Section 4.2(a)) and by lot within a scheduled

payment date, at a prepayment price equal to the principal amount evidenced by the 2019 Certificates to be prepaid plus interest accrued with respect thereto to the date fixed for prepayment, without premium.

(b) (1) The 2019 Certificates scheduled for payment on July 1 of the following years shall be subject to mandatory prepayment prior to their stated payment dates on July 1 of the years set forth below and in the amounts set forth below, at a prepayment price equal to the principal amount thereof plus interest accrued to the date fixed for prepayment, without premium.

2019 Certificates Payable July 1, 20

<u>Prepayment Date</u>	<u>Principal Amount</u>
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*

2019 Certificates Payable July 1, 20

<u>Prepayment Date</u>	<u>Principal Amount</u>
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*

* Stated Payment Date

(2) Whenever 2019 Certificates subject to mandatory prepayment are purchased, redeemed (other than because of mandatory prepayment) or are delivered by the Lessee to the Trustee for cancellation, the principal amount of the 2019 Certificates represented thereby so retired shall satisfy and be credited against the mandatory prepayment therefor in any order specified by the Lessee.

(c) The 2019 Certificates are subject to prepayment on any July 1 or January 1, in whole or in part, from the Net Proceeds, which Net Proceeds have been deposited in the Lease Payment Fund and credited towards the Prepayment made by the Lessee pursuant to Section 10.3 of the Lease Agreement, in any order designated by the Lessee (or by the Trustee by lot in the event that no such designation is received by the Trustee at the time such Net Proceeds are deposited with the Trustee) and by lot within a scheduled payment date, at a prepayment price equal to the principal amount evidenced by the 2019 Certificates to be prepaid plus accrued interest with respect thereto to the date fixed for prepayment, without premium.

Section 4.3 Selection of Certificates to be Prepaid. If less than all of the 2019 Certificates of the same scheduled payment date are to be prepaid hereunder, the Lessee may timely select the 2019 Certificates to be prepaid or, if the Lessee does not so select, the Trustee shall select the 2019 Certificates to be prepaid by lot or in such other manner as the

Trustee shall deem fair. In making such selection, the Trustee shall treat each 2019 Certificate as evidencing that number of 2019 Certificates of \$5,000 denominations as is obtained by dividing the principal amount evidenced by such 2019 Certificate by \$5,000.

Section 4.4 Partial Prepayment of Certificates. Upon the selection and call for prepayment of, and the surrender of, any 2019 Certificate for prepayment in part only, the Trustee shall cause to be executed and delivered to or upon the written order of the Owner thereof, at the expense of the Lessee, a new 2019 Certificate or 2019 Certificates of Authorized Denominations in an aggregate principal amount equal to the unrepaid portion of the 2019 Certificate surrendered, in accordance with instructions received from the Owner thereof, with one 2019 Certificate being delivered in the absence of such instructions.

Section 4.5 Effect of Call for Prepayment. On the date designated for prepayment by notice given as herein provided, the 2019 Certificates so called for prepayment shall become and be payable at the prepayment price provided for prepayment of such 2019 Certificates on such date. If on the date fixed for prepayment moneys for payment of the prepayment price and accrued interest are held by the Trustee as provided herein, interest evidenced by the 2019 Certificates so called for prepayment shall cease to accrue, such 2019 Certificates shall cease to be entitled to any benefit or security hereunder except the right to receive payment from the moneys held by the Trustee and the amount of such 2019 Certificates so called for prepayment shall be deemed paid and no longer Outstanding.

Section 4.6 Notice of Prepayment.

(a) Whenever prepayment of 2019 Certificates is to be made, the Trustee shall give notice of the prepayment of such 2019 Certificates, which notice shall specify the prepayment date, the prepayment price and the place or places where such prepayment price will be payable and, if less than all of the 2019 Certificates are to be prepaid, the numbers or other distinguishing marks of such 2019 Certificates so to be prepaid, and, in the case of 2019 Certificates to be prepaid in part only, such notice shall also specify the respective portions of the principal amounts thereof to be prepaid. Such notice shall further state that on such date there shall become due and payable upon each 2019 Certificate to be prepaid the price of such 2019 Certificate or the specified portion thereof in the case of a 2019 Certificate to be prepaid in part only, together with interest accrued to the prepayment date, and that from and after such date interest thereon shall cease to accrue and be payable on such 2019 Certificate or portion thereof so to be prepaid. In the case of an optional prepayment pursuant to Section 4.2(a) hereof, such notice shall further state that it is conditioned upon the deposit of moneys, in an amount equal to the amount necessary to effect the prepayment, with the Trustee no later than the prepayment date and such notice and optional prepayment shall be of no effect if such moneys are not so deposited.

(b) Such notice shall be given by mailing a copy of such notice, first class United States mail postage prepaid, not less than 30 days nor more than 60 days before the prepayment date, to all Owners of any 2019 Certificates or portions of 2019 Certificates that are to be prepaid at their last addresses appearing upon the Register, but failure so to mail any such notice, or a defect in such notice, as to any 2019 Certificate shall not affect the validity of the proceedings for the prepayment of any other 2019 Certificate.

(c) In addition to the notice called for in subsections (a) and (b), further notice shall be given by the Trustee as set out below, but no defect in said further notice or any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for prepayment or result in a breach of trust by the Trustee of notice thereof given as above prescribed:

(i) Each further notice of prepayment given hereunder shall contain the information required above for an official notice of prepayment plus (A) the CUSIP numbers of all 2019 Certificates being prepaid; (B) the date of execution and delivery of the 2019 Certificates as originally executed and delivered; (C) the rate of interest borne by each 2019 Certificate being prepaid; (D) the specified principal payment date of each 2019 Certificate being prepaid; and (E) any other descriptive information needed to identify accurately the 2019 Certificates being prepaid.

(ii) Each further notice of prepayment shall be sent at least 35 days before the prepayment date, return receipt requested, to all registered securities depositories that are registered owners of the 2019 Certificates then in the business of holding substantial amounts of obligations of types such as the 2019 Certificates (such as, at the time of execution and delivery of this Trust Agreement, DTC) and to one or more national information services that disseminate notices of prepayment of obligations such as the 2019 Certificates (such as, at the time of execution and delivery of this Trust Agreement, the Electronic Municipal Market Access System of the Municipal Securities Rulemaking Board).

(d) A second notice of prepayment shall be given within 60 days after the prepayment date in the manner required above to each of the Owners of the 2019 Certificates designated for prepayment that have not been presented for payment within 30 days after the prepayment date.

ARTICLE V

LEASE PAYMENTS; LEASE PAYMENT FUND

Section 5.1 Rights in Lease Agreement. The Trustee acknowledges and agrees that its right, title and interest as lessor in and to the Lease Agreement, including but not limited to the rights of the Lessor to receive and collect Lease Payments, Additional Rent, Prepayments and any other amounts required to be deposited in the Lease Payment Fund, is held in trust pursuant to the provisions hereof. All Lease Payments, Additional Rent and Prepayments to which the Trustee, as lessor, may at any time be entitled shall be received, held and disposed of by the Trustee pursuant to the provisions of this Trust Agreement for the benefit of the Owners from time to time of the Certificates.

Section 5.2 Establishment of Lease Payment Fund. The Trustee shall establish a special fund designated the "*Lease Payment Fund.*" All moneys at any time deposited by the Trustee in the Lease Payment Fund shall be held by the Trustee in trust for the benefit of the Owners of the Certificates. So long as any Certificates are Outstanding, neither the

Lessee nor the Lessor shall have any beneficial right or interest in the Lease Payment Fund or the moneys deposited therein, except only as provided in this Trust Agreement, and such moneys shall be used and applied by the Trustee as hereinafter set forth.

Section 5.3 Deposits. There shall be deposited in the Lease Payment Fund all Lease Payments and Prepayments received by the Trustee, including any moneys received by the Trustee for deposit therein pursuant to Section 4.4 or Articles VI, IX or X of the Lease Agreement, all income and gain on investments of the Lease Payment Fund and any other moneys required to be deposited therein pursuant to the Lease Agreement or pursuant to this Trust Agreement.

Section 5.4 Application of Moneys. All amounts in the Lease Payment Fund shall be used and withdrawn by the Trustee solely for the purpose of paying the principal, interest and prepayment premiums (if any) with respect to the Certificates as the same shall become due and payable, in accordance with the provisions of Article II and Article IV hereof.

Section 5.5 Transfers of Investment Earnings to Lease Payment Fund. All income and gain on investments of the Project Fund shall be retained therein until the completion of the construction and acquisition of the Projects, and any balance in the Project Fund on such date shall be transferred to the Lease Payment Fund. All income and gain on investments of the Delivery Costs Fund shall be retained therein until June 1, 2020, and any balance in the Delivery Costs Fund on such date shall be transferred to the Lease Payment Fund.

Section 5.6 Surplus. Any surplus remaining in the Lease Payment Fund, after prepayment and payment of all Certificates, including premiums and accrued interest (if any) and payment of any Additional Rent, or provision for such prepayment or payment having been made to the satisfaction of the Trustee, shall be withdrawn by the Trustee and remitted to the Lessee.

ARTICLE VI

[RESERVED TO PRESERVE NUMBERING SCHEME]

ARTICLE VII

INSURANCE AND CONDEMNATION FUND; INSURANCE; EMINENT DOMAIN

Section 7.1 Establishment of Insurance and Condemnation Fund; Application of Net Proceeds of Insurance Award. Any Net Proceeds of insurance against accident to or destruction of any structure constituting any part of the Leased Property collected by the Lessee in the event of any such accident or destruction shall be transferred to the Trustee pursuant to Section 6.2 of the Lease Agreement and deposited by the Trustee in a special fund designated the “*Insurance and Condemnation Fund*” to be applied and disbursed by the Trustee as provided in Section 6.2(a) of the Lease Agreement.

Section 7.2 Application of Net Proceeds of Eminent Domain Award. If all or any part of the Leased Property shall be taken by eminent domain proceedings (or sold to a government threatening to exercise the power of eminent domain) the Net Proceeds therefrom shall be deposited with the Trustee in the Insurance and Condemnation Fund pursuant to Section 6.2(b) of the Lease Agreement and shall be applied and disbursed by the Trustee as follows:

(i) If the Trustee determines, based upon a report of an independent engineer or other independent professional, that (A) such eminent domain proceedings have not materially affected the operation of any of the Leased Property or the ability of the Lessee to meet any of its obligations pursuant to the Lease Agreement, and (B) that such proceeds are not needed for repair or rehabilitation of the Leased Property, the Trustee shall transfer such proceeds to the Lease Payment Fund to be credited towards the Prepayments required to be paid pursuant to Section 10.3 of the Lease Agreement and applied to the prepayment of Certificates in the manner provided in Article IV hereof.

(ii) If the Trustee determines, based upon a report of an independent engineer or other independent professional, that (A) such eminent domain proceedings have not materially affected the operation of any of the Leased Property or the ability of the Lessee to meet any of its obligations pursuant to the Lease Agreement, and (B) such proceeds are needed for repair, rehabilitation or replacement of the Leased Property, the Trustee shall pay to the Lessee, or to its order, from said proceeds such amounts as the Lessee may expend for such repair, rehabilitation or replacement, upon the filing of requisitions of the Lessee Representative, certificates of architects or engineers and other documents as the Trustee may at its discretion request.

(iii) If (A) less than all of the Leased Property shall have been taken in such eminent domain proceedings or sold to a government threatening the use of eminent domain powers, and if the Trustee determines, based upon a report of an independent engineer or other independent professional, that such eminent domain proceedings have materially affected the operation of any of the Leased Property, or (B) all of the Leased Property shall have been taken in such eminent domain proceedings, then the Trustee shall transfer such proceeds to the Lease Payment Fund to be credited toward the Prepayment required to be paid pursuant to Section 10.3 of the Lease Agreement and applied to the prepayment of Certificates in the manner provided in Article IV hereof.

The Lessee shall be required to obtain, at its own expense, and provide to the Trustee the report of an independent engineer or other independent professional consultant before the Trustee is required to make any determination pursuant to this Section 7.2. Any such determination by the Trustee shall be made within 45 days after the conclusion of such eminent domain proceeding and shall be final.

Section 7.3 Cooperation. The Trustee shall cooperate fully with the Lessee at the request and expense of the Lessee in filing any proof of loss with respect to any insurance policy maintained pursuant to Article V of the Lease Agreement and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Leased Property or any part thereof.

ARTICLE VIII

MONEYS IN FUNDS; INVESTMENT

Section 8.1 Held in Trust. Except as otherwise provided in Section 8.8 hereof, the moneys and investments held by the Trustee pursuant to this Trust Agreement are irrevocably held in trust for the benefit of the Owners of the Certificates, and for the purposes herein specified, and such moneys, and any income or interest earned thereon, shall be expended only as provided in this Trust Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of the Lessor, the Trustee or the Lessee or any Owner of Certificates.

Section 8.2 Investments Authorized. Permitted Investments acquired hereunder, if registrable, shall be registered in the name of the Trustee and shall be held by the Trustee. The Trustee may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section. Such investments and reinvestments shall be made giving full consideration to the time at which funds are required to be available. The Trustee may act as purchaser or agent in the making or disposing of any investment.

Section 8.3 Accounting. The Trustee shall quarterly, or at such other intervals as the Trustee and the Lessee shall from time to time agree upon (but in no event less frequently than semiannually or more frequently than monthly), prepare and furnish to the Lessee an accounting of all moneys received and all payments, expenditures and investments made by the Trustee hereunder since the last previous accounting. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Sections 8.2 and 8.6 hereof.

Section 8.4 Allocation of Earnings. Any loss on investments shall be charged to the respective funds from which such investments were made, and any interest, income or profit on any deposit of funds shall be deposited and transferred as provided in Sections 5.3, 5.5 and 8.8 hereof.

Section 8.5 Valuation and Disposition of Investments. For the purpose of determining the amount in any fund, all Permitted Investments credited to such fund shall be valued at fair market value. The Trustee shall determine the fair market value based on accepted industry standards and from accepted industry providers. The Trustee shall value certificates of deposit and bankers' acceptances at the face amount thereof plus accrued interest thereon. The value of any investment not specified above shall be established by prior agreement among the Lessee and the Trustee.

The Trustee may sell at the best price reasonably obtainable, or present for prepayment, any Permitted Investment so purchased by the Trustee whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited, and the Trustee shall not be liable or responsible for any loss resulting from such investment.

Section 8.6 Deposit and Investment of Moneys in Funds.

(a) Moneys in all funds held by the Trustee shall be invested by the Trustee, as soon as possible upon receipt of immediately available funds at its designated office, to the fullest amount possible in Permitted Investments as directed, in writing, by the Lessee; provided that the maturity date or the date on which such Permitted Investments may be prepaid at the option of the holder thereof shall coincide as nearly as practicable with (but in no event shall be later than) the date or dates on which moneys in the funds for which the investments were made will be required for the purposes thereof. In the absence of direction from the Lessee, the Trustee shall invest in investments permitted pursuant to paragraph (f) of the definition of Permitted Investments.

(b) Amounts credited to a fund may be invested, together with amounts credited to one or more other funds, in the same Permitted Investment, provided that (i) each such investment complies in all respects with the provisions of subsection (a) of this Section as they apply to each fund for which the joint investment is made, and (ii) the Trustee maintains separate records for each fund and such investments are accurately reflected therein.

(c) The Trustee may make any investment permitted by this Section, through or with its own commercial banking or investment departments unless otherwise directed by the Lessee.

(d) The Trustee shall sell at the best price reasonably obtainable, or present for prepayment, any Permitted Investment purchased by it as an investment whenever it shall be necessary in order to provide moneys to meet any payment or transfer from the fund for which such investment was made.

Section 8.7 Liability of Trustee for Investments. The Trustee shall not be liable for any loss resulting from the making of any investment made in accordance with the provisions hereof, except for its own negligence, willful misconduct or breach of trust.

Section 8.8 Tax Covenants.

(a) The Lessee shall not direct the Trustee to make any investment at a “yield” in excess of the maximum yield, if any, stated with respect to the source of moneys therefor in any arbitrage or other similar certificate executed and delivered pursuant to section 148 of the Code or any successor section of the Code, issued in connection with the execution and delivery of the Certificates sold on the basis of the interest thereon being excluded from gross income for federal income tax purposes, including the 2019 Certificates, except during any “temporary period” stated in any arbitrage or other certificate, and the Trustee shall make and keep appropriate records of such investments, yields and temporary periods as required by section 148 of the Code or any successor section thereof. Notwithstanding the foregoing, investments may be made at a higher “yield” or for a different “temporary period” or both in accordance with written instructions of Special Counsel filed with and addressed to the Trustee.

(b) The Trustee shall not knowingly use or direct or permit the use of any moneys in its possession or control in any manner which would cause any 2019 Certificate

to be an “arbitrage obligation” within the meaning ascribed to such term in section 148 of the Code, or any successor section of the Code.

ARTICLE IX

THE TRUSTEE

Section 9.1 Certain Duties and Responsibilities.

(a) Except during the continuance of an Event of Default:

(i) The Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement, the Lease Agreement and the Ground Lease (collectively referred to herein as the “*Agreements*”), and no implied covenants or obligations shall be read into the *Agreements* against the Trustee; and

(ii) In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of the *Agreements*; but in the case of any such certificates or opinions that are required by any provision hereof or thereof the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of the *Agreements*.

(b) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Trust Agreement and the other *Agreements*, including those described in (a) above, and use the same degree of care and skill in their exercise, as a prudent corporate indenture trustee would exercise or use under the circumstances.

(c) No provision of this Trust Agreement shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct or breach of trust, except that:

(i) This subsection shall not be construed to limit the effect of subsection (a) of this Section;

(ii) The Trustee shall not be liable for any error of judgment made in good faith and without negligence by a chairman or vice-chairman of the board of directors, the chairman or vice-chairman of the executive committee of the board of directors, the president, any vice president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, any cashier or assistant cashier, any trust officer or assistant trust officer, the controller and any assistant controller or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers or, with respect to a particular matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject;

(iii) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith and without negligence in accordance with the direction of the Owners of the Outstanding Certificates as provided herein relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, pursuant to this Trust Agreement or the other Agreements; and

(iv) Except for the obligation (A) to make payment of principal, interest, or premium, if any, evidenced by the Certificates to the Owners thereof pursuant to Section 5.4 hereof or (B) to notify the Owners of any Event of Default pursuant to Section 13.9 hereof, no provision of this Trust Agreement or the other Agreements shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability (including, without limitation, any and all environmental liability) in the performance of any of its duties hereunder or thereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity or other assurance against such risk or liability is not reasonably assured to it. Without limiting the generality of the foregoing, such other assurance may include, but shall not be limited to, environmental audits or other evidence satisfactory to the Trustee that it will not incur liability by reason of any remedial action taken pursuant hereto. The Trustee may, nevertheless, begin suit, or appear in and defend suit, or do anything else in its judgment properly to be done by it as the Trustee, without prior assurance of indemnity, and in such case shall be entitled to reimbursement by the Lessee for all reasonable costs, expenses, attorneys, and other fees, and all other reasonable disbursements, including its own fees, and for all liability and damages suffered by the Trustee in connection therewith except for the Trustee's negligence, willful misconduct or breach of trust.

(d) Whether or not therein expressly so provided, every provision of this Trust Agreement or the other Agreements relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

(e) The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay ("*unavoidable delay*") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other occurrences beyond the control of the Trustee; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

(f) The Trustee shall accept and act upon facsimile transmissions of written instructions and/or directions pursuant to this Trust Agreement provided, however, that: (a) subsequent to such facsimile transmission of written instructions and/or directions the Trustee shall forthwith receive the originally executed instructions and/or directions and (b) such originally executed instructions and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions.

Section 9.2 Certain Rights of Trustee. Except as otherwise provided in Section 9.1 hereof:

(a) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties.

(b) Any request or direction of the Lessee mentioned herein shall be sufficiently evidenced by a certificate of a Lessee Representative, and any action of the Mayor and Council of the Lessee may be sufficiently evidenced by a copy of a resolution certified by the City Clerk of the Lessee to have been duly adopted by the Mayor and Council of the Lessee and to be in full force and effect on the date of such certification and delivered to the Trustee.

(c) Whenever in the administration of this Trust Agreement the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a certificate of a Lessee Representative.

(d) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Trust Agreement at the request or direction of any of the Certificate Owners pursuant to this Trust Agreement, unless such Certificate Owners shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

(e) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit.

(f) The Trustee may engage agents and attorneys to assist it in executing any of the trusts or powers hereunder or performing any duties hereunder or pursuant to the other Agreements and shall not be liable for the negligence or misconduct of such agents and attorneys so long as the Trustee exercises due care in the selection thereof.

(g) The Trustee may consult with counsel and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder or pursuant to the other Agreements in good faith and in reliance thereon.

(h) The Trustee shall not be bound to ascertain or inquire as to the validity or genuineness of any collateral given or held by it. The Trustee shall not be responsible for the recording or filing of any document relating to the Agreements or of any supplemental instruments or documents of further assurance as may be required by law in order to perfect liens or security interests. The permissive right of the Trustee to do things enumerated in this Trust

Agreement shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful default.

Section 9.3 Employment of Experts. The Trustee is hereby authorized to employ as its agents such attorneys at law, certified public accountants and recognized authorities in their fields (who are not employees of the Trustee), as it reasonably may deem necessary to assist it to carry out any of its obligations hereunder or pursuant to the other Agreements, and shall be reimbursed by the Lessee for all reasonable expenses and charges in so doing.

Section 9.4 Enforcement of Performance by Others. It shall not be the duty of the Trustee, except as herein provided, to ascertain or inquire whether any duties and obligations herein or in the applicable Agreements imposed upon the Lessee are performed or whether the terms and conditions thereof are observed.

Section 9.5 Right to Deal in Certificates and Take Other Actions. The Trustee may in good faith buy, sell or hold and deal in any Certificates with like effect as if it were not such Trustee and may commence or join in any action that a Owner is entitled to take with like effect as if the Trustee were not the Trustee. It is understood and agreed that the Trustee engages in a general banking business and no provision hereof is to be construed to limit or restrict the right of the Trustee to engage in such business with the Lessee or any Owner. So engaging in such business shall not constitute a breach of trust on the part of the Trustee, but neither shall engaging in such business abrogate, alter or diminish any duty or obligation of the Trustee as Trustee hereunder.

Section 9.6 Removal and Resignation of the Trustee. The Trustee may resign at any time, or may be removed at any time by an instrument or instruments in writing signed by the Lessee or the Owners of not less than a majority in Aggregate Value of the Certificates. Written notice of such resignation or removal shall be given by the Trustee to the Lessee and such resignation or removal shall take effect only upon the appointment and qualification of a successor Trustee. In the event a successor Trustee has not been appointed and qualified within 60 days of the date notice of resignation is given, the Trustee or the Lessee may apply to any court of competent jurisdiction for the appointment of a successor Trustee to act until such time as a successor is appointed as provided in this Section.

In the event of the resignation or removal of the Trustee or in the event the Trustee is dissolved or otherwise becomes incapable to act as the Trustee, the Lessee shall be entitled to appoint a successor Trustee, unless an Event of Default has occurred and is continuing.

Unless otherwise ordered by a court or regulatory body having competent jurisdiction, or unless required by law, any successor Trustee shall (i) be a trust company or bank in good standing in the State, (ii) be duly authorized to exercise trust powers in the State and subject to examination by a Federal or state authority, and (iii) maintain a reported capital and surplus of not less than \$75,000,000.

Every successor Trustee howsoever appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Lessee an instrument in writing, accepting such appointment hereunder, and thereupon such successor Trustee, without further action, shall become fully vested with all the rights, immunities, powers, trusts, duties and obligations of its predecessor, and such predecessor shall execute and deliver an instrument transferring to such successor Trustee all the rights, power and trusts of such predecessor. The predecessor Trustee shall execute any and all documents necessary or appropriate to convey all interest it may have to the successor Trustee. The predecessor Trustee shall promptly deliver all records relating to the trust or copies thereof and communicate all material information it may have obtained concerning the trust to the successor Trustee.

Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible as a successor Trustee pursuant to this Section 9.6 in the case of the Trustee, shall be the successor to such Trustee, without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

Section 9.7 Proof of Claim. The Trustee shall have the right and power to take actions in the name and place of the Lessee or Owners to make proof of claim in any proceeding, bankruptcy, reorganization or otherwise where proof of claim may be required. Any amount recovered as a result of any such claim, after payment of all fees (including reasonable attorneys' fees), costs, expenses and advances incurred by the Trustee or its agents in pursuing such claim, shall be for the equal benefit of all of the Owners.

Section 9.8 Trustee's Fees and Expenses. The Lessee shall (i) pay as Additional Rent to the Trustee reasonable compensation for all services rendered by it hereunder and pursuant to the other Agreements (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust), (ii) reimburse as Additional Rent the Trustee upon request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Trust Agreement and the other Agreements (including the reasonable compensation and the expenses and disbursements of its counsel and its agents), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith or willful misconduct or breach of trust, and (iii) to the extent permitted by applicable law, indemnify and hold the Trustee harmless for, from and against any loss, liability or expense, arising out of or in connection with the acceptance or administration of this trust or its duties hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder; provided, however, that such indemnification shall not extend to claims successfully brought against the Trustee for, or losses, liabilities or expenses incurred as a result of, the Trustee's negligence, bad faith, willful misconduct or breach of trust. The Trustee's rights to compensation, reimbursement and indemnity while serving as Trustee hereunder and in its respective capacity pursuant to the other Agreements shall survive resignation or removal of the Trustee or discharge of the Trust Agreement and the other Agreements.

Any provision hereof to the contrary notwithstanding, if the Lessee fails to make any payment properly due the Trustee for its reasonable fees, costs, expenses and fees of attorneys, certified public accountants, recognized authorities in their field and agents (not employees of the Trustee) incurred in performance of its duties or for which the Trustee is entitled to indemnity, the Trustee may reimburse itself from any surplus moneys on hand in any fund created pursuant hereto, provided that application of funds upon an Event of Default shall be governed by Section 13.3 hereof.

Section 9.9 Intervention by Trustee. The Trustee may, and shall intervene, if requested by an instrument or instruments in writing signed by the Owners of not less than a majority in Aggregate Value of the Certificates, in any judicial proceeding to which the Lessee is a party and that in the opinion of the Trustee and its counsel has a substantial bearing on the interest of Owners of the Certificates. The rights and obligations of the Trustee pursuant to this Section are subject to the approval of that intervention by a court of competent jurisdiction. The Trustee may require that a satisfactory indemnity bond be provided to it in accordance with Section 9.1 hereof before it takes action hereunder.

Section 9.10 Destruction of Certificates. Upon payment of or surrender to the Trustee for cancellation of any Certificate, the Trustee shall destroy such Certificate.

Section 9.11 Separate or Co-Trustee. At any time or times, solely for the purpose of meeting the legal requirements of any jurisdiction, the Lessee and the Trustee shall have power to appoint, and, upon the request of the Trustee or the Owners of at least a majority in Aggregate Value of Certificates then Outstanding, the Lessee shall for such purpose join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more persons, approved by the Trustee and, unless an Event of Default has occurred and is continuing by the Lessee, either to act as co-trustee or co-trustees, jointly with the Trustee of all or any part of the pledged property, or to act as separate trustee or separate trustees of all or any part of the pledged property, and to vest in such person or persons, in such capacity, such title to the pledged property or any part thereof, and such rights, powers, duties, trusts or obligations as the Lessee and the Trustee may consider necessary or desirable, subject to the remaining provisions of this Section.

If the Lessee shall not have joined in such appointment within 15 days after the receipt by it of a request so to do, or in case an Event of Default shall have occurred and be continuing, the Trustee alone shall have power to make such appointment.

The Lessee shall execute, acknowledge and deliver all such instruments as may reasonably be required by any such co-trustee or separate trustee for more fully and certainly vesting in such co-trustee or separate trustee the property, rights, powers and duties intended to be vested in such co-trustee or separate trustee. The Lessee shall be under no obligation to prepare any such instruments.

Every co-trustee or separate trustee shall, to the extent permitted by law but to such extent only, be appointed subject to the following terms, namely:

(i) The Certificates shall be authenticated and delivered, and all rights, powers, trusts, duties and obligations hereby conferred upon the Trustee in respect to the custody, control and management of moneys, papers, securities and other personal property shall be exercised solely by the Trustee.

(ii) All rights, powers, trusts, duties and obligations conferred or imposed upon the trustees shall be conferred or imposed upon and exercised or performed by the Trustee, or by the Trustee and such co-trustee or co-trustees or separate trustee or separate trustees jointly, as shall be provided in the instrument appointing such co-trustee or co-trustees or separate trustee or separate trustees, except to the extent that, pursuant to the law of any jurisdiction in which any particular act or acts are to be performed, the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such act or acts shall be performed by such co-trustee or co-trustees or separate trustee or separate trustees.

(iii) Any request in writing by the Trustee to any co-trustee or separate trustee to take or to refrain from taking any action hereunder shall be sufficient warrant for the taking, or the refraining from taking, of such action by such co-trustee or separate trustee and such co-trustee or separate trustee shall abide by such request.

(iv) Any co-trustee or separate trustee may, to the extent permitted by law, delegate to the Trustee the exercise of any right, power, trust, duty or obligation, discretionary or otherwise.

(v) The Trustee may at any time, by any instrument in writing, with the concurrence of the Lessee, accept the resignation of or remove any co-trustee or separate trustee appointed pursuant to this Section, and, in case an Event of Default shall have occurred and be continuing, the Trustee shall have power to accept the resignation of, or remove, any such co-trustee or separate trustee without the concurrence of the Lessee. Upon the request of the Trustee, the Lessee shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. The Lessee shall be under no obligation to prepare, record or file any such instruments or agreements.

(vi) No trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder, nor will the act or omission of any trustee hereunder be imputed to any other trustee.

(vii) Any demand, request, direction, appointment, removal, notice, consent, waiver or other action in writing delivered to the Trustee shall be deemed to have been delivered to each such co-trustee or separate trustee.

(viii) Any moneys, papers, securities or other items of personal property received by any such co-trustee or separate trustee hereunder shall forthwith, so far as may be permitted by law, be turned over to the Trustee.

Upon the acceptance in writing of such appointment by any such co-trustee or separate trustee, it shall be vested jointly with the Trustee (except insofar as local law makes it necessary for any such co-trustee or separate trustee to act alone) with such title to the pledged property or any part thereof, and with such rights, powers, duties or obligations, as shall be specified in the instrument of appointment subject to all the terms hereof. Every such acceptance shall be filed with the Trustee. To the extent permitted by law, any co-trustee or separate trustee may, at any time by an instrument in writing, constitute the Trustee, its or his attorney-in-fact and agent, with full power and authority to do all acts and things and to exercise all discretion on its or his behalf and in its or his name.

In case any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, the title to the pledged property, and all rights, powers, trusts, duties and obligations of said co-trustee or separate trustee shall, so far as permitted by law, vest in and be exercised by the Trustee unless and until a successor co-trustee or separate trustee shall be appointed in the manner herein provided.

Section 9.12 Recitals and Representations. The recitals, statements and representations contained herein, in the Lease Agreement, the Ground Lease or in any certificate (excluding the Trustee's execution of the Certificates or any recitals or representations concerning the Trustee or its powers) shall not be taken or construed as made by the Trustee, and the Trustee neither assumes nor shall be under any responsibility for the correctness of the same.

The Trustee makes no representation as to, and is not responsible for, the validity or sufficiency hereof, of the Certificates, or the validity or sufficiency of insurance to be provided or, except as herein required, the filing or recording or registering of any document. The Trustee shall be deemed not to have made representations as to the security afforded hereby or hereunder or as to the validity or sufficiency of such security. The Trustee shall not be concerned with or accountable to anyone for the use or application of any moneys that shall be released or withdrawn in accordance with the provisions hereof. The Trustee shall have no duty of inquiry with respect to any default or Events of Default described herein without actual knowledge of or receipt by the Trustee of written notice of a default or an Event of Default from the Lessee or any Owner. As used herein, "*actual knowledge*" means the actual fact or state of knowing without any duty to make investigations with regard thereto.

The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed in connection with the execution and delivery of the Certificates.

ARTICLE X

MODIFICATION OR AMENDMENT OF AGREEMENTS

Section 10.1 Amendments Permitted. This Trust Agreement, the rights and obligations of the Owners of the Certificates, the Lease Agreement and the Ground Lease, and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental agreement that shall become effective when the Owners of a majority in Aggregate

Value of the Certificates, exclusive of Certificates disqualified as provided in Section 10.3 hereof, shall have been filed with the Trustee; provided, however, that no such modification or amendment shall (i) extend or have the effect of extending the scheduled principal payment date of any Certificate or reducing the interest rate with respect thereto or extending the time of payment of interest, reducing the amount of principal evidenced thereby or reducing any premium payable upon the prepayment thereof, without the express consent of the Owner of such Certificate, (ii) reduce or have the effect of reducing the percentage of Certificates required for the affirmative vote or written consent to an amendment or modification of the Lease Agreement or this Trust Agreement, or (iii) modify any of the rights or obligations of the Trustee without its written assent thereto without its written assent thereto. Any such supplemental agreement shall become effective as provided in Section 10.2 hereof.

This Trust Agreement, the rights and obligations of the Owners of the Certificates, the Lease Agreement and the Ground Lease, and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental agreement, without the consent of any Owners of the Certificates, but only to the extent permitted by law and only (w) to add to the covenants and agreements of any party other covenants to be observed or to surrender any right or power herein reserved to the Lessor or the Lessee, (x) to cure, correct or supplement any ambiguous or defective provision contained herein or therein, (y) in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable and that shall not, in the judgment of the Trustee, materially adversely affect the interests of the Owners of the Certificates, or (z) to provide additional terms and conditions in connection with the execution and delivery of Additional Certificates in accordance with Section 2.11 hereof and that shall not, in the judgment of the Trustee, materially adversely affect the interests of the Owners of the Certificates. Any such supplemental agreement shall become effective upon execution and delivery by the parties hereto or thereto as the case may be.

Section 10.2 Procedure for Amendment with Written Consent of Certificate Owners. This Trust Agreement, the Lease Agreement and the Ground Lease may be amended by supplemental agreement as provided in this Section 10.2 in the event the consent of the Owners of the Certificates is required pursuant to Section 10.1 hereof. A copy of such supplemental agreement, together with a request to the Certificate Owners for their consent thereto, shall be mailed by first class United States mail postage prepaid by the Trustee to each Owner of a Certificate at his address as set forth on the Certificate Register maintained pursuant to Section 2.7(b) hereof, but failure to mail copies of such supplemental agreement and request shall not affect the validity of the supplemental agreement when assented to as in this Section provided.

Such supplemental agreement shall not become effective unless there shall be filed with the Trustee the written consents of the Owners of a majority in Aggregate Value of the Certificates (exclusive of Certificates disqualified as provided in Section 10.3 hereof) and a notice shall have been mailed as hereinafter in this Section provided. The consent of an Owner of a Certificate shall be effective only if ownership of the Certificates for which such consent is given is proved in accordance with Section 2.10 hereof. Any such consent shall be binding upon the Owner of the Certificate giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the

Owner giving such consent or a subsequent Owner by filing such revocation with the Trustee before the date when the notice hereinafter in this Section provided for has been mailed.

After the Owners of the required percentage of Aggregate Value of Certificates shall have filed their consents to such supplemental agreement, the Trustee shall mail a notice to the Owners of the Certificates in the manner hereinbefore provided in this Section for the mailing of such supplemental agreement of the notice of adoption thereof, stating in substance that such supplemental agreement has been consented to by the Owners of the required percentage of Aggregate Value of Certificates and will be effective as provided in this Section (but failure to mail copies of said notice shall not affect the validity of such supplemental agreement or consents thereto). A record, consisting of the papers required by this Section to be filed with the Trustee, shall be conclusive proof of the matters therein stated. Such supplemental agreement shall become effective upon the mailing of such last-mentioned notice, and such supplemental agreement shall be deemed conclusively binding upon the parties hereto and the Owners of all Certificates at the expiration of 60 days after the filing of the papers required by this Section, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such 60-day period.

Section 10.3 Disqualified Certificates. Neither Certificates owned or held by or for the account of the Lessee or by any person directly or indirectly controlled by, or under direct or indirect common control with, the Lessee (except any Certificates held in any pension or retirement fund) shall be deemed Outstanding for the purpose of any vote, consent, waiver or other action or any calculation of Outstanding Certificates provided for in this Trust Agreement and shall not be entitled to vote upon, consent to or take any other action provided for in this Trust Agreement; provided that only Certificates which the Trustee knows to be so owned shall be disregarded unless all Certificates are owned by the Lessee or any affiliate thereof and/or held by the Trustee for the account of the Lessee and/or an affiliate thereof, in which case such Certificates shall be considered Outstanding for the purpose of such determination.

Section 10.4 Effect of Supplemental Agreement. From and after the time any supplemental agreement becomes effective pursuant to this Article X, this Trust Agreement, the Lease Agreement or the Ground Lease, as the case may be, shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners of Certificates Outstanding, as the case may be, shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modification and amendment, and all the terms and conditions of any supplemental agreement shall be deemed to be part of the terms and conditions of this Trust Agreement, the Lease Agreement or the Ground Lease, as the case may be, for any and all purposes.

The Trustee may require each Certificate Owner, before his consent provided for in this Article X shall be deemed effective, to certify that the Certificates as to which such consent is given are not disqualified as provided in Section 10.3 hereof.

Section 10.5 Endorsement or Replacement of Certificates Delivered After Amendments. The Trustee may determine that Certificates delivered after the effective date of any action taken as provided in this Article X shall bear a notation, by endorsement or otherwise,

in form approved by the Trustee, as to such action. No such notation shall be made by the Trustee unless the Trustee shall have received an opinion of Special Counsel to the effect that such modification of the Certificate form will not adversely affect the exclusion from gross income for federal income tax purposes of the interest component of Lease Payments paid with respect to the 2019 Certificates and any Additional Certificates sold on the basis of the interest thereon being excluded from gross income for federal income tax purposes. In that case, upon demand of the Owner of any Certificate Outstanding at such effective date and presentation of his Certificate for such purpose at the designated corporate trust office of the Trustee, a suitable notation shall be made on such Certificate. The Trustee may determine that the delivery of substitute Certificates, so modified as in the opinion of the Trustee is necessary to conform to such Certificate Owners' action, is necessary and such substitute Certificates shall thereupon be prepared, executed and delivered. In that case, upon demand of the Owner of any Certificate then Outstanding, such substitute Certificate shall be exchanged at the designated corporate trust office of the Trustee, without cost to such Owner, for a Certificate of the same character then Outstanding, upon surrender of such Outstanding Certificate.

Section 10.6 Amendatory Endorsement of Certificates. The provisions of this Article X shall not prevent any Certificate Owner from accepting any amendment as to the particular Certificates held by him, provided that proper notation thereof is made on such Certificates.

ARTICLE XI

COVENANTS

Section 11.1 Compliance With and Enforcement of Lease Agreement. The Lessee covenants and agrees with the Owners of the Certificates to perform all obligations and duties imposed on it pursuant to the Lease Agreement. The Trustee, as lessor pursuant to the Lease Agreement, covenants and agrees with the Owners of the Certificates to perform all obligations and duties imposed on it pursuant to the Lease Agreement.

Subject to Section 4.2(b) of the Lease Agreement, the Lessee shall not do or permit anything to be done, or omit or refrain from doing anything, in any case where any such act done or permitted to be done, or any such omission of or refraining from action, would or might be a ground for cancellation or termination of the Lease Agreement by the Lessor thereunder. The Lessee, immediately upon receiving or giving any notice, communication or other document in any way relating to or affecting its estate in the Leased Property, which may or can in any manner affect such estate of the Lessee, will deliver the same, or a copy thereof, to the Trustee.

Section 11.2 Observance of Laws and Regulations. The Lessee shall well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract or prescribed by any law of the United States, of the State or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the Lessee, including its right to exist as a body corporate pursuant to the laws of the State, to the

end that such rights, privileges and franchises shall be maintained and preserved and shall not become abandoned, forfeited or in any manner impaired.

Section 11.3 Prosecution and Defense of Suits. The Lessee shall promptly, upon request of the Trustee or any Certificate Owner, from time to time take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Leased Property, whether now existing or hereafter developing and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and, to the extent permitted by law, shall indemnify and save the Trustee and every Certificate Owner harmless for, from and against all loss, cost, damage and expense, including attorneys' fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceeding.

Section 11.4 Recordation and Filing. Except as provided in Section 14.11, the Lessee shall record and file the Lease Agreement, and all such documents as may be required by law (and shall take all further actions that may be necessary or be reasonably required by the Trustee), all in such manner, at such times and in such places as may be required by law in order fully to preserve, protect and perfect the security of the Trustee and the Certificate Owners.

Section 11.5 Further Assurances. The Trustee and the Lessee will make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Trust Agreement and the Lease Agreement, and for the better assuring and confirming unto the Owners of the Certificates the rights and benefits provided herein.

Section 11.6 Action Upon Termination of Lease. In the event the Lease Agreement is terminated pursuant to Section 4.2(b) thereof, the Trustee shall take possession of the Leased Property on the day following the 45-day reinstatement period provided in Section 4.2(c) of the Lease Agreement or seek a judicial order excluding, or take other action preventing, the Lessee from using the Leased Property and use its best efforts to re-let or sell the same. This covenant shall be enforceable by the Owners (subject to the requirements set forth in Section 13.8 hereof).

ARTICLE XII

LIMITATION OF LIABILITY

Section 12.1 Limited Liability of Lessee. Except for the payment of Lease Payments and Prepayments when due in accordance with the Lease Agreement, the payment of Additional Rent and the performance of the other covenants and agreements of the Lessee contained in said Lease Agreement, including the payment of fees and expenses and indemnities of the Trustee, the Lessee shall have no pecuniary obligation or liability to any of the other parties or to the Owners of the Certificates with respect to this Trust Agreement or the terms, execution, delivery or transfer of the Certificates, or the distribution of Lease Payments to the Owners by the Trustee.

Section 12.2 No Liability of the Lessee for Trustee Performance. The Lessee shall not have any obligation or liability to any of the Trustee or to the Owners of the Certificates with respect to the performance by the Trustee of any duty imposed upon it pursuant to this Trust Agreement.

Section 12.3 Indemnification. To the extent permitted by law, the Lessee agrees to indemnify and save the Trustee harmless for, from and against (i) all claims, suits and actions brought against it, or to which it is made a party, and from all losses and damages and expenses, including attorneys fees, suffered or incurred by it as a result thereof, where and to the extent such claim, suit or action arises out of the actions of any other party to this Trust Agreement including but not limited to the ownership, operation or use of the Leased Property by the Lessee, and (ii) any taxes required to be paid by the Trustee as a result of the receipt of any amounts pursuant to the Lease Agreement. Such indemnification shall not extend to claims, suits and actions successfully brought against the Trustee for failure to perform and carry out the duties specifically imposed upon and to be performed by it pursuant to this Trust Agreement or for claims, suits and actions successfully brought for willful misconduct, negligence, or breach of duty pursuant to this Trust Agreement by the Trustee or its respective officers, agents, employees, successors or assigns. In the event the Lessee is required to indemnify the Trustee as herein provided, the Lessee shall be subrogated to the rights of the Trustee to recover such losses or damages from any other person or entity.

Section 12.4 Opinion of Counsel. Before being required to take any action, the Trustee may require an opinion of Independent Counsel acceptable to the Trustee, which opinion shall be made available to the other parties hereto upon request, which counsel may be counsel to any of the parties hereto, or a certificate of any party hereto, or both, concerning the proposed action. If it does so in good faith, Trustee shall be absolutely protected in relying thereon so long as the Trustee exercises due care in the selection of such counsel.

Section 12.5 Limitation of Rights to Parties and Certificate Owners. Nothing in this Trust Agreement or in the Certificates expressed or implied is intended or shall be construed to give any person other than the Lessee, the Trustee and the Owners of the Certificates, any legal or equitable right, remedy or claim pursuant to or in respect of this Trust Agreement or any covenant, condition or provision hereof; and all such covenants, conditions and provisions are and shall be for the sole and exclusive benefit of the Lessee, the Trustee and said Owners.

Section 12.6 No Liability of the Trustee for Payment of Lease Payments by Lessee. Except as expressly provided herein, the Trustee shall have no obligation or liability to the Owners of the Certificates with respect to the payment of the Lease Payments by the Lessee when due, or with respect to the performance by the Lessee of any other covenant made by it in the Lease Agreement or the Ground Lease.

ARTICLE XIII

EVENTS OF DEFAULT AND REMEDIES OF CERTIFICATE OWNERS

Section 13.1 Rights Pursuant to the Lease. The Trustee has the right to exercise such rights and remedies conferred on the Lessor pursuant to the Lease Agreement as may be necessary or convenient (i) to enforce payment of the Lease Payments, Additional Rent, Prepayments and any other amounts required to be deposited in the Lease Payment Fund or the Insurance and Condemnation Fund, and (ii) otherwise to exercise the Lessor's rights and take any action to protect the interests of the Trustee or the Certificate Owners in an Event of Default.

Section 13.2 Remedies. If an Event of Default or termination pursuant to Section 4.2(b) of the Lease Agreement, shall happen, then and in each and every such case during the continuance of such Event of Default or termination pursuant to Section 4.2(b) of the Lease Agreement, the Trustee (i) shall take action to exclude the Lessee from the Leased Property, and (ii)(A) may, and (B) upon request of the Owners of not less than a majority in Aggregate Value of the Certificates, shall, exercise any and all other remedies available pursuant to law or granted pursuant to the Lease Agreement including the option to re-rent or re-lease all or any portion of the Leased Property pursuant to Article IX thereof.

Section 13.3 Application of Funds. Upon an Event of Default, all moneys received by the Trustee pursuant to any right given or action taken pursuant to the provisions of this Article XIII or Article IX of the Lease Agreement shall be applied by the Trustee in the order following upon presentation of the Certificates, and the stamping thereon of the payment if only partially paid, or upon the surrender thereof if fully paid:

First, to the payment of the ordinary and extraordinary fees and the costs and expenses of the Trustee in declaring and pursuing remedies in connection with such Event of Default, including reasonable compensation to its or their agents, attorneys and counsel and the creation of a reasonable reserve for anticipated fees, costs and expenses, and

Second, to the payment of the whole amount then owing and unpaid with respect to the Certificates, for principal and interest with interest on the overdue principal, and, to the extent lawful, installments of interest at the rate of ten percent per annum (but such interest on overdue installments of interest shall be paid only to the extent funds are available therefor following payment of principal and interest, and interest on overdue principal, as aforesaid), and in case such moneys shall be insufficient to pay in full the whole amount so owing and unpaid with respect to the Certificates, then to the payment of such principal and interest without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and interest.

Section 13.4 Institution of Legal Proceedings. If one or more Events of Default shall happen and be continuing, the Trustee in its discretion may, and upon the written request of the Owners of a majority in Aggregate Value of the Certificates shall, proceed to protect or enforce its rights or the rights of the Owners of Certificates by a suit in equity or action

at law, either for the specific performance of any covenant or agreement contained herein, the foreclosure of any lien granted herein, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee shall deem most effectual in support of any of its rights or duties hereunder.

Section 13.5 Non-waiver. Nothing in this Article XIII or in any other provision of this Trust Agreement or in the Certificates, shall affect or impair the obligation of the Lessee, which is absolute and unconditional, to pay or prepay the Lease Payments and Additional Rent as provided in the Lease Agreement, or affect or impair the right of action, which is also absolute and unconditional, of the Certificate Owners to institute suit to enforce and collect such payment. No delay or omission of the Trustee or any Owner of any of the Certificates to exercise any right or power arising upon the happening of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein, and every power and remedy given by this Article XIII to the Trustee or the Owners of Certificates may be exercised from time to time and as often as shall be deemed expedient by the Trustee or the Certificate Owners.

Section 13.6 Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee or to the Certificate Owners is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise.

Section 13.7 Power of Trustee to Control Proceedings. In the event that the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of a majority in Aggregate Value of the Certificates, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Certificates, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, without the consent of the Owners of a majority in Aggregate Value of the Certificates.

Section 13.8 Limitation on Certificate Owners' Right to Sue. No Owner of any Certificate executed and delivered hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy pursuant to or upon this Trust Agreement, unless (i) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default hereunder, (ii) the Owners of at least a majority in Aggregate Value of all the Certificates shall have made written request upon the Trustee to exercise the powers herein granted or to institute such action, suit or proceeding in its own name, (iii) said Owners shall have tendered to the Trustee reasonable indemnity against the costs, expenses, and liabilities to be incurred in compliance with such request and (iv) the Trustee shall have refused or omitted to comply with such request for a period of 60 days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

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

The right of any Owner of any Certificate to receive payment of said Owner's proportionate interest in the Lease Payments as the same become due or to institute suit for the enforcement of such payment, shall not be impaired or affected without the consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Trust Agreement.

Section 13.9 Notice of Default.

(a) Within 30 days after receipt, in writing or otherwise, by the Trustee of actual knowledge or notice of an Event of Default, the Trustee shall give written notice thereof by first-class mail to each Owner of a Certificate then Outstanding, unless such Event of Default shall have theretofore been cured; provided that, except in the case of a default in the payment of principal or interest evidenced by or the prepayment price of any of the Certificates, the Trustee may withhold such notice if, in its sole judgment, it determines that the withholding of such notice is in the best interests of the Owners.

(b) The Trustee shall immediately notify the Lessee upon receipt by the Trustee of actual knowledge or notice, in writing or otherwise, of an Event of Default.

ARTICLE XIV

MISCELLANEOUS

Section 14.1 Defeasance. If and when any Outstanding Certificates shall be paid and discharged in any one or more of the following ways:

- (a) By well and truly paying or causing to be paid the principal and interest and prepayment premiums (if any) evidenced by such Certificates Outstanding, as and when the same become due and payable and all Additional Rent;
- (b) By making an irrevocable deposit with the Trustee, in trust, at or before a scheduled payment date, of money that, together with the amounts then on deposit in the Lease Payment Fund is fully sufficient to pay such Certificates Outstanding, including all principal and interest and premium, if any, evidenced thereby and all Additional Rent;

- (c) By making an irrevocable deposit with the Trustee, in trust, of Defeasance Obligations, together with money, if required, in such amount as will, in the opinion of an independent certified public accountant acceptable to the Trustee, together with the interest to accrue thereon, but without reinvestment thereof, and amounts then on deposit in the Lease Payment Fund together with the interest to accrue thereon, be fully sufficient to pay and discharge such Certificates (including all principal and interest) at their respective specified principal payment dates and pay all unpaid Additional Rent; or
- (d) By making an irrevocable deposit with the Trustee, pursuant to an escrow deposit and trust agreement, of security for the payment of Lease Payments and Additional Rent as more particularly described in Section 10.1 of the Lease Agreement, said security to be held by the Trustee as agent for the Lessee to be applied by the Trustee to pay the Lease Payments and Additional Rent as the same become due and payable, pursuant to Section 10.1 of the Lease Agreement;

notwithstanding that any Certificates shall not have been surrendered for payment, all obligations of the Lessor, the Trustee and the Lessee with respect to such Outstanding Certificates shall cease and terminate, except only the obligation of the Trustee to pay or cause to be paid, from Lease Payments paid by or on behalf of the Lessee from funds deposited pursuant to paragraphs (b) through (d) of this Section, to the Owners of the Certificates not so surrendered and paid all sums due with respect thereto, and in the event of deposits pursuant to paragraphs (b) through (d) of this Section, the Certificates shall continue to evidence direct and proportionate interests of the Owners thereof in Lease Payments pursuant to the Lease Agreement.

Any funds held by the Trustee, at the time of one of the events described in paragraphs (a) through (d) of this Section, that are not required for the payment to be made to Owners, shall first be applied to the payment of Additional Rent and, thereafter, be paid over to the Lessee, subject to Section 9.8 hereof.

Any Certificate or portion thereof in Authorized Denominations may be paid and discharged as provided in this Section; provided, however, that if any such Certificate or portion thereof is to be prepaid, notice of such prepayment shall have been given in accordance with the provisions hereof or the Lessee shall have submitted to the Trustee instructions expressed to be irrevocable as to the date upon which such Certificate or portion thereof is to be prepaid and as to the giving of notice of such prepayment; provided further, that if any such Certificate or portion thereof will not be paid or prepaid as to principal within 60 days of the deposit referred to in paragraphs (b) through (d) of this Section, the Trustee shall give notice of such deposit by first class mail to the Owners.

If the Lessee prepays the Lease Payments and Additional Rent in full pursuant to Article X of the Lease Agreement, makes the advance deposit required by Section 10.1 of the Lease Agreement or pays all Lease Payments and Additional Rent during the term of the Lease Agreement as the same become due and payable, all right, title and interest of the Trustee and the Lessor in and to each element of the Leased Property shall be transferred to and vested in the

Lessee. Title shall be vested in the Lessee hereunder without the necessity for any further instrument of transfer; but the Trustee and the Lessor agree to take any and all steps and execute and record any and all documents reasonably required by the Lessee to consummate such vesting of title.

Section 14.2 Records. The Trustee shall keep complete and accurate records of all moneys received and disbursed pursuant to this Trust Agreement, which shall be available for inspection by the Lessee and any Owner, or the agent of any of them, at any time during regular business hours of the designated corporate trust office of the Trustee.

Current and prospective Owners and Beneficial Owners of the Certificates may examine the documents provided by the Lessee pursuant to Section 11.1 of the Lease Agreement at the designated corporate trust office of the Trustee and, at their expense, may obtain copies thereof upon request to the Trustee. The Trustee has no duty to review and evaluate the contents of such documents, to notify the Certificate Owners of the contents thereof or, except as set forth above, to send such documents to current or prospective Owners or Beneficial Owners of the Certificates.

Section 14.3 Notices. All written notices to be given pursuant to this Trust Agreement shall be given by mail, personal delivery or confirmed facsimile to the party entitled thereto at its address and/or facsimile set forth below, or at such address and/or facsimile as the party may provide to the other party in writing from time to time. Notice shall be effective upon deposit in the United States mail, postage prepaid or, in the case of personal delivery, upon delivery to the address set forth below or, in the care of facsimile notice, upon receipt at the facsimile number set forth below, except that notice to the Trustee shall be effective only upon receipt by an officer of the Trustee responsible for the administration of the trusts created pursuant to this Trust Agreement:

If to the Lessee:

City of Flagstaff, Arizona
211 West Aspen Avenue
Flagstaff, Arizona 86001-5399
Attention: Management Services Director

If to the Lessor or the Trustee:

Zions Bancorporation, National Association
6001 North 24th Street
Phoenix, Arizona 85016
Attention: Corporate Trust Services

Section 14.4 Governing Law. This Trust Agreement shall be construed and governed in accordance with the laws of the State. Venue for any proceeding with respect to this Trust Agreement shall be in the Coconino County Superior Court.

Section 14.5 Binding Effect; Successors. This Trust Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Whenever in this Trust Agreement either the Lessor, the Lessee or the Trustee is named or referred to, such reference shall be deemed to include successors or assigns thereof, and all the covenants and agreements in this Trust Agreement contained by or on behalf of the Lessor, the Lessee or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 14.6 Execution in Counterparts. This Trust Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

Section 14.7 Destruction of Canceled Certificates. Whenever in this Trust Agreement provision is made for the surrender to or cancellation by the Trustee and the delivery to the Lessee of any Certificates, the Trustee may, upon the request of the Lessee Representative, in lieu of such cancellation and delivery, destroy such Certificates and deliver a certificate of such destruction to the Lessee.

Section 14.8 Headings. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Trust Agreement. All references herein to “*Articles*,” “*Sections*,” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Trust Agreement, and the words “*herein*,” “*hereof*,” “*hereunder*” and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section or subdivision hereof.

Section 14.9 Waiver of Notice. Whenever in this Trust Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 14.10 Separability of Invalid Provisions. In case any one or more of the provisions contained in this Trust Agreement or in the Certificates shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Trust Agreement, and this Trust Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The parties hereto hereby declare that they would have entered into this Trust Agreement and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the delivery of the Certificates pursuant thereto irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases of this Trust Agreement may be held illegal, invalid or unenforceable.

Section 14.11 Filing; Bills of Sale. The Trustee shall hold all bills of sale, and transfer same, as required by the provisions of this Trust Agreement.

Section 14.12 Incorporation of State Statutes.

(a) As required by the provisions of Section 38-511, Arizona Revised Statutes, as amended, notice is hereby given that the Lessee may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the Lessee if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Lessee is, at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. The cancellation shall be effective when written notice is received by all other parties to the contract unless the notice specifies a later time. The Trustee covenants not to employ as an employee, an agent or, with respect to the subject matter of this Trust Agreement, a consultant, any person significantly involved in initiating, negotiating, securing, drafting or creating this Trust Agreement on behalf of the Lessee within three years from the execution of this Trust Agreement, unless a waiver of Section 38-511, Arizona Revised Statutes, as amended, is provided by the Lessee. No basis exists for the Lessee to cancel this Trust Agreement pursuant to Section 38-511, Arizona Revised Statutes, as amended, as of the date hereof.

(b) To the extent applicable under Section 41-4401, Arizona Revised Statutes, as amended, the Trustee shall comply with all federal immigration laws and regulations that relate to its employees and its compliance with the “e-verify” requirements under Section 23-214(A), Arizona Revised Statutes, as amended. The breach by the Trustee of the foregoing shall be deemed a material breach of this Trust Agreement and may result in the termination of the services of the Trustee. The Lessee retains the legal right to randomly inspect the papers and records of the Trustee to ensure that the Trustee is complying with the above-mentioned warranty. The Trustee shall keep such papers and records open for random inspection during normal business hours by the Trustee. The Trustee shall cooperate with the random inspections by the Lessee including granting the Lessee entry rights onto its property to perform such random inspections and waiving its respective rights to keep such papers and records confidential.

(c) Pursuant to Section 35-393 et seq., Arizona Revised Statutes, the Trustee hereby certifies it is not currently engaged in, and for the duration of this Agreement shall not engage in, a boycott of Israel. The term “boycott” has the meaning set forth in Section 35-393, Arizona Revised Statutes. If the Lessee determines that the Trustee’s certification above is false or that it has breached such agreement, the Lessee may impose remedies as provided by law.

Section 14.13 Exchange of Leased Property; Release and Conveyance. If the Lessee exercises its rights to exchange or release Leased Property pursuant to Section 8.3 of the Lease Agreement, the Trustee shall, upon advice of counsel that all conditions contained in said Section 8.3 have been complied with and are satisfied, release the lien of the Trust Agreement from any Leased Property being conveyed to the Lessee in connection with such exchange or release, and shall accept the substitute Leased Property or moneys coming under the lien of the Trust Agreement. The Trustee shall take any and all steps and execute any and all documents reasonably required by the Lessee to consummate the transfer of title in connection with such exchange or release.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Trust Agreement as of the date and year first above written.

ZIONS BANCORPORATION, NATIONAL ASSOCIATION as trustee

By.....
Authorized Representative

CITY OF FLAGSTAFF, ARIZONA, as Lessee

By.....
Mayor

ATTEST:

.....
City Clerk

EXHIBIT A

FORM OF 2019 CERTIFICATE

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE TRUSTEE FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE EXECUTED AND DELIVERED IN RESPECT THEREOF IS REGISTERED IN THE NAME OF CEDE & CO. OR TO SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

CERTIFICATE OF PARTICIPATION, SERIES 2019
Evidencing an Undivided Proportionate Interest of the Owner
Hereof in Lease Payments to be Made by
CITY OF FLAGSTAFF, ARIZONA,
as Lessee of Certain Property Pursuant
to a Lease-Purchase Agreement, Dated as of _____ 1, 2019

No. Denomination: \$.....

Interest Rate: Principal Payment Date: Dated Date: CUSIP:
..... July 1, 20..... _____, 2019 338430

REGISTERED OWNER:

PRINCIPAL AMOUNT: DOLLARS

THIS IS TO CERTIFY that the Registered Owner identified above, or registered assigns, as the Registered Owner of this Certificate is the owner of an undivided proportionate interest in the Lease-Purchase Agreement, dated as of _____ 1, 2019 (the “Lease Agreement”), by and between, as trustee, as lessor (the “Lessor”), and City of Flagstaff, Arizona, as lessee (the “Lessee”), together with the right to receive certain “Payments” and “Prepayments” made pursuant thereto, which Payments and Prepayments and certain other rights and interests pursuant to the Lease Agreement are held by, as trustee (the “Trustee”).

The Registered Owner of this Certificate is entitled to receive, subject to the terms of the Lease Agreement, on the Principal Payment Date set forth above, the Principal Amount set forth above, evidencing a portion of Payments designated as principal coming due during the

preceding 12 months, and to receive on July 1, 2020, and semiannually thereafter on January 1 and July 1 of each year (the “*Interest Payment Dates*”) until payment in full of said portion of principal, the Registered Owner’s proportionate share of Payments designated as interest coming due during the six months or shorter period immediately preceding each of the Interest Payment Dates; provided that interest with respect hereto shall be payable from the Dated Date indicated above and then from the Interest Payment Date next preceding the date of execution of this Certificate (unless (i) this Certificate is executed on a Interest Payment Date, in which event interest shall be payable from such Interest Payment Date, or (ii) this Certificate is executed after the close of business on the 15th day of the month preceding an Interest Payment Date, whether or not such 15th day is a Business Day (as defined in the hereinafter described Trust Agreement), in which event interest shall be payable from such Interest Payment Date). If, as of the date of execution hereof, interest is in default with respect to any Certificates of the issue of which this is one, interest hereon shall be payable from the Interest Payment Date to which interest has previously been paid or made available for payment, unless this Certificate is executed after a Special Record Date (as defined in the Trust Agreement) and before the following Special Interest Payment Date (as defined in the Trust Agreement), in which event interest shall be payable from the scheduled Interest Payment Date next preceding such date of execution. Said proportionate share of the portion of Payments designated as interest is the result of the multiplication of the aforesaid portion of Payments designated as principal by the rate per annum set forth above.

Said amounts evidencing the Registered Owner’s share of Payments designated as interest are payable in lawful money of the United States of America, unless a wire transfer is elected as described below, by check or draft mailed by the Trustee to the Registered Owner at the close of business on the 15th day of the month preceding an Interest Payment Date (the “*Record Date*”), whether or not such 15th day is a Business Day, at his address as it appears on the registration books of the Trustee or at such other address as he may have filed with the Trustee for that purpose. Payment of portions of overdue Payments designated as interest shall be made on the Special Interest Payment Dates designated by the Trustee to the Registered Owner hereof as of the Special Record Date designated by the Trustee. A Registered Owner of \$1,000,000 or more in aggregate principal amount evidenced by Certificates as of the close of business of the Trustee on the Record Date for a particular Interest Payment Date or, if applicable, the Special Record Date for a particular Special Interest Payment Date, may request interest to be paid by wire transfer in immediately available funds sent (at the Registered Owner’s expense) on the Interest Payment Date or Special Interest Payment Date to such Registered Owner in accordance with written request from such Registered Owner containing the wire transfer address (which shall be in the United States) to which such Registered Owner wishes to have such wire transfer directed, received not later than ten days before the Record Date with respect to such Interest Payment Date or, if applicable, the Special Record Date for such Special Interest Payment Date. Said amounts evidencing the Registered Owner’s share of Payments designated as principal are payable when due upon surrender of this Certificate at the designated office of the Trustee.

This Certificate has been executed and delivered by the Trustee pursuant to the terms of a Trust Agreement, dated as of _____ 1, 2019 (the “*Trust Agreement*”), between the Trustee and the Lessee, and is one of a series of certificates limited in aggregate principal

amount to \$____,000 (the “2019 Certificates”). The proceeds of sale of the 2019 Certificates will be used to finance construction of a municipal court facility for the Lessee. The Lessee is authorized to enter into the Lease Agreement and the Trust Agreement pursuant to the laws of the State of Arizona. Reference is hereby made to the Lease Agreement and the Trust Agreement (copies of which are on file at said office of the Trustee) for the definition of certain capitalized terms used herein, a description of the terms on which the 2019 Certificates are delivered, the rights thereunder of the Registered Owners of the 2019 Certificates, the rights, duties and immunities of the Trustee and the rights and obligations of the Lessee pursuant to the Lease Agreement, to all of the provisions of which Lease Agreement and Trust Agreement the Registered Owner of this Certificate, by acceptance hereof, assents and agrees.

The obligation of the Lessee to pay Payments does not constitute an obligation of the Lessee for which the Lessee is obligated to levy or pledge any form of taxation or for which the Lessee has levied or pledged any form of taxation. The obligation of the Lessee to pay Payments does not constitute a debt of the Lessee or the State of Arizona or any of its political subdivisions, and does not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

The term of the Lease Agreement is from the date thereof until the end of the Lessee’s then current Fiscal Period, and thereafter for such additional Fiscal Periods as are necessary to complete the anticipated total lease term through and including July 2, 20___, unless terminated prior thereto in accordance with the provisions of the Lease Agreement. If, on or before the third Business Day prior to the last date on which the Lessee is required or permitted to adopt its budget for a Fiscal Period, the Lessee fails to adopt a budget containing a annual budgetary appropriation sufficient to make all Lease Payments coming due during the Fiscal Period for which such budgeting and appropriation are made, the Lessee will immediately notify the Lessor in writing of that fact. If, on the last date on which the Lessee is required or permitted to adopt its budget for a Fiscal Period, no such proper budgeting and final appropriation by the Mayor and Council of the Lessee shall have been made all of the Lessee’s right, title and interest in and future obligations pursuant to the Lease Agreement shall terminate (subject to reinstatement as provided therein), effective as of the last day of the last Fiscal Period for which such budgetary appropriation was properly obtained, and the Lessee shall be relieved of any subsequent obligation pursuant to this Lease Agreement with respect thereto, other than to return the Lessor possession of all of the leased property as provided in the Lease Agreement and to pay any accrued and unpaid obligations. If the Lease Agreement terminates pursuant to the preceding sentence and if, within 45 days following such date of termination, amounts described in the preceding sentence are determined to be available that would have permitted the Lease Agreement to have continued in effect with respect to the leased property if such amounts had been determined to be available before the termination of the prior Fiscal Period, then the Lease Agreement shall be reinstated with respect thereto and deemed renewed as of the day following the date of such termination, and no such termination shall be deemed to have occurred.

To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement may be amended by the parties thereto with the written consent of the Owners of a majority in Aggregate Value of the 2019 Certificates and may be amended without such Owners’ consent under certain circumstances but in no event such that the

interests of the Owners of the 2019 Certificates are adversely affected; provided that no such amendment shall impair the right of any Owner to receive in any case such Owner's proportionate share of any Lease Payment or Prepayment thereof in accordance with such Owner's 2019 Certificate.

This Certificate is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at said office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Trust Agreement and upon surrender and cancellation of this Certificate. Upon such transfer a new Certificate or Certificates, of authorized denomination or denominations, for the same aggregate principal amount will be delivered to the transferee in exchange herefor. The Lessee, the Lessor and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, whether or not this Certificate shall be overdue, and the Lessee, the Lessor and the Trustee shall not be affected by any notice to the contrary.

As provided in the Trust Agreement, the 2019 Certificates scheduled for payment on or after July 1, 20__, are subject to optional prepayment at the direction of the Lessee, on any date on or after July 1, 20__, in whole or in part in any order designated by the Lessee or, under certain circumstances, by lot by the Trustee, and by lot within a scheduled payment date, at a prepayment price equal to the principal amount evidenced thereby to be prepaid plus interest accrued to the date fixed for prepayment, without premium.

As provided in the Trust Agreement, the 2019 Certificates scheduled for payment on July 1 of the following years shall be subject to mandatory prepayment prior to their stated payment dates on July 1 of the years set forth below and in the amounts set forth below, at a prepayment price equal to the principal amount thereof plus interest accrued to the date fixed for prepayment, without premium.

2019 Certificates Payable July 1, 20__

<u>Prepayment Date</u>	<u>Principal Amount</u>
------------------------	-------------------------

*

2019 Certificates Payable July 1, 20__

<u>Prepayment Date</u>	<u>Principal Amount</u>
------------------------	-------------------------

*

* Stated Payment Date

Whenever 2019 Certificates subject to mandatory prepayment are purchased, redeemed (other than because of mandatory prepayment) or are delivered by the Lessee to the Trustee for cancellation, the principal amount of the 2019 Certificates represented thereby so retired shall satisfy and be credited against the mandatory prepayment therefor in any order specified by the Lessee.

The 2019 Certificates are subject to prepayment on any Interest Payment Date in whole, or in part in any order designated by the Lessee, or, under certain circumstances, by lot by the Trustee, and by lot within any scheduled payment date, from the net proceeds of insurance or condemnation credited towards the prepayment of the Lease Payments by the Lessee pursuant to the Lease Agreement, at a prepayment price equal to the principal amount evidenced thereby to be prepaid plus interest accrued to the date fixed for prepayment, without premium.

Notice of prepayment shall be mailed not less than 30 days nor more than 60 days before the date set for prepayment to each Registered Owner of a 2019 Certificate to be so prepaid at the address shown on the books of the Trustee, but failure so to mail any such notice or any defect in such notice as to any 2019 Certificate shall not affect the validity of the proceedings for the prepayment of any other 2019 Certificate. On the specified prepayment date all 2019 Certificates called for prepayment shall cease to bear or accrue interest and shall no longer be secured by the Trust Agreement provided funds for prepayment are on deposit at the place of payment at that time.

IN WITNESS WHEREOF, this Certificate has been executed and delivered by the Trustee, acting pursuant to the Trust Agreement.

Date of Execution:

....., as trustee

By
Its: Authorized Representative

ABBREVIATIONS

The following abbreviations, when used in the inscription on this Certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	--	as tenants in common	UNIF GIFT/TRANS MIN ACT--
TEN ENT	--	as tenants by the Custodian entireties
			(Cust) (Minor)
JT TEN	--	as joint tenants with	Under Uniform Gifts/Transfers
		right of survivorship	to Minors Act
		and not as tenants in	(State)
		common	

Additional abbreviations may also be used, though not in the above list.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

(Please Print or Typewrite Name, Address and Social Security Number or other Federal Tax Identification Number of Transferee)

the within certificate and all rights thereunder, and hereby irrevocably constitutes and appoints attorney to transfer the within certificate on the books kept for registration thereof, with full power of substitution in the premises.

Dated

Signature Guaranteed:

.....
(Signature guarantee should be made by a guarantor institution participating in the securities transfer agents medallion program or in such other guarantee program acceptable to the Trustee.

.....
Note: The signature(s) on this assignment must correspond with the name(s) as written on the within registered certificate in every particular without alteration or enlargement or any change whatsoever.

EXHIBIT B

ORDER FOR DISBURSEMENT

Pursuant to Section [3.1/3.2] of the Trust Agreement, dated as of _____ 1, 2019 (the “Trust Agreement”), between, as trustee (the “Trustee”) and City of Flagstaff, Arizona, as lessee (the “Lessee”), the undersigned Lessee Representative (as defined in the Trust Agreement) hereby requests and authorizes the Trustee pursuant to the Trust Agreement, as custodian of the [Project Fund/Delivery Costs Fund] created by the Trust Agreement, to pay to the Lessee or to the person(s) listed as payee out of the monies deposited in the [Project Fund/Delivery Costs Fund] the aggregate sum of \$..... to pay such person(s) or to reimburse the Lessee in full for the advances, payments and expenditures made by it.

In connection with the foregoing request and authorization, the undersigned hereby certifies that:

- (a) Each item for which disbursement is requested hereunder is properly payable out of the [Project Fund/Delivery Costs Fund] and none of these items has formed the basis for any disbursement heretofore made from said [Project Fund/Delivery Costs Fund].
- (b) Each such item is or was a necessary [Cost/Delivery Cost] as defined in the Trust Agreement.
- (c) This statement and all exhibits hereto shall be conclusive evidence of the facts and statements set forth herein and shall constitute full warrant, protection and authority to the Trustee for its actions taken pursuant hereto.
- (d) This statement constitutes approval by the Lessee of the disbursement hereby requested and authorized.

Explanation of this Payment: Name and Address of Payee:

Account #

Claim to be paid on:

.....
Dated

.....
Lessee Representative