
AMENDED AND RESTATED FINANCING AGREEMENT

among

COUNTY OF CONTRA COSTA,
as Issuer

and

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

and

PHVP I, LP, a Delaware Limited Partnership,
as Borrower

relating to

\$116,000,000
County of Contra Costa
Multifamily Housing Revenue Bonds
(Avalon Walnut Creek at Contra Costa Centre Project)
Series 2006A

and

\$8,500,000
County of Contra Costa
Multifamily Housing Revenue Bonds
(Avalon Walnut Creek at Contra Costa Centre Project)
Taxable Series 2006A-T

and

\$10,000,000
County of Contra Costa
Multifamily Housing Revenue Bonds
(Avalon Walnut Creek at Contra Costa Centre Project)
Series 2008A

Dated as of July 1, 2013

Amending and restating Financing Agreement dated as of March 1, 2006 and amended and restated as of July 1, 2008

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AMENDED AND RESTATED FINANCING AGREEMENT

THIS AMENDED AND RESTATED FINANCING AGREEMENT (this “Agreement”) dated as of July 1, 2013, is among the **COUNTY OF CONTRA COSTA**, a political subdivision of the State of California (the “Issuer”), **PHVP I, LP**, a Delaware limited partnership, and its permitted successors and assigns (the “Borrower”), and **THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.**, a national banking association, as successor trustee (the “Trustee”), not in its individual or corporate capacity, but solely as Trustee under the Indenture, and amends and restates that certain Financing Agreement, dated as of March 1, 2006 and amended and restated as of July 1, 2008, among the Issuer, the Borrower and The Bank of New York Mellon Trust Company, N.A., as successor trustee.

ARTICLE I

INCORPORATION OF RECITALS, DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01. Incorporation of Recitals. The Recitals to the Indenture are incorporated into and made a part of this Agreement.

Section 1.02. Definitions. All capitalized terms used in this Agreement have the meanings given to those terms in that certain Amended and Restated Trust Indenture, dated as of July 1, 2013 (the “Indenture”), between the Issuer and the Trustee, or elsewhere in this Agreement unless the context or use clearly indicates a different meaning.

Section 1.03. Rules of Construction. The rules of construction set forth in Section 1.02 of the Indenture shall apply to this Agreement in their entirety, except that in applying such rules, the term “Agreement” shall be substituted for the term “Indenture”.

ARTICLE II

THE LOAN

Section 2.01. Amount and Source of Loan. The Issuer has issued the Bonds in the aggregate principal amount of \$135,000,000. The Issuer has made the Loan in the amount of \$135,000,000 to the Borrower with the proceeds of the Bonds. The Borrower has accepted the Loan from the Issuer upon the terms and conditions set forth in this Agreement and the Loan Documents, subject to the Indenture, the Regulatory Agreement and the Assignment. Disbursements will be made from the Loan Fund as provided in the Indenture. The Borrower agreed to apply the proceeds of the Loan to pay costs of the construction and development of the Mortgaged Property. 2006A-T Bonds in the aggregate principal amount of \$500,000 have been redeemed and a corresponding aggregate principal amount of the Loan has been repaid.

Section 2.02. Note and Security Instrument. The Loan shall be evidenced by, payable in accordance with, and bear interest at the rates and on the terms provided in, the Note and secured by the Security Instrument.

Section 2.03. Costs of Conversion Deposit. Prior to the Closing Date, the Borrower shall pay to the Trustee \$_____, representing the Costs of Conversion Deposit, for deposit into the Costs of Conversion Fund.

Section 2.04. Credit Facility. The Borrower agrees to cause a Credit Facility to be in effect in the amounts and during the periods as required by the Indenture. From time to time, the Borrower may arrange for the delivery to the Trustee of one or more Alternate Credit Facilities meeting the requirements of the Indenture in substitution for the Credit Facility then in effect.

Section 2.05. Payment of Fees, Costs and Expenses. The Borrower shall pay when due, without duplication, the fees, expenses and other sums specified in this Section.

(a) **Costs of Conversion.** The Borrower shall direct the Trustee to pay the Costs of Conversion from the Costs of Conversion Fund on the Closing Date. The Borrower shall pay directly the fees, costs and expenses of the Borrower's counsel, the Borrower's financial advisor, if any, the Administrative Agent, the Administrative Agent's counsel and all other fees, costs and expenses directly associated with the conversion of the Bonds to a Bank Rate on the Closing Date, including printing costs, costs of reproducing documents and filing and recording fees.

(b) **Third Party Fees.** The Borrower shall pay the Third Party Fees to the Trustee in sufficient time to allow the Trustee to pay such Third Party Fees when due. The Third Party Fees are as follows:

(i) **Issuer.** The Issuer's Fee.

(ii) **Trustee.** The Trustee's Annual Fee.

(iii) **Tender Agent.** The Tender Agent's Annual Fee is the annual continuing fee of the Tender Agent, if any.

(iv) **Remarketing Agent.** The continuing fee of the Remarketing Agent, if any, for its remarketing services.

(v) **Rebate Analyst.** The Rebate Analyst's Fee.

(c) **Fees and Expenses.**

(i) **Rating Agency.** The annual rating maintenance fee of each Rating Agency, if any.

(ii) *Extraordinary Items.* The Extraordinary Items.

(iii) *Certain Advances, Expenses and other Items.* All advances, out-of-pocket expenses, costs and other charges of each of the Issuer, the Rebate Analyst, the Remarketing Agent, the Tender Agent and the Trustee incurred from time to time, but only to the extent that any such amounts are payable by the Borrower pursuant to an agreement between the Borrower and such Person regarding its services in connection with the Bonds or the Loan.

(iv) *Bond Costs.* All costs of registering, printing, reprinting, preparing and delivering any replacement bonds required under the Indenture and in connection with the registration, printing, reprinting or transfer of Bonds.

(v) *Adjustment or Conversion of Interest Rate; Tender, Purchase, Remarketing or Reoffering of Bonds.* All fees, costs and expenses of any change in Mode or of any tender, purchase, remarketing or reoffering of any Bonds. The fees, costs and expenses of any tender, purchase, remarketing or reoffering of Bonds must be paid by the Borrower in advance in accordance with the Remarketing Agreement or other agreement relating to the remarketing or reoffering of the Bonds.

The Borrower agrees to timely honor any demand for payment by the Trustee pursuant to Section 5.07(b) of the Indenture on account of any insufficiency in the Fees Account.

Section 2.06. Liability for Fees, Costs and Expenses. Neither the Issuer nor the Trustee shall have any obligation to pay any of the fees, costs or expenses referred to in Section 2.05 hereof.

Section 2.07. Borrower's Obligations Upon Tender of Bonds. If any Tendered Bond is not remarketed on any Tender Date and a sufficient amount is not available in the Bond Purchase Fund for the purpose of paying the purchase price of such Bond, the Borrower will cause to be paid to the Trustee pursuant to the Credit Facility or otherwise pay by the applicable times provided in the Indenture, an amount equal to the principal amount of all Bonds tendered and not remarketed, together with interest accrued to the Tender Date.

Section 2.08. Redemption Premium. The Borrower shall pay all redemption premium, if any, payable with respect to each redemption of any of the Bonds. The Borrower shall make each such payment, or cause such payment to be made, in Available Moneys.

Section 2.09. Obligation of the Borrower To Pay Deficiencies. The Borrower shall pay any deficiency resulting from any loss due to a default under any investment in any Fund or Account or a change in value of any investment.

Section 2.10. Principal Reserve Fund. The Borrower shall make payments for deposit by the Trustee into the Principal Reserve Fund on the dates and in the amounts required by any Reimbursement Agreement. Amounts on deposit in the Principal Reserve Fund shall be applied as provided in the Indenture.

Amounts in the Principal Reserve Fund shall not be credited against the principal amount of the Note or be deemed to be interest payments on the Loan until the date such amounts are withdrawn from the Principal Reserve Fund and used to reimburse the Credit Provider for amounts paid under the Credit Facility to redeem or otherwise pay principal of or interest on the Bonds.

Section 2.11. Borrower's Approval of Transaction Documents. The Borrower acknowledges that it participated in the drafting and negotiation of the Transaction Documents and approves and agrees to each of the provisions of the Transaction Documents. The Borrower agrees that it is bound by, shall adhere to, and shall have the rights set forth by, the Indenture.

Section 2.12. Payment of Bonds. The Borrower shall timely remit to the Trustee all amounts required to pay principal of and premium, if any, and interest on the Bonds when due, and all other amounts due hereunder or under the Indenture including, without limitation, amounts required to pay the Purchase Price of the Bonds, when due.

ARTICLE III

NATURE OF BORROWER'S OBLIGATIONS; SECURITY FOR OBLIGATIONS

Section 3.01. Obligations of the Borrower Unconditional. Subject to the recourse limiting provisions of Section 3.02, to the fullest extent permitted by law, the obligations of the Borrower to make all payments and perform its other obligations under this Agreement shall be absolute, unconditional and irrevocable, and shall be paid and performed strictly in accordance with the applicable Transaction Documents under all circumstances, including, without limitation, the following circumstances: (i) any invalidity or unenforceability of any Credit Facility or any of the other Transaction Documents; (ii) any amendment or waiver of, or any consent to departure from, the terms of any Credit Facility or any of the other Transaction Documents, any extension of time or other modification of the terms and conditions for any act to be performed in connection with any Credit Facility or any of the other Transaction Documents; (iii) the existence of any claim, set-off, defense or other right which the Borrower may have at any time against the Issuer, the Trustee, the Tender Agent, any Credit Provider, any Remarketing Agent or any other Person, whether in connection with any of the Transaction Documents, the Mortgaged Property, or any unrelated transaction; (iv) the surrender or impairment of any security for the performance or observance of any of the agreements or terms of any of the Transaction Documents; (v) defect in title to the Mortgaged Property, any act or circumstance that may constitute failure of consideration, destruction of, damage to or condemnation of the Mortgaged Property, commercial frustration of purpose, or any change in the tax or other laws of the United States of

America or of the State or any political subdivision of either; (vi) the breach by the Issuer, the Trustee, the Tender Agent, any Remarketing Agent, any Credit Provider or any other Person of any of its obligations under any Transaction Document; or (vii) any other circumstance, happening or omission whatsoever, whether or not similar to any of the foregoing.

Section 3.02. Personal Liability of Borrower. Except as provided in the last sentence of this Section 3.02, the obligations of the Borrower under this Agreement and the obligations of the Borrower under the Regulatory Agreement to pay money, including the obligations of the Borrower with respect to the Reserved Rights, shall be (a) general obligations of the Borrower with recourse to the Borrower personally, and (b) subordinate and junior in priority, right of payment and all other respects to any and all obligations of the Borrower under the Loan Documents and to the Credit Provider under or in respect of the Credit Facility Documents. Nothing in this Section shall impose personal liability upon Borrower for payments due on the Bonds or any obligations of the Borrower under any of the Loan Documents.

Section 3.03. Obligations Unsecured. All obligations of the Borrower under this Agreement and under the Regulatory Agreement, including the obligations of the Borrower with respect to the Reserved Rights, shall not be secured by the Security Instrument and shall not constitute a lien on the Mortgaged Property in any manner.

Section 3.04. Certain Obligations Personal to the Borrower. No subsequent owner of the Mortgaged Property (including the Credit Provider as a result of a foreclosure, a deed in lieu of foreclosure or comparable conversion of the Loan) shall be liable for any breach or default of any obligation of any prior owner under the Regulatory Agreement or this Agreement, including any payment or indemnification obligation. The owner of the Mortgaged Property at the time any default or breach occurs shall remain liable for any and all damages occasioned by such default or breach even after such Person ceases to be the owner. Upon seeking to collect such damages, neither the Issuer nor the Trustee shall have recourse against or the right to levy against or otherwise collect on any judgment from the Mortgaged Property.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.01. Representations and Warranties of the Issuer.

The Issuer represents and warrants that:

- (a) The Issuer is a political subdivision of the State of California.
- (b) The Issuer has complied with the Act and the constitution and laws of the State that are prerequisites to the closing of the transactions provided for in the Bond Documents.

(c) The issuance of the Bonds to provide funding for the Loan is intended to serve the public interest and will further the purposes of the Act including the provision of decent, safe and sanitary rental housing units for persons and families of low or moderate income; to accomplish the foregoing, the Issuer intends to issue the Bonds on the terms set forth in the Indenture and to use the proceeds derived from the sale of the Bonds as specified in the Indenture and this Agreement.

(d) The Bonds have been duly executed and delivered by the Issuer constitute legal, valid and binding special limited obligations of the Issuer, enforceable against the Issuer in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally and general principles of equity.

(e) The Issuer has the full legal right, power and authority to execute and deliver the Issuer Documents, and to carry out its obligations under each of those documents. The issuance of the Bonds and the execution, delivery and performance of the Issuer Documents have been duly authorized by the Issuer. Each of the Issuer Documents has been duly executed and delivered by the Issuer, and, upon execution and delivery by the other party or parties to the Issuer Documents, is a legal, valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally and general principles of equity.

(f) To the best knowledge of the Issuer, neither the execution and delivery of, nor the fulfillment of or compliance with the terms or conditions of, the Issuer Documents violates the constitution or laws of the State or any judgment, order, writ, injunction or decree to which the Issuer is subject, or conflicts in any material respect with, or results in a material breach of, or material default under, any agreement or instrument to which the Issuer is now a party or by which it is bound.

(g) Except as otherwise provided in the Indenture and the Assignment, the Issuer has not created any debt, lien or charge upon the Trust Estate, and has not made any pledge or assignment of or created any encumbrance on the Trust Estate.

(h) The Issuer has complied with all material provisions of the Act applicable to the Bonds and the transactions provided for in the Issuer Documents.

(i) To the best knowledge of the Issuer, no litigation or administrative action of any nature is pending against the Issuer (i) seeking to restrain or enjoin the execution and delivery of the Issuer Documents, (ii) questioning the proceedings or authority relating to the Bonds or any other Issuer Document or (iii) questioning the existence or authority of the Issuer or that of its present or

former members or officers and, to the best knowledge of the Issuer, none of the foregoing is threatened.

(j) The Bonds were issued under the Indenture and are secured by the Trust Estate. Under the Indenture the Issuer's interest in this Agreement (other than the Reserved Rights) and the revenues and receipts to be derived by the Issuer pursuant to this Agreement, are pledged and assigned to the Trustee as security for payment of the principal of and interest and any premium on the Bonds.

Section 4.02. Representations and Agreements of the Trustee.

The Trustee represents and warrants that:

(a) The Trustee is a national banking association in good standing under the laws of the United States of America. The Trustee is duly authorized to exercise trust powers and to execute the trust created by the Indenture and is qualified to act as Trustee under the Indenture.

(b) The Trustee has all corporate power and authority necessary (i) to execute and deliver this Agreement, the Regulatory Agreement and the Indenture, (ii) to perform its obligations under this Agreement, the Regulatory Agreement and the Indenture and (iii) to consummate the transactions contemplated by this Agreement, the Regulatory Agreement and the Indenture.

(c) The Trustee has taken all actions necessary to authorize the execution and delivery of, the performance by the Trustee of its obligations under, and the consummation of the transactions contemplated by, this Agreement, the Regulatory Agreement and the Indenture.

(d) The execution and delivery of this Agreement and compliance with its terms, conditions and provisions will not conflict with or result in a breach of any of the terms, conditions or provisions of the articles of incorporation or bylaws of the Trustee or any agreement or instrument to which it is a party or by which it is bound, or any law or regulation or any administrative decree or order to which it is subject, or constitute a default there-under, in each case in any manner that would materially adversely impact its ability to perform its duties hereunder or under the Indenture.

(e) The Trustee is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or governmental agency, which default will materially adversely impair its ability to perform its obligations under this Agreement.

(f) The Trustee is not a party to or bound by any agreement or instrument or subject to any charter or any other corporate restriction of any judgment, order, writ, injunction, decree, law or regulation which now or in the future may materially and adversely affect the ability of the Trustee to perform its

obligations under this Agreement or which requires the consent of any third person to the execution of this Agreement or the consummation of the transactions contemplated hereby.

(g) No litigation has been served on the Trustee or, to the best knowledge of the Trustee, threatened against the Trustee with respect to this Agreement or the consummation of the transactions contemplated hereby.

Section 4.03. Representations and Agreements of the Borrower.

The Borrower represents and warrants that:

(a) The Borrower is a Delaware limited partnership qualified to do business in the State, is in good standing in the State, has the power and authority to own its properties and assets and to carry on its business as now conducted and as contemplated to be conducted, and has the power to enter into and has duly authorized, by proper action, the execution and delivery of this Agreement and all other documents contemplated hereby to be executed by it, including, without limitation, the Regulatory Agreement and the Reimbursement Agreement.

(b) Neither the execution and delivery of this Agreement or any other document in connection with the financing of the Mortgaged Property, the consummation of the transactions contemplated hereby and thereby, nor the fulfillment of or compliance with the terms and conditions hereof and thereof, conflicts with or results in a breach of any of the terms, conditions or provisions of the Borrower's organizational agreement or of any agreement or instrument to which it is now a party or by which it is bound, or constitutes a default (with due notice or the passage of time or both) under any of the foregoing, or results in the creation or imposition of any prohibited lien, charge or encumbrance whatsoever upon any of the property or assets of it under the terms of any instrument or agreement to which it is now a party or by which it is bound.

(c) The Mortgaged Property is located wholly within the County of Contra Costa, California.

(d) The Disposition and Development Agreement and the Ground Sub-lease constitute valid and binding obligations of the Borrower and the Borrower has and shall have a leasehold interest in the Mortgaged Property sufficient to carry out the purposes of this Agreement, and such interest shall be in and remain in the Borrower, except as permitted by the Regulatory Agreement.

(e) There is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency, public board or body pending or, to its knowledge, threatened against it (nor is there any basis therefor), which (i) affects or seeks to prohibit, restrain or enjoin the conversion, remarketing or delivery of the Bonds or the execution or delivery of this Agreement, the Regulatory Agreement or any related documents, (ii) affects or questions the validity or enforceability of the Bonds, the Indenture, this Agreement, the Regulatory

Agreement, or any related documents, (iii) questions the tax status of the Tax-Exempt Bonds [Assumes IRS closing agreement done] or (iv) questions its power or authority to perform its obligations under this Agreement, the Regulatory Agreement, or any related documents, or its powers to own, acquire, construct, equip or operate the Project.

(f) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to its knowledge, threatened against or affecting it or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted or as now contemplated to be conducted, or would materially adversely affect its financial condition. It is not in material default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any material agreement or instrument to which it is a party.

(g) It is not in default under any order or decree of any court or any order, regulation or demand of any federal, state, municipal or governmental agency, the Disposition and Development Agreement, the Ground Sub-lease or any other document, instrument or commitment to which it is a party or to which it or any of its property is subject, in any manner material to the transactions contemplated by this Agreement. [Modify if CDLAC requirements not yet modified]

(h) The operation of the Mortgaged Property in the manner presently contemplated and as described herein will not, to its knowledge, conflict with any material zoning, water or air pollution or other ordinance, order, law or regulation applicable thereto.

(i) It has filed or caused to be filed all federal, state and local tax returns that are required to be filed, and has paid or caused to be paid all taxes as shown on said returns or on any assessment received by it, to the extent that such taxes have become due.

(j) To the knowledge of the Borrower, no officer or other official of the Issuer has any ownership interest whatsoever in the Mortgaged Property or in the transactions contemplated by this Agreement (other than publicly traded shares in indirect owners).

(k) The Mortgaged Property consists of a residential rental Mortgaged Property comprising similarly constructed units containing separate and complete facilities for living, sleeping, eating, cooking and sanitation or substantially related and subordinate facilities.

(l) The Borrower currently intends to hold the Mortgaged Property for its own account, and has no current plans, other than syndication or tax credits

available to the Mortgaged Property, to sell and has not entered into any agreement to sell the Mortgaged Property.

(m) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Mortgaged Property; that it is familiar with the provisions of all of the documents and instruments relating to such financing to which it is a party or of which it is a beneficiary; that it understands the risks inherent in such transactions, including, without limitation, the risk of loss of the Mortgaged Property; and that it has not relied on the Issuer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by this Agreement and the Indenture or otherwise relied on the Issuer in any manner.

(n) The Borrower has not received any notice that it is not in compliance with all provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”); the Resource Conservation and Recovery Act; the Superfund Amendments and Reauthorization Act of 1986; the Toxic Substances Control Act and all environmental laws of the State (the “Environmental Laws”), or with any rules, regulations and administrative orders of any governmental agency, or with any judgments, decrees or orders of any court of competent jurisdiction with respect thereto; and the Borrower has not received any assessment, notice (primary or secondary) of liability or financial responsibility, and no notice of any action, claim or proceeding to determine such liability or responsibility, or the amount thereof, or to impose civil penalties with respect to a site listed on any federal or state listing of sites containing or believed to contain “hazardous materials” (as defined in the Environmental Law), nor, if applicable, has the Borrower received notification that any hazardous substances (as defined under CERCLA) that it has disposed of have been found in any site at which any governmental agency is conducting an investigation or other proceeding under any Environmental Law.

(o) No default or event of default has occurred and is continuing with respect to the Loan or under the Security Instrument or the Regulatory Agreement. [Modify if CDLAC requirements not yet modified]

ARTICLE V

COVENANTS OF THE BORROWER

Section 5.01. Compliance With Laws. The Borrower will comply with all laws, ordinances, regulations and requirements of any duly constituted public authorities which may be applicable to the Mortgaged Property and all recorded lawful covenants and agreements relating to or affecting the Mortgaged Property, including all laws, ordinances, regulations, requirements and covenants pertaining to health and safety, construction of improvements on the Mortgaged Property, fair housing, zoning and land use, and Leases (as such term is defined in the Security Instrument). The Borrower will comply with all terms of the Disposition and Development Agreement and the Ground

Sub-lease. The Borrower also will comply with all applicable laws that pertain to the maintenance and disposition of tenant security deposits. The Borrower will at all times maintain records sufficient to demonstrate compliance with the provisions of this Section. The Borrower will take appropriate measures to prevent, and will not engage in or knowingly permit, any illegal activities at the Mortgaged Property that could endanger tenants or visitors, result in damage to the Mortgaged Property, result in forfeiture of the Mortgaged Property, or otherwise materially impair the lien created by the Security Instrument. The Borrower represents and warrants that no portion of the Mortgaged Property has been or will be purchased with the proceeds of any illegal activity. Nothing contained in this Section is intended to modify or limit any provisions of the Regulatory Agreement or any Loan Document.

Section 5.02. Maintenance of Legal Existence. The Borrower will maintain its existence, continue to be duly qualified to do business in the State and will not terminate or dissolve (transfers of Borrower's partnership interests permitted under the Security Instrument, even if resulting in a technical dissolution, shall not violate this Section 5.02). With the prior written consent of the Issuer, the Borrower may consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it, but subject to the satisfaction of the following conditions: (i) the entity resulting from or surviving such merger or consolidation (if other than the Borrower) ("Surviving Entity") is duly organized and existing in good standing and qualified to do business in the State, (ii) if the Borrower does not survive the consolidation or merger, the Surviving Entity expressly assumes in writing all of the Borrower's obligations under this Agreement and the other Borrower Documents and (iii) the Borrower delivers an opinion of Bond Counsel to the effect that such consolidation or merger will not cause interest on the Tax-Exempt Bonds to be included in gross income for federal income tax purposes.

Section 5.03. Access to Mortgaged Property and Records. Subject to reasonable written notice and subject to the rights of tenants residing at the Project under their respective leases, the Issuer and the Trustee and the respective duly authorized agents of each have the right, during normal business hours, to enter the Mortgaged Property and any location containing records relating to any of the Borrower, the Mortgaged Property, the Loan and the Transaction Documents, to inspect, audit and make copies of the Borrower's records or accounts pertaining to the Borrower, the Mortgaged Property, the Loan, the Transaction Documents, and the Borrower's compliance with the Transaction Documents, and to require the Borrower, at the Borrower's sole expense, to furnish such documents to the Issuer and the Trustee, as the Issuer or the Trustee from time to time deems necessary in order to determine that the Borrower is in compliance with the Transaction Documents and to make copies of any records that the Issuer or the Trustee, or their respective duly authorized agents, may reasonably require. The Borrower will make available to the Issuer and the Trustee such other information concerning the Borrower, the Mortgaged Property, the Loan and the Transaction Documents as any of them may reasonably request.

Section 5.04. Reports and Information. The Borrower will file such certificates and other reports with the Issuer and the Trustee as are required by the Transaction Documents. The Borrower will provide to the Issuer all information

necessary to enable the Issuer to complete and file all forms and reports required by the laws of the State and the Code in connection with the Mortgaged Property and the Bonds.

Section 5.05. Tax Covenants. The Borrower covenants that it will comply with the requirements and conditions of the Tax Certificate and the Regulatory Agreement. Without limiting the foregoing and notwithstanding anything to the contrary in this Agreement, the Borrower will not take, or permit to be taken on its behalf, any action which would cause interest on the Tax-Exempt Bonds to be included in gross income for federal income tax purposes and will take such reasonable action as may be necessary to continue such exclusion from gross income, including, without limitation, the following:

- (a) the preparation and filing of all statements required to be filed by it in order to maintain the exclusion (including, but not limited to, the filing of all reports and certifications required by the Regulatory Agreement);
- (b) the timely payment to the United States of America of any rebate amount required to be paid by the Issuer or the Borrower pursuant to Section 148(f) of the Code and the U.S. Treasury regulations under Section 148; and
- (c) the use of the proceeds of the Tax-Exempt Bonds as provided in the Tax Certificate.

In furtherance of the covenants in this Section, the Issuer and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which is by this reference incorporated into this Financing Agreement and made a part hereof.

The Borrower irrevocably authorizes and directs the Issuer, the Trustee and any other agent designated by the Issuer to make payment of such amounts from funds of the Borrower, if any, held by the Issuer, the Trustee, or any agent of the Issuer or the Trustee. The Borrower further covenants and agrees that, pursuant to the requirements of Treasury Regulation Section 1.148-1 (b), it (or any related person contemplated by such regulations) will not purchase Tax-Exempt Bonds in an amount related to the amount of the Loan, other than Pledged Bonds.

Section 5.06. Notice of Certain Events. The Borrower shall advise the Issuer, the Credit Provider and the Trustee promptly in writing of the occurrence of any default by the Borrower in the performance or observance of any covenant, agreement, representation, warranty or obligation of the Borrower set forth in this Agreement or in any of the other Borrower Documents, or of any Event of Default or Potential Default under this Agreement known to it or of which it has received notice, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect to such default. Such notice shall be given promptly, and in no event less than 10 Business Days after the Borrower receives notice or has knowledge of the occurrence of any such event. The Borrower further agrees that it will give prompt written notice to the Trustee and the Credit Provider if insurance proceeds or condemnation awards are received with respect to the Mortgaged Property.

Section 5.07. Insurance; Taxes and Charges; Maintenance and Repair. The Borrower agrees to insure the Mortgaged Property or cause the Mortgaged Property to be insured during the term of this Agreement for such amounts and for such occurrences as is required under the Security Instrument, naming the Trustee as a co-insured. The Borrower further agrees to provide to the Issuer, the Trustee and the Credit Provider not later than December 1 of each year evidence of the insurance then in effect; and to notify the Issuer, the Trustee and the Credit Provider, by certified mail, immediately upon cancellation or material alteration of such insurance. The Trustee shall have no obligation to investigate, monitor or review, and makes no representation as to, the existence or sufficiency of the insurance on the Mortgaged Property.

The Borrower will pay or cause to be paid, during the term of this Agreement, before the same respectively become delinquent, (a) all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Mortgaged Property or any part thereof, including, without limiting the generality of the foregoing, all ad valorem taxes levied against the Mortgaged Property and any other taxes levied upon the Mortgaged Property which, if not paid, will become a charge on the receipts from the Mortgaged Property prior to or on a parity with the charge thereon and the pledge or assignment thereof to be created and made in the Indenture, or a lien against the Mortgaged Property or any interest therein or the revenues derived therefrom or hereunder; (b) all utility and other charges incurred by the Borrower in the operation, maintenance, use, occupancy and upkeep of the Mortgaged Property; (c) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Mortgaged Property. Notwithstanding the foregoing, the Borrower may contest any such taxes, assessments and other charges outlined in (a), (b) or (c) above, and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom in accordance with the Security Instrument.

The Borrower further agrees to maintain the Mortgaged Property, or cause the Mortgaged Property to be maintained, during the term of this Agreement (i) in a reasonably safe condition and (ii) in good repair and in good operating condition, ordinary wear and tear excepted, making from time to time all commercially reasonable repairs, modifications, alterations and improvements thereto and renewals and replacements thereof. The Borrower will not permit any mechanic's or other lien to be established or remain against the Mortgaged Property for labor or materials furnished in connection with any remodeling, modifications, improvements, repairs, renewals or replacements so made by the Borrower except as permitted in the Security Instrument.

Section 5.08. Damage, Destruction and Condemnation; Use of Proceeds.

(a) If prior to full payment of the Bonds (or provision for payment thereof in accordance with the provisions of the Indenture) the Mortgaged Property or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty, or title to, or the temporary use of, the Mortgaged Property or any portion thereof shall be taken under the exercise of the power of eminent

domain by any governmental body or by any person, firm or corporation acting under governmental authority, the Borrower shall nevertheless be obligated to continue to pay the amounts specified in Article II hereof.

(b) The Net Proceeds, if any, of any insurance or condemnation awards resulting from the damage, destruction or condemnation of the Mortgaged Property or any portion thereof shall be applied in one or more of the following ways at the election of the Borrower, approved by the Credit Provider (which approved shall not be unreasonably withheld or delayed) and with written notice to the Issuer and the Trustee and subject to any conditions set forth in the Security Instrument and the Agreement:

(i) The prompt repair, restoration, relocation, modification or improvement of the Mortgaged Property to enable the Mortgaged Property to accomplish as nearly as practicable the same function as the Mortgaged Property was designed to accomplish prior to such damage or destruction or exercise of such power of eminent domain.

(ii) Prepayment of all or a portion of the Note, subject to and in accordance with the terms thereof, and redemption of Bonds; provided that no part of the Net Proceeds may be applied for such purpose unless (1) the entire amount of the Note is so prepaid and all of the outstanding Bonds are to be redeemed in accordance with the Indenture, or (2) in the event that only a portion of the Note is so prepaid, the Borrower shall furnish to the Issuer, the Trustee and the Credit Provider a certificate of the Authorized Borrower Representative acceptable to the Issuer, the Trustee and the Credit Provider stating (i) that the portion of the Project that was damaged or destroyed by such casualty or was taken by such condemnation proceedings is not essential to the Borrower's use or possession of the Mortgaged Property or (ii) that the Mortgaged Property has been repaired, replaced, restored, relocated, modified or improved to enable the Mortgaged Property to accomplish as nearly as practicable the same function as the Mortgaged Property was designed to accomplish prior to such damage or destruction or the taking by such condemnation proceedings.

(c) If the Mortgaged Property is to be repaired, restored, relocated, modified or improved pursuant to this Section 5.10, and if the Net Proceeds are insufficient to pay in full the cost of such repair, restoration, relocation, modification or improvement, the Borrower will nonetheless complete the work or cause the work to be completed and will pay or cause to be paid any cost in excess of the amount of the Net Proceeds in accordance with such procedures, if any, as may be established by the Credit Provider.

Nothing contained in this Section 5.09(b) shall obligate or permit the Borrower to apply the Net Proceeds in any manner that is contrary to the Borrower's obligations, as

sub-lessee, to apply insurance proceeds or eminent domain award or payments as set forth in Part 600 and Part 900, as applicable, of the Ground Sub-lease.

ARTICLE VI

INDEMNIFICATION

Section 6.01. Borrower's Obligations. The Borrower releases the Issuer, the Trustee, the Tender Agent and their respective officers, directors, agents, officials, employees (and, as to the Issuer, members of its governing body) and any person who controls the Issuer, the Trustee or the Tender Agent within the meaning of the Securities Act of 1933, from, and covenants and agrees to indemnify, hold harmless and defend the Issuer, the Trustee, the Tender Agent and their respective officers, directors, employees, agents, members of its governing body, officials and any person who controls such party within the meaning of the Securities Act of 1933 and employees and each of them (each an "Indemnified Party") from and against, any and all losses, claims, damages, liabilities and expenses (including attorneys' fees and expenses), taxes, causes of action, suits and judgments of any nature, joint or several, by or on behalf of any person arising out of:

(a) the approval of financing for the Mortgaged Property or the making of the Loan;

(b) the issuance and sale, resale or remarketing of any Bonds or any certifications or representations made by any person other than the party seeking indemnification in connection therewith, including, but not limited to, any (i) statement or information made by the Borrower with respect to the Borrower or the Mortgaged Property in any offering document or materials regarding the Bonds, the Mortgaged Property or the Borrower or in the Tax Certificate of the Borrower or in any other certificate executed by the Borrower which, at the time made, is misleading, untrue or incorrect in any material respect, (ii) untrue statement or alleged untrue statement of a material fact relating to the Borrower or the Mortgaged Property contained in any offering material relating to the sale of the Bonds, as from time to time amended or supplemented, or arising out of or based upon the omission or alleged omission to state in such offering material a material fact relating to the Borrower or the Mortgaged Property required to be stated in such offering material or necessary in order to make the statements in such offering material not misleading, (iii) failure to properly register or otherwise qualify the sale of the Bonds or failure to comply with any licensing or other law or regulation which would affect the manner in which or to whom the Bonds could be sold;

(c) the interpretation, performance, enforcement, breach, default or amendment of the Bond Documents, the Loan Documents or any other documents relating to the Mortgaged Property or the Bonds or in connection with any federal or state tax audit, or any questions or other matters arising under such documents;

(d) the Borrower's failure to comply with any requirement of this Agreement, the Regulatory Agreement, the Ground Sub-lease or the Disposition and Development Agreement;

(e) the condition of the Mortgaged Property (environmental or otherwise), including any violation of any law, ordinance, court order or regulation affecting the Mortgaged Property or any part of it, provided such condition or violation results from events arising during the period in which the Borrower occupies or possesses the Mortgaged Property pursuant to the Ground Sub-lease;

(f) during the period in which the Borrower occupies or possesses the Mortgaged Property pursuant to the Ground Sub-lease, any damage or injury, actual or claimed, of whatsoever kind, cause or character, to property (including loss of use of property) or persons, occurring or allegedly occurring in, on or about the Mortgaged Property or arising out of any action or inaction of the Borrower or any of its agents, servants, employees or licensees, whether or not related to the Mortgaged Property, or resulting from the acquisition, construction, design, rehabilitation, repair, operation, use or management of all or any part of the Mortgaged Property;

(g) the Trustee's acceptance or administration of the trusts created by, and the exercise of its powers or duties under, the Indenture or under this Agreement, the Regulatory Agreement, the Credit Facility or any other agreements in connection with such agreements to which it is a party; and

(h) solely with respect to the Trustee and with respect to the County in its capacity as the issuer of the Bonds, to the extent not mentioned in any of the preceding subsections, any cause whatsoever in connection with transactions provided for in this Agreement and the other Transaction Documents or otherwise in connection with the Mortgaged Property, the Bonds or the execution or amendment of any document relating to the Bonds or the Mortgaged Property.

This indemnification shall extend to and include, without limitation, all reasonable costs, counsel fees, expenses and liabilities incurred in connection with any such claim, or proceeding brought with respect to such claim, except (i) in the case of the foregoing indemnification of the Trustee or any of the Indemnified Parties, to the extent such damages are caused by the negligence or willful misconduct of such Person, and (ii) in the case of the foregoing indemnification of the Issuer or any of the Indemnified Parties, to the extent such damages are caused by the willful misconduct of such Person.

The provisions of this Section 6.01 are not intended to and shall not negate, nullify, change, modify or limit any limitations of Borrower's liability set forth in the Loan Documents.

Section 6.02. Defense of Claims. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought

under Section 6.01 hereof, the Borrower, upon written notice from the Indemnified Party, will assume the investigation and defense of the action or proceeding, including the engagement of counsel selected by the Borrower, subject to the approval of the Indemnified Party in such party's sole discretion, and shall assume the payment of all expenses related to the action or proceeding, with full power to litigate, compromise or settle the same in its sole discretion; provided, however, that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to engage separate counsel in any action or proceeding and participate in the investigation and defense of such action or proceeding, and the Borrower shall pay the reasonable fees and expenses of such separate counsel if (i) the Indemnified Party determines that a conflict exists between the interests of the Indemnified Party and the interests of the Borrower or (ii) such separate counsel is engaged with the approval of the Borrower, which approval shall not be unreasonably withheld, conditioned or delayed.

Section 6.03. Borrower's Continuing Obligations. Notwithstanding any transfer of the Mortgaged Property to another owner in accordance with the Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Article VI for all matters arising prior to such transfer, and, as a condition to the release of the transferor on and after the transfer date, the transferee must assume the obligations of the Borrower under this Agreement and the other Borrower Documents on and after the transfer date. Each Indemnified Party's rights under this Article VI shall survive the termination of this Agreement, the payment of the Loan and the payment or defeasance of the Bonds and with regard to the Trustee, the resignation or removal of the Trustee.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.01. Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default under this Agreement:

(a) The Borrower fails to pay when due any amount payable by the Borrower under this Agreement.

(b) The Borrower fails to observe or perform any covenant or obligation in this Agreement on its part to be observed or performed for a period of 30 days after receipt of written notice from the Trustee specifying such failure and requesting that it be remedied, provided, however, that if the failure cannot be corrected within such period, it shall not constitute an Event of Default if the failure is correctable without material adverse effect on the validity or enforceability of the Bonds or on the exclusion from gross income, for federal income tax purposes, of the interest on the Tax-Exempt Bonds, and if corrective action is instituted by the Borrower within such period and diligently pursued until the failure is corrected, and provided further that any such failure is cured within 90 days of receipt of notice of such failure; provided further, failure by the

Borrower to comply with the requirements of Section 8 of the Regulatory Agreement shall not in and of itself, constitute an Event of Default under this Agreement.

(c) The Credit Provider provides written notice to the Trustee of an Event of Default under this Agreement by reason of the occurrence of an Event of Default under the Reimbursement Agreement. No Event of Default under the Reimbursement Agreement shall constitute a default under this Agreement unless specifically declared to be so by the Credit Provider. The Credit Provider shall make such declaration by written notice to the Trustee.

(d) So long as the Bonds bear interest at a Bank Rate, the Administrative Agent provides written notice to the Trustee of the occurrence of an Event of Default under the Guaranty Agreement.

Section 7.02. Remedies Upon an Event of Default. Subject to the Assignment, whenever any Event of Default occurs and is continuing under this Agreement, the Issuer may take one or any combination of the following remedial steps:

(a) by written notice to the Borrower, declare all amounts then due and payable on the Note to be immediately due and payable;

(b) exercise any of the rights and remedies provided in the Loan Documents; and

(c) take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and afterward to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement.

Section 7.03. No Levy or Other Execution Against Mortgaged Property. Neither the Issuer nor the Trustee shall have any right to levy, execute or enforce any judgment in respect of the Borrower's obligations under this Agreement, including the Reserved Rights, against the Mortgaged Property or any other property of the Borrower which secures the obligations of the Borrower under the Loan or to the Credit Provider under any of the Credit Facility Documents.

Section 7.04. Waiver and Annulment. Unless the Credit Provider otherwise consents in writing, neither the Issuer nor the Trustee may waive or annul any Event of Default under this Agreement unless (i) all amounts which would then be payable under this Agreement by the Borrower if such Event of Default had not occurred and was not continuing are paid by or on behalf of the Borrower, and (ii) the Borrower also performs all other obligations in respect of which it is then in default under this Agreement and pays the reasonable charges and expenses of the Issuer and the Trustee, including reasonable attorneys' fees and expenses paid or incurred in connection with such default. No waiver or annulment shall extend to or affect any subsequent Event of Default or impair any right or remedy consequent on such Event of Default.

Section 7.05. No Remedy Exclusive. All rights and remedies provided in this Agreement are cumulative, nonexclusive and in addition to any and all rights and remedies that the Issuer and the Trustee may have or may be given by reason of any law, statute, ordinance or otherwise.

Section 7.06. No Waiver. No delay or omission to exercise any right or power accruing upon any Event of Default under this Agreement shall impair any such right or power or shall be construed to be a waiver of such Event of Default, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

Section 7.07. No Notices. In order to entitle the Issuer to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Article or by any Bond Document.

Section 7.08. Expenses. In the event the Borrower should default under this Agreement and the Issuer employs attorneys or incurs other expenses for the collection of payments under, or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained in, this Agreement, the Borrower agrees that it will pay, on demand, to the Issuer the reasonable fees of such attorneys and such other expenses so incurred by the Issuer.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Notices. All notices, certificates or other communications provided in this Agreement shall be given in writing, and shall be sufficiently given and shall be deemed given if given in the manner provided in Section 13.04 of the Indenture. Copies of each notice, certificate or other communication given under this Agreement by any party shall be given to the other parties. By notice given under this Agreement, any party may designate further or different addresses to which subsequent notices, certificates or other communications are to be sent. A duplicate copy of each notice, certificate, request or other communication given under this Agreement to the Issuer, the Borrower or the Trustee shall also be given to the Credit Provider or, if applicable, an Alternate Credit Provider.

Section 8.02. Amendment. No amendment to this Agreement shall be binding upon the parties to this Agreement until such amendment is reduced to writing and executed by such parties; provided, however, that no amendment, supplement or other modification to this Agreement or any other Bond Document shall be effective without the prior written consent of the Credit Provider or, if an Alternate Credit Facility is in effect, the Alternate Credit Provider, subject in each case to the provisions of Section 8.12.

Section 8.03. Entire Agreement. This Agreement is one agreement in a set of agreements, documents and instruments representing an integrated transaction. The agreements, documents and instruments are the Transaction Documents. The Transaction

Documents contain all agreements between the parties to the integrated transaction, and there are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among them, unless reference is made in a Transaction Document. Nothing in this Agreement shall relieve the Borrower of its obligations under the Loan Documents and the Credit Facility Documents.

Section 8.04. Binding Effect. This Agreement is a continuing obligation and shall (i) be binding upon each of the parties to this Agreement and their successors and assigns and (ii) inure to the benefit of and be enforceable by such parties and their respective successors, transferees and assigns; provided, however, that the Borrower may not assign all or any part of this Agreement without the prior written consent of the Issuer, which consent may be conditioned upon compliance with the requirements of the Regulatory Agreement but shall not otherwise be unreasonably withheld.

Section 8.05. Further Assurances and Corrective Instruments. The parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such amendments to this Agreement and to the other Transaction Documents contemplated by this Agreement as reasonably may be required to carry out the intention of, or to facilitate the performance of this Agreement, or to perfect or give further assurances of any of the rights granted or provided for in this Agreement.

Section 8.06. Severability. Should one or more of the provisions of this Agreement be held to be invalid, illegal or unenforceable in any jurisdiction, such provision shall be severable from the remainder as to such jurisdiction and the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired in any jurisdiction.

Section 8.07. Execution in Counterparts. This 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 instrument.

Section 8.08. Governing Law. This Agreement shall be construed, and the obligations, rights and remedies of the parties under this Agreement shall be determined, in accordance with the laws of the State without regard to conflicts of laws principles, except to the extent that the laws of the United States of America may prevail.

Section 8.09. Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, THE BORROWER, THE ISSUER AND THE TRUSTEE (A) COVENANT AND AGREE NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING UNDER THIS AGREEMENT TRIABLE BY A JURY AND (B) WAIVE ANY RIGHT TO TRIAL BY JURY TO THE EXTENT THAT ANY SUCH RIGHT NOW EXISTS OR SHALL LATER EXIST. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL BY THE BORROWER, THE ISSUER AND THE TRUSTEE AND THIS WAIVER IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO

WHICH THE RIGHT TO A JURY TRIAL WOULD OTHERWISE ACCRUE. FURTHER, THE BORROWER CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF THE ISSUER (INCLUDING, BUT NOT LIMITED TO, THE ISSUER'S COUNSEL) HAS REPRESENTED, EXPRESSLY OR OTHERWISE, TO THE BORROWER THAT THE ISSUER WILL NOT SEEK TO ENFORCE THE PROVISIONS OF THIS SECTION.

Section 8.10. Limited Liability of the Issuer. All obligations of the Issuer under this Agreement, the Regulatory Agreement and the Indenture shall be limited obligations of the Issuer, payable solely and only from the Trust Estate. No owner or owners of any of the Bonds shall ever have the right to compel any exercise of the taxing power of the State or any political subdivision or other public body for the payment of the Bonds, nor to enforce the payment of the Bonds against any property of the State or any such political subdivision or other public body, including the Issuer, except as provided in the Indenture. No member, officer, agent, employee or attorney of the Issuer, including any person executing this Agreement on behalf of the Issuer, shall be liable personally under this Agreement. No recourse shall be had for the payment of the principal of or the interest on the Bonds, for any claim based on or in respect of the Bonds or based on or in respect of this Agreement, against any member, officer, employee or agent, as such, of the Issuer or any successor whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance of this Agreement and as part of the consideration for the issuance of the Bonds, expressly waived and released.

Section 8.11. Term of This Agreement. This Agreement shall be in full force and effect from its date to and including such date as all of the Bonds are fully paid or retired (or provision for such payment shall have been made as provided in the Indenture); provided, however, that Sections 2.05 and 5.05 and Articles III and VI hereof shall survive the termination of this Agreement.

Section 8.12. References to the Credit Provider. All provisions in this Agreement regarding consents, approvals, directions, waivers, appointments, requests or other actions by the Credit Provider shall be deemed not to require or permit such consents, approvals, directions, waivers, appointments, requests or other actions and shall be read as if the Credit Provider were not mentioned (i) if a Wrongful Dishonor has occurred and is continuing, or (ii) from and after the date on which the Credit Facility is declared to be null and void by final judgment of a court of competent jurisdiction; provided, however, that the payment of any amounts due to the Credit Provider pursuant to this Agreement shall continue in full force and effect. The foregoing shall not affect any other rights of the Credit Provider. All provisions in this Agreement relating to the rights of the Credit Provider shall be of no force and effect if the Credit Facility has terminated or expired in accordance with its terms and there are no Pledged Bonds or Bonds in which the Credit Provider has a security interest and all amounts owing to the Credit Provider under the Reimbursement Agreement have been paid; provided, during any Bank Rate Period, for purposes of the approval and consent rights of the Credit Provider, the Administrative Agent shall be considered to be the Credit Provider.

Section 8.13. Amendment of Original Financing Agreement. This Agreement amends the Original Financing Agreement as of the Closing Date.

[Remainder of Page Intentionally Left Blank]

The parties to this Agreement have caused this Agreement to be executed by their duly authorized representatives as of the date set forth above.

COUNTY OF CONTRA COSTA

By _____

PHVP I, LP,
a Delaware limited partnership

By: PHVP I GP, LLC,
a Delaware limited liability
company, its general partner

By: _____
Name: Joanne M. Lockridge
Title: Authorized Signatory

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

By _____
Authorized Officer